

frVIRGINIA:

IN THE WORKERS' COMPENSATION COMMISSION

JOHN HURTWORER, Claimant

v.

JCN: 0000000000

UNITED ENGINEERING, INC., Employer

WORKING FOR A SAFE WORKPLACE, Insurer

ORDER

This day came the parties and filed their joint Petition requesting approval of a compromise settlement involving workers' compensation benefits to the claimant as a result of his compensable accident of March 1, 2015, whereby the parties have agreed upon a lump sum compromise settlement for the sum of \$75,000, and further agreed that payment for reasonable and necessary medical treatment pursuant to Va. Code Ann. 65.2-603, relating to the injury of March 1, 2015, shall continue for the period from the date of the accident and the date of this Order.

UPON CONSIDERATION WHEREOF, from statements made by the parties in the record and in the Petition, which is incorporated herein by reference, the Commission being clearly of the opinion that the best interest of the Claimant will be served by approving the compromise settlement as set forth in the Petition of the parties, and that this settlement should be approved under those terms,

IT IS ORDERED that the compromise settlement is approved by the Commission and is a full and final settlement of any and all claims for benefits under the Virginia Workers' Compensation Act (Title 65.2 of the Code of Virginia), including, but not limited to, claims for additional compensation, permanency, or death, in the future arising out of the claimant's compensable accident of March 1, 2015 to his left foot and leg, and any compensable consequence and change in condition, and will forever discharge the employer and carrier.

IT IS FURTHER ORDERED that the employer and insurer pay the claimant the lump sum of \$75,000, it is further

ORDERED, that the employer and insurer shall pay for all reasonable and necessary medical treatment pursuant to Va. Code Ann. §65.2-603 relating to the injury of March 1, 2015 for the period from the date of the accident to the date of this Order.

The anticipated total settlement amount for future medical expenses and disability/lost wages over the life or duration of the settlement agreement is not greater than \$250,000. The parties have been informed by the Center for Medicare Services (CMS) that approval of a workers' compensation settlement by CMS is not necessary unless (1) the claimant is a Medicare recipient and the proceeds of the settlement are greater than \$25,000, or (2) the claimant is reasonable expected to receive Medicare benefits within the next 30 months and the value of the settlement is \$250,000 or more. The claim does not meet Medicare's current review threshold as described in the July 11, 2005 and April 24, 2006 Medicare Policy Memoranda. As such, the claim does not require review and/or approval from CMS.

The parties agree that this settlement of \$75,000 is reasonable compensation for any future medical and indemnity benefits to which the claimant may be entitled for these work injuries. The parties agree and the Commission so finds that Medicare's interests have been considered and that this settlement is in no way an attempt by any party hereto to shift the responsibility for any future medical payments to Medicare.

The parties recognize that the Social Security Act provides for the apportionment of workers' compensation benefits received in the form of a lump sum settlement in determining the extent of any offset of workers' compensation against the receipt of Social Security Disability benefits. Considering the above, the parties state that the claimant was born on April 7, 1980, and that pursuant to Va. Code §8.01-419, the claimant has a life expectancy of 40.9 years or 2126.8 weeks. It is therefore

ORDERED that the settlement proceeds of this compromise settlement should be apportioned as follows:

A. Legal Fees and Expenses: \_\_\_\_\_

- B. Medical Expenses: The claimant will be responsible for payment of all future medical bills. The parties designate \$5,000.00 of the settlement proceeds toward that future medical expense.
- C. Vocational Rehabilitation Expenses: As the claimant forgoes any right to further vocational rehabilitation services as part of this settlement, the parties designate that \$2,000.00 shall be apportioned for future vocational rehabilitation expenses in accordance with POMS Section 52001.535, this amount being deemed to be reasonable in light of the type of injury and expenses incurred.
- D. Remainder of Lump Sum (Prorated Compensation Rate): The remainder of the lump sum represents the settlement and compromise of all future claims for disability benefits, including permanent total disability benefits. These benefits potentially could have been paid over the remainder of the claimant's life. Pursuant to Va. Code § 8.01-419, 1950, as amended, claimant's life expectancy is 40.9 years. Prorating the balance of the net settlement proceeds, \_\_\_\_\_, by 2126.8 weeks (40.9 years x 52 weeks) yields a weekly compensation rate of \$\_\_\_\_\_, which shall be the sum Social Security uses to determine any offset based upon claimant's receipt of this additional workers' compensation payment. If the above apportionment is rejected by the Social Security Administration, the settlement proceeds will be apportioned in whatever method allowed by the Social Security Administration.

It is further ORDERED that the defendants shall pay from the proceeds to claimant's counsel the sum of \$\_\_\_\_\_ for costs expended and \$\_\_\_\_\_ for legal services rendered the claimant in this case. The balance of the settlement in the amount of \$\_\_\_\_\_ shall be paid directly to the claimant. These amounts, which total \$75,000, shall be due within ten (10) days after entry of this Order, and medical expenses incurred for reasonable and necessary medical treatment related to the injury of March 1, 1998,

are payable pursuant to Va. Code § 65.2-603 for the period between the date of the accident and the date of this Order.

**\*\* Additional language if ancillary agreement part of settlement**

**The parties agree that any ancillary agreement shall not be construed to affect the claimant's rights or responsibilities with respect to Medicare, or to affect the claimant's rights with respect to any claim under the jurisdiction of the Commission. It is ORDERED that the Commission's approval of the settlement of the claimant's workers' compensation claim referenced herein shall not be construed as the approval of the terms of any ancillary agreement.**

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

VIRGINIA WORKERS' COMPENSATION COMMISSION

\_\_\_\_\_  
Deputy Commissioner

\_\_\_\_\_  
John Hurtworker  
Address  
Phone Number

\_\_\_\_\_  
Name of Claimant's Counsel  
Address  
Phone Number  
Counsel for Claimant

\_\_\_\_\_  
Name of Defense Counsel  
Address  
Phone Number  
Counsel for Employer/Carrier

Employer Name  
Address

Insurer Name  
Address