No. 13-110872 -A

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

BRIAN SACHS,
Claimant/Appellee,

v.

CITY OF TOPEKA,

and

SELF INSURED,
Respondents/Appellants.

BRIEF OF APPELLANTS

Appeal from the Workers' Compensation Appeals Board

Docket No.'s 1,053,921; 1,053,922; & 1,053,925

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NATURE OF THE CASE

This is an appeal by respondent in a workers compensation claim seeking review of the Appeals Board order affirming the award of the administrative law judge. This appeal involves one of three separately docketed claims decided by the administrative law judge's award which was issued on June 18, 2013. No review was sought before the Appeals Board by either party on Docket No.'s 1,053,921 or 1,053,922 but, the Appeals Board included them in the caption of its decision as a matter of policy, as the separate decisions for each docketed claim were contained in the same award issued by the administrative law judge. Judicial review is sought herein only as to Docket No. 1,053,925.

FACTUAL STATEMENT

As the Appeals Board only addressed the issues involved in Docket No. 1,053,925 in its review, appellant will limit its statement of the relevant facts which are pertinent to that docketed claim. For Docket No. 1,053,925, the Appeals Board affirmed the finding that the date of accident was November 16, 2010.(ROA Vol. 1, Page 81-102) On this date, appellee had been employed by the appellant as a Utility Systems worker. On November 16, 2010, the appellee was involved in a motor vehicle accident. He describes driving a large vehicle for appellant on his way to perform routine maintenance on fire hydrants and valves.(ROA Vol. 3, Page 64)

Appellee testified that the only injury he sustained in that accident was to his neck.(ROA Vol. 3, Page 64) Appellee acknowledged that appellant provided medical treatment for him after that accident. He recalls being seen by Dr. Donald Mead at the direction of the appellant on November 18, 2010, and being diagnosed with cervical sprain

strain.(ROA Vol. 3, Page 64-65) Appellee recalled being released to regular duty at that time by Dr. Mead but did not recall being instructed to return for follow-up care in three (3) days. (ROA Vol. 3, Page 65) Dr. Mead's record of November 18, 2010, clearly reflects the follow-up instructions. (ROA Vol. 7, Exhibit 4)

Appellee testified that he did not recall the next time he was seen for his neck. (ROA Vol. 3, Page 65) He did not recall being seen by Dr. Mead on January 7, 2011, for evaluation and release from care with no restrictions for his neck.(ROA Vol. 3, Page 65). Dr. Mead's testimony clearly establishes that the appelle was seen on January 7, 2011, for his neck (ROA Vol. 7, Page 26, Exhibits 3, 5 &6). Dr. Mead again testified that he released the claimant from care without restrictions on that date.(ROA Vol. 7, Page 26)

Appellee did not recall seeing Dr. Edward Prostic for his neck at the request of his attorney on January 14, 2011.(ROA Vol. 3, Page 66) Although appellee could not recall if Dr. Prostic recommended any treatment for his neck at that time, he did acknowledge Dr. Prostic did not place any restrictions on him for his neck.(ROA Vol.

3, Page 66) Dr. Prostic testified that he did not recommend treatment for the appellee's neck complaints nor did he place any restrictions on the appellee for his neck as the result of the January 14, 2011, evaluation.(ROA Vol. 5, Page 30)

Appellee could not recall, and did not believe, that he received any treatment or evaluations on his neck from the date he saw Dr. Prostic for the first time on January 14, 2011, until he saw Dr. Prostic again on August 10, 2011.(ROA Vol. 3, Page 67) During this entire period of time appellee continued to work for the appellant.(ROA Vol. 3, Page 67) As the result of the August 10, 2011, evaluation by Dr. Prostic, appellee acknowledged that Dr. Prostic did not place any restrictions on him for his neck and the doctor rated his neck complaints. (ROA Vol. 3, Page 67) Dr. Prostic substantiated the appellee's recollection.(ROA Vol. 5, Page 39) Dr. Prostic testified that the rating he provided for the appellee's neck complaints were caused by repetitious activities with his upper extremities. (ROA Vol. 5, Page 43)

Appellee served a demand on appellant for treatment to his neck under letter dated September 7, 2011.(ROA Vol. 3, Exh 4) Appellant sent the appellee for an orthopedic evaluation with Dr. Smith, who ordered an MRI. (ROA Vol. 3, Page 69) Dr. Smith ordered an injection and therapy to address the appellee's neck complaints.(ROA Vol. 3, Page 69). Dr. Smith released the appellee from care on April 24, 2012, and the appellee testified that he has had no additional treatment on his neck since that time.(ROA Vol. 3, Page 70) Appellee again saw Dr. Prostic on September

4, 2012, for the third and last time.(ROA Vol. 3, Page 70-71) Dr. Prostic again rated the appellee at that visit.(ROA Vol. 3, Page 71) Appellant had the appellee evaluated by Dr. Chris Fevurly on January 30, 2013.(ROA Vol. 6, Page 11)

Appellee acknowledged that he had settled a prior workers compensation claim against a previous employer on September 30, 2003.(ROA Vol. 3, Page 72) Appellee acknowledged that settlement was for a neck injury he received as the result of a motor vehicle accident he had on January 5, 2001. (ROA Vol. 3, Page 72) Appellee acknowledged that he had ongoing complaints of chronic problems with his neck since he settled that prior claim.(ROA Vol. 3, Page 73) He testified that he received chiropractic care for those neck complaints after the settlement.(ROA Vol. 3, Page 73) Appellee could not recall that he had seen his personal physician for neck complaints in October 2010 for which an EMG was ordered.(ROA Vol. 3, Page 73)

From an employment standpoint, after the motor vehicle accident of November 16, 2010, the appellee continued to be employed with the appellant until he was terminated effective December 14, 2011.(ROA Vol. 2, Page 35) During the entire time between the November 16, 2010, motor vehicle accident until the date of his termination on December 14, 2011, appellee never had any restrictions placed upon him for his neck complaints. (ROA Vol. 7, Page 28; ROA Vol. 5, Page 30 & 39) The cause of appellee's termination was for violation of appellant's policy pertaining to leave without pay availability for work. (ROA Vol. 8, Page 9) Ms. Russell,

appellant's Director of Human Resources, testified that the leave without pay availability for work policy is maintained by the appellant and is incorporated in the union contract under which the appellee was working.(ROA Vol. 8, Page 24) Ms. Russell testified that the disciplinary process involving the appellee's repeated violations of the leave without pay policy started on June 14, 2011, and the discharge action took place on December 14, 2011.(ROA Vol. 2, Page 35-36) Ms. Russell also testified that at the appellee's termination hearing, a union representative was present and that subsequent to the termination the union did not file any grievance in connection with the termination.(ROA Vol. 2, Page 29) Finally, Ms. Russell testified that, but for, his termination for cause for violation of the appellant's policy, there was no reason that the appellee could not have remained employed in his position with the appellant.(ROA Vol. 8, Page 9)

From a procedural standpoint, at the outset of the Regular Hearing the administrative law judge noted a date of accident for Docket No. 1,053,925 as November 16, 2010. (ROA Vol. 3, Page 5) In the award issued June 18, 2013, it is noted that the parties stipulated that the appellee met with personal injury by accident on November 16, 2010, arising out of and in the course of his employment with the appellant.(ROA Vol. 1, Page 83) The administrative law judge found that the appellee sustained a 5% permanent partial impairment resulting from the November 16, 2010, accident.(ROA Vol. 1, Page 100) Appellant sought review of that award only as to Docket No. 1,053,925.(ROA Vol. 1, Pages 103-105) The issue presented to the

Appeals Board was the nature and extent of disability resulting from the November 16, 2010, accident.(ROA Vol. 1, Pages 103-105) The Appeals Board determined that appellant was raising the date of accident issue for the first time on appeal and found that appellee sustained permanent impairment to his neck from both the motor vehicle accident and repetitive trauma.(ROA Vol. 1, Pages 186-195) Appellant seeks judicial review of the Board's order.

ISSUES

1) Is the Board's determination that the appellee suffered permanent impairment as a result of his accident of November 16, 2010, supported by substantial competent evidence?

2) Was the date of accident issue raised for the first time on appeal?

3) Can anticipated injuries be claimed under the Act?

SCOPE OF REVIEW

This Court's review of decisions by the Appeals Board is limited in accordance with the Act for Judicial Review and Civil Enforcement of Agency Action, K.S.A. 77-610 et seq., See K.S.A. 44-556(a). A workers compensation award is reviewed to determine whether the Appeals Board's findings of fact are supported by substantial competent evidence. *Mudd v. Neosho Memorial Regional Medical Center*, 275 Kan. 187, 191; 62 P. 3d 236 (2003). "The determination of whether the Board's findings of fact are supported by substantial competent evidence is a question of law." *Griffin*

v. Dale Willey Pontiac-Cadillac-GMC Truck, Inc., 268 Kan. 33, 34; 991 P. 2d 406 (1999).

In *Griffin*, the Court defined substantial competent evidence;

> In workers compensation cases, substantial evidence is evidence possessing something of substance and relevant consequence and carrying with it fitness to induce conviction that the award is proper, or furnishing a substantial basis of fact from which the issue tendered can be reasonably resolved.
>
> *Id.*

The standard of review was changed by amendment to K.S.A. 77-621 in 2009, and the new standard of review was fully described by this Court in *Herrera-Gallegos v. H & H Delivery Service, Inc.*, 42 Kan. App. 2d 360, 362-363; 212 P. 3d 239, 242 (2009) as follows:

> As amended, K.S.A. 77-621 now defines "in light of the record as a whole" to include the evidence both supporting *and detracting from* an agency finding. Thus we must now determine whether the evidence supporting the Board's factual findings is substantial when considering in light of *all* the evidence. In addition, the amended statute, K.S.A. 77-621(d), now requires that we consider both the credibility determinations that the hearing officer "who personally observed the demeanor of the witness" made, and if the agency head, here the Board, does not agree with those credibility determinations, the agency should give its reasons for disagreeing. We must consider "the agency's explanation of why relevant evidence in the record supports its material findings of fact." For us to fairly consider an agency's position should it disagree with a hearing officer's credibility determination, an explanation of the agency's differing opinion would generally be needed. See also L.2009, ch. 109, sec.13 (amending

K.S.A. 77-527[d] and providing that the agency head give "due regard" to hearing officer's ability to observe witnesses and determine credibility).

The statute doesn't define the term substantial evidence, but caselaw has long held that it is such evidence as a reasonable person might accept as being sufficient to support a conclusion. *Blue Cross & Blue Shield of Kansas, Inc. V. Prager,* 276 Kan. 232, 263, 75 P. 3d 226 (2003). With the statutory amendments, we have simply been told to look more completely at the record in determining whether substantial evidence supports the agency decision.

The amended statute finally reminds us that we do not reweigh the evidence or engage in de novo review, in which we would give no deference to the administrative agency's factual findings. Indeed, the administrative process is set up to allow an agency and its officials to gain expertise in a particular field, thus allowing the application of that expertise in the fact-finding process. But we now must consider all of the evidence-including evidence that detracts from an agency's factual findings-when we assess whether the evidence is substantial enough to support those findings. Thus, the appellate court now must determine whether the evidence supporting an agency's decision has been so undermined by cross examination or other evidence that it is insufficient to support the agency's conclusion.

Herrera-Gallegos v. H & H Delivery Service, Inc., 42 Kan. App. 2d 360, 362-363, 212 P. 3d 239, 242 (2009)(internal emphasis and citation included).

ARGUMENTS AND AUTHORITIES

1) **Is the Board's determination that the appellee suffered permanent impairment as a result of his accident of November 16, 2010, supported by substantial competent evidence?**

Under the award, as affirmed by the Appeals Board, it was found that, as the result of the November 16, 2010, accident, appellee suffered a 5% whole body impairment to his neck and a 56% work disability. K.S.A. 44-510d(a) provides that an award of permanent disability must be the result of the injury. Under *Casco v. Armour Swift-Eckrich,* 283 Kan. 508; 154 P. 3d 494 (2007), an award of permanent disability for any injury not covered under the scheduled provided in K.S.A. 44-510d, is covered under K.S.A. 44-510e, *Id. HN 10.* As permanent impairment to the neck or cervical spine is not covered under the schedule set forth in K.S.A. 44-510d, the determination of the nature and extent of the appellee's injury must be determined under K.S.A. 44-510e.

On November 16, 2010, appellee was involved in a motor vehicle accident from which appellee initially complained of neck pain. However, after an initial evaluation by Dr. Mead on November 18, 2010, from which neither treatment nor restrictions were recommended, appellee did not seek further evaluation of his neck until January 7, 2011, when he was also seen for shoulder complaints which was the subject of Docket No. 1,053,922. Even on this date, and as it pertains to the appellee's neck complaints, no treatment was recommended, no restrictions were imposed and he was released from care.(ROA Vol. 7, Pages 19- 25, 26; Exh. 3, 5 & 6) More importantly, however, the records of that visit show that appellee had informed Dr. Mead that the symptoms he experienced to his neck after the November

16, 2010, motor vehicle accident had completely resolved. In the records of that visit it states...

> "This gentleman had a motor vehicle accident in November. He reports some temporary worsening in his neck complaints. He reports that his symptoms or rebound back to where they were before." (ROA Vol. 7, Page 3, Exh. 3)

When questioned about this statement, Dr. Mead acknowledged that it meant that any symptoms appellee had resulting from the November 16, 2010, motor vehicle accident had completely resolved. (ROA Vol. 7, Page 25) Therefore, appellee, by his own volition, was representing to the treating doctor, less than two months after the November 16, 2010, accident, that he had fully recovered.

Appellee's medical expert, Edward Prostic, M.D., likewise does not offer any opinion that the appellee suffered permanent injury as the result of the accident on November 16, 2010. When he first saw appellee on January 14, 2011, Dr. Prostic offered that appellee suffered a sprain/strain injury mostly due to the November 16, 2010, injury.(ROA Vol. 5, Page 27) However, through the course of the other two evaluations he performed on the appellee, Dr. Prostic ultimately offered that ..."none of the current permanency is from the more recent motor vehicle accident." (ROA Vol. 5, Pages 56-57) It is important to note that appellee had a motor vehicle accident while working for a previous employer which resulted in permanent impairment to his neck. (ROA Vol. 3, Page 72) Therefore Dr. Prostic is stating that the permanent impairment he offers is not attributable to the appellee's motor vehicle accident of

November 16, 2010. Appellant's medical expert, Chris Fevurly, M.D., also agrees that the November 16, 2010, motor vehicle accident did not result in permanent impairment to appellee.(ROA Vol. 6, Page 21)

The record contains no medical opinion that the injuries from the November 16, 2010, accident resulted in permanent disability. On January 7, 2011, appellee acknowledged, to the treating doctor, that his symptoms resulting from the November 16, 2010, accident had completely resolved. Based upon this evidence, the record does not support any finding of permanent impairment resulting from the appellee's admitted temporary injuries caused by the November 16, 2010, motor vehicle accident. K.S.A. 44-510e requires that the disability resulting from the injury must be partial in character and permanent in quality. Appellee's disability resulting from the injuries sustained in the November 16, 2010, accident herein were, at best, temporary. There is no opinion that such disability was permanent in quality so as to support an award of permanent disability.

2) Was the date of accident issue raised for the first time on appeal?

The Appeals Board found that the parties stipulated to a November 16, 2010, date of accident and that appellant, for the first time on appeal, alleged a different date of accident. (ROA Vol. 1, Page 7 &8) Appellant believes that the Appeals Board misconstrued its arguments to include the date of accident.

It was on November 16, 2010, that appellee was involved in a motor vehicle accident while operating one of the appellant's work vehicles. (ROA Vol. 3, Page 64)

Appellant was aware of this motor vehicle accident as evidenced by its referral of appellee for evaluation and treatment with Dr. Mead on November 18, 2010. (ROA Vol. 3 Pages 64-65). For docketing his claim, appellee filed an Application for Hearing with the Division on December 29, 2010. When asked on that application for the date of accident or disease, appellee listed . . . "On or about 11-16-10 any series afterward". When asked on the application to state specifically the exact cause and source of accident/disease, appellee listed . . . "Car accident any series afterwards." (ROA Vol. 1, Page 3) A copy of the application is attached hereto as Exhibit "A".

Since the appellant was aware that the appellee was involved in a singular traumatic accident in the form of the motor vehicle accident of November 16, 2010, it could not deny that the appellee suffered an accident on that date. Appellant has never contended that the appellee had not suffer an accident on November 16, 2010. The only argument that appellant has offered is that the November 16, 2010, accident or any series arising from that accident did not result in a finding of permanent disability.

3) Can anticipated injuries be claimed under the Act?

The administrative law judge stated, for the record, at the Regular Hearing that the parties stipulated to the November 16, 2010. date of accident. (ROA Vol. 3, Page 12) However, the Appeals Board is interpreting that stipulation to include any repetitive injury at any time since November 16, 2010. (ROA Vol. 1, Page 93)

Appellant never stipulated to any series of accidents which did not arise from the November 16, 2010, accident. Under the interpretation of the stipulation utilized by the Appeals Board, the appellant would have had to deny the date of accident to be allowed to present argument that appellee suffered no permanent injury as the result of the November 16, 2010 accident. However, if such denial was asserted, appellant would have been in violation of the Division's regulations pertaining to pre-trial stipulations since it had knowledge of the appellee's motor vehicle accident.

K.A.R. 51-3-8 (c) provides, in part . . . "The respondent shall be prepared to admit any and all facts that the respondent cannot justifiably deny...". Appellant could not justifiably deny that the appellee had a motor vehicle accident on November 16, 2010. Therefore, it did stipulate to November 16, 2010, as the date of accident.

The Appeals Board also issued a finding that appellant is raising new law defenses which were never previously raised. (ROA Vol. 1, Page 93) What the Appeals Board has failed to recognize is that appellant is not raising a new law defense but, only arguing that the evidence does not support any finding of permanent impairment from the injuries arising from the November 16, 2010, accident be it the singular accident itself, or any series arising from that singular accident. Appellant provided an example to the Appeals Board of the evidence supporting that if appellee suffered a series of repetitive injury, such series did not result from the November 16, 2010, accident. Appellant has consistently argued that the November 16, 2010, accident did not result in permanent impairment.

As noted by the administrative law judge in the Award, it is difficult to determine whether appellee was alleging the alleged neck injury resulted from the November 16, 2010, motor vehicle accident which parties stipulated to or from repetitive injury.(ROA Vol. 1, Page 98) The Award found that appellee had an aggravation of his pre-existing cervical condition from both the motor vehicle accident and his work duties for appellant.(ROA Vol. 1, Page 98). The Appeals Board affirmed this finding. A closer review of the evidence reflects that there is no competent medical opinion which supports a finding that any permanent impairment resulted from the November 16, 2010, accident or any series arising from it. Likewise, the Application for Hearing does not reflect that appellee alleged that the cause of his claimed "series afterwards" was his work for the appellant.

The Appeals Board has interpreted appellant's stipulation to apply not only to the singular traumatic accident of November 16, 2010, but, also to any claimed series thereafter. Appellant argues that under its interpretation, the Appeals Board erred in expanding the injuries, including any series, which are attributable to the November 16, 2010, accident to award compensation beyond that which appellee claimed. Appellant has two primary arguments for its position. First, the appellee's description of the claimed date of accident and claimed injuries indicated on his application cannot reasonably be construed to include any series after January 7, 2011. This is the date appellee stated to Dr. Mead that his symptoms were back to where they were before the November 16, 2010, accident. Secondly, the evidence does not support a

finding that appellee suffered a series of accidents arising from the November 16, 2010, accident.

Understanding that it is the Board's interpretation that the parties' stipulation on the date of accident encompasses a claim for . . . "any series afterward", the appellee's own admission terminates any alleged series on the date of his second visit with Dr. Mead. At that second visit on January 7, 2011, appellee told the doctor that his symptoms were back to where they were before the accident.(ROA Vol. 7, Pages 24-25) If the appellee's statement is to be believed, then any series he received after the November 16, 2010, motor vehicle accident had resolved by the date of that visit and was deemed temporary in nature by the treating doctor. Further, no medical provider offered that any permanent impairment resulted from the November 16, 2010, accident. Therefore, under the Appeals Board's interpretation, any series the appellee suffered would not have started until after the January 7, 2011, visit since, by appellee's own admission, his symptoms on that date were no worse than what they were before the November 16, 2010, accident.

Appellee listed on his application that he was claiming that he sustained an accident . . . "On or about 11-16-10 any series afterward".(ROA Vol. 1, Page 3) For identifying the date of accident, the application provides . . . "Date of accident/disease (give beginning and ending dates if a series)". (ROA Vol. 1, Pages 1-3) To award benefits, the Appeals Board had to first interpret that the appellee's use of the phrase "any series afterwards" was alleging a series of anticipated accidents separate and

apart from the November 16, 2010, accident. Secondly, the Appeals Board had to interpret that the parties' stipulation concerning the date of accident for this claim, encompassed any anticipated series and not only a series arising from the November 16, 2010, accident.

This interpretation by the Appeals Board subscribes to the notion that a worker can file an Application for Hearing in anticipation that the job will cause injury through a series of accidents occurring at some unknown time in the future. Such interpretation is not supported by any provision of the Act and will promote abuse of the workers compensation system by fostering the manipulation of the date of accident to avoid defenses which are otherwise available to the employer. Furthermore, such interpretation authorizes the filing of pleadings which do not meet the certification requirements under K.S.A. 44-536a(b). This section provides . . .

> Except when otherwise provided by rule and regulation of the director, pleadings need not be verified or accompanied by an affidavit. The signature of a person constitutes a certificate by the person (1) that the person has read the pleading, (2) that to the best of the person's knowledge, information and belief formed after reasonable inquiry, the pleading is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (3) that the pleading is not imposed for any improper purpose, such as to harass, to cause unnecessary delay or needless increase in costs of resolving disputed claims for benefits.

The Act provides for compensation for work related injuries. It does not provide for compensation for anticipated work related injuries. The Board's

interpretation that the parties' stipulation on the date of accident encompasses any and all anticipated claims disregards the language of K.S.A. 44-536a(b), which requires that the information in pleadings be well grounded in fact based upon the appellee's knowledge, information and belief after reasonable inquiry. It also would prejudice employer's ability to investigate and defend worker's compensation claims by eliminating the requirement that the worker provide notice of an accident and replacing it with the presumption that the work will cause an actual accident or repetitive trauma. This presumption would leave employers having to guess which workers are being injured and which are not.

In this case, appellee testified he had no problems with his neck prior to the motor vehicle accident on November 16, 2010, as the result of his work for the respondent.(ROA Vol. 3, Page 72) The record contains no evidence that the appellee's job duties changed after his November 16, 2010, motor vehicle accident. If appellee's job duties before the November 16, 2010, accident did not cause a series of injuries and he had the same job duties after that accident, how did he anticipate that the job duties after the accident were going to cause a series of injuries? Upon what well grounded fact did he rely on to certify that he was going to suffer a series of accidents? Appellant submits that there is no evidence to support the Appeals Board's interpretation that the parties' stipulation of the November 16, 2010, date of accident encompasses any and all anticipated claims which did not arise from the motor vehicle accident. Rather, the only reasonable interpretation of the language

appellee utilized to identify the date of accident on his application, which could even be remotely considered as being well grounded in fact, is that it is a claim for an anticipated series of accidents resulting from the November 16, 2010, motor vehicle accident. Any such anticipated series of accidents resulting from the November 16, 2010, accident terminated on January 7, 2011, when he notified Dr. Mead that his neck symptoms had resolved to the point they were prior to the accident.

CONCLUSION

Based upon the foregoing arguments and authorities the appellant requests the Appeals Board's Order of November 6, 2013, be reversed and a finding entered that claimant has not established that he suffered permanent impairment as a result of the November 16, 2010, accident and any series afterward.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and sixteen (16) true and correct copies of the foregoing were hand delivered on the 10th day of April 2014, addressed to the following:

Clerk
Court of Appeals
Kansas Judicial Center
10th & Jackson
Topeka, Kansas 66612

along with two (2) copies hand delivered, addressed to the following

Board of Appeals
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DO NOT WRITE IN THIS SPACE

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DEC 23 2010

KS. ST. WORKERS' COMPENSATION

APPLICATION FOR HEARING

Employee's Name: Brian Scott Sachs

Date of Birth: 10-30-69 ☒ Male ☐ Female

Social Security Number: 514-88-3915

Home Address: 5330 SE Stanley

City: Tecumseh (State) KS Zip: 66542

Phone Number: 785-408-2312

Employee E-mail Address:

Employer: City of Topeka

Street: 215 SE 7th St Rm 353

City: Topeka State: KS Zip: 66603

Insurance Carrier: self Ins

(Required)

ACCIDENTAL INJURY OR OCCUPATIONAL DISEASE

Date of accident/disease (give beginning and ending dates if a series): On or about 11-16-10 any series afterward

State specifically the exact cause and source of accident/disease: Car accident any series afterwards

Briefly state extent of injuries or disease claimed: back, neck affected extremities

In what county did the accident or disease occur? SN At or near which city? Topeka

If accident/disease did not happen within Kansas, in which Kansas county could hearing be most conveniently held?

Mediation Requested? ☐ YES ☐ NO

Applicant's Signature: Brian Scott Sachs Date Signed: 12-15-2010

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Workers Compensation Director

DEC 29 2010

Certificate of the Workers Compensation Director. The above is a true and correct copy of the original instrument which is on file or of record in the office of the Division of Workers Compensation.

Attorney's Signature:

Attorney's Printed Name: Bruce Alan Brumley

Address: 214 SW 16th Ave, Ste 302
Topeka, KS 666603

Telephone Number: 785, 267-3367

E-mail Address: kjohnna@hotmail.com
(for purposes of hearing notices)

Kansas Supreme Court Number: 16066

Federal Privacy Act Disclosure Section 7(a)(2)(B)

The mandatory requirement that social security numbers be included on forms filed with the Division of Workers Compensation is permitted by Section 7(a)(2)(B) of the Federal Privacy Act of 1974, since our regulations which require its disclosure were in existence before January 1, 1975. The number is used as a means of identifying all the various records in the Division of Workers Compensation pertaining to an individual.

The use of social security numbers is made necessary because of the large number of applicants who have similar names and birth date and whose identities can only be distinguished by the social security number.

K-WC E-1 (Rev. 5-07)

EXHIBIT A