

STATE OF ILLINOIS )

) SS.

COUNTY OF MADISON )

- |                                     |                                       |
|-------------------------------------|---------------------------------------|
| <input type="checkbox"/>            | Injured Workers' Benefit Fund (§4(d)) |
| <input type="checkbox"/>            | Rate Adjustment Fund (§8(g))          |
| <input type="checkbox"/>            | Second Injury Fund (§8(e)18)          |
| <input type="checkbox"/>            | PTD/Fatal denied                      |
| <input checked="" type="checkbox"/> | None of the above                     |

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Richard Reichert,

Petitioner,

vs.

NO: 07 WC 57148

**10 IWCC1049**

Olin Corporation,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of accident, causal connection, temporary total disability, the nature and extent of Petitioner's disability and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Commission modifies the Arbitrator's decision and finds Petitioner sustained 25% loss of use of the right arm, and 15% loss of use of the left arm as provided in §8(e) of the Act. All else is otherwise affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$508.92 per week for a period of 22-6/7 weeks, that being the period of temporary total incapacity for work under §8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$458.02 per week for a period of 183.20 weeks, as provided in §8(e) of the Act, for the reason that the injuries sustained caused the loss of 20% of each hand, 25% of the right arm, and 15% of the left arm.

X

**10IWCC1049**

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of \$75,000.00. The probable cost of the record to be filed as return to Summons is the sum of \$35.00, payable to the Illinois Workers' Compensation Commission in the form of cash, check or money order therefor and deposited with the Office of the Secretary of the Commission.

DATED: OCT 22 2010

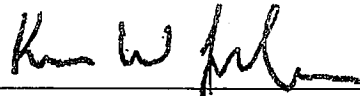
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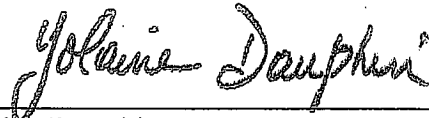
51



Barbara A. Sherman



Kevin W. Lamborn



Yolaine Dauphin

NOTICE OF ARBITRATOR DECISION  
CORRECTED

REICHERT, RICHARD

Employee/Petitioner

Case# 07WC057148

**10IWCC1049**

OLIN CORPORATION

Employer/Respondent

On 09/03/2009, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 0.24% shall accrue from the date listed above to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

A copy of this decision is mailed to the following parties:

0895 MORMINO, VELLOFF, EDMONDS, SNIDER PC  
SAMUEL A MORMINO JR  
3517 COLLEGE AVE  
ALTON, IL 62002

0299. KEEFE & DEPAULI PC  
PATRICK KEEFE  
#2 EXECUTIVE DR  
FAIRVIEW HTS, IL 62208

STATE OF ILLINOIS )  
)  
COUNTY OF Madison )

|                                     |                                       |
|-------------------------------------|---------------------------------------|
| <input type="checkbox"/>            | Injured Workers' Benefit Fund (§4(d)) |
| <input type="checkbox"/>            | Rate Adjustment Fund (§8(g))          |
| <input type="checkbox"/>            | Second Injury Fund (§8(e)18)          |
| <input checked="" type="checkbox"/> | None of the above                     |

ILLINOIS WORKERS' COMPENSATION COMMISSION  
CORRECTED ARBITRATION DECISION

Richard Reichert  
Employee/Petitioner

Case # 07 WC 57148

v.  
Olin Corporation  
Employer/Respondent

**10IWCC1049**

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable Andrew Nalefski, arbitrator of the Commission, in the city of Collinsville, on 7/24/09. After reviewing all of the evidence presented, the arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

- A. ☐ Was the respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
- B. ☐ Was there an employee-employer relationship?
- C. ☒ Did an accident occur that arose out of and in the course of the petitioner's employment by the respondent?
- D. ☐ What was the date of the accident?
- E. ☐ Was timely notice of the accident given to the respondent?
- F. ☒ Is the petitioner's present condition of ill-being causally related to the injury?
- G. ☐ What were the petitioner's earnings?
- H. ☐ What was the petitioner's age at the time of the accident?
- I. ☐ What was the petitioner's marital status at the time of the accident?
- J. ☐ Were the medical services that were provided to petitioner reasonable and necessary?
- K. ☒ What amount of compensation is due for temporary total disability?
- L. ☒ What is the nature and extent of the injury?
- M. ☐ Should penalties or fees be imposed upon the respondent?
- N. ☐ Is the respondent due any credit?
- O. ☐ Other \_\_\_\_\_

## FINDINGS


- On 9/20/07, the respondent Olin Corporation was operating under and subject to the provisions of the Act.
- On this date, an employee-employer relationship *did* exist between the petitioner and respondent.
- On this date, the petitioner *did* sustain injuries that arose out of and in the course of employment.
- Timely notice of this accident *was* given to the respondent.
- In the year preceding the injury, the petitioner earned \$ 38,932.57; the average weekly wage was \$ 763.38.
- At the time of injury, the petitioner was 33 years of age, *married* with 1 children under 18.
- Necessary medical services *have* been provided by the respondent.
- To date, \$ 0 has been paid by the respondent for TTD and/or maintenance benefits.

## ORDER

- The respondent shall pay the petitioner temporary total disability benefits of \$ 508.92/week for 22 6/7 weeks, from 9/27/07 through 3/5/08, which is the period of temporary total disability for which compensation is payable. Respondent is entitled to credit of \$5,892.89 previously paid.
- The respondent shall pay the petitioner the sum of \$ 458.02/week for a further period of 208.5 weeks, as provided in Section 8(e) of the Act, because the injuries sustained caused the loss of 20% of each hand, 20% of the left arm and 30% of the right arm.
- The respondent shall pay the petitioner compensation that has accrued from 9/20/07 through 7/24/09, and shall pay the remainder of the award, if any, in weekly payments.
- The respondent shall pay the further sum of \$ NA for necessary medical services, as provided in Section 8(a) of the Act.
- The respondent shall pay \$ NA in penalties, as provided in Section 19(k) of the Act.
- The respondent shall pay \$ NA in penalties, as provided in Section 19(l) of the Act.
- The respondent shall pay \$ NA in attorneys' fees, as provided in Section 16 of the Act.

**RULES REGARDING APPEALS** Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

**STATEMENT OF INTEREST RATE** If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

  
Signature of arbitrator

8-27-09  
Date

Reichert v. Olin Corporation  
07 WC 57148

**The Arbitrator finds the following facts:**

Petitioner began working for Respondent in April, 2000. He started as an adjuster and then worked a number of different jobs. He returned to the adjuster job in December, 2003. He began working as a 50 caliber inspector in October, 2005, and did that job until he left Respondent in April, 2008, to take a job as a prison guard in Kentucky. He was doing the 50 caliber inspector job on 9/20/07.

Petitioner described his job as an adjuster and dry powder operator as involving the rigorous use of his upper extremities including his hands, wrists, elbows and shoulders. Petitioner testified that the adjuster job required him to lift coils with an overhead crane, he had to stick a metal rod into an overhead machine at times and he lifted and carried scrap barrels. His duties as a 50 caliber inspector also involved the rigorous use of his upper extremities including frequent lifting, carrying, reaching, pulling and hand manipulations. The inspector job required him to bend over and scoop shells out of tub, carry trays of shells, visual inspection of shells. He agreed that the inspector job did not require any work at or above shoulder level. He lifted 100 round belts of 50 caliber ammo into crates. He would load the crates onto a skid. He would scoop up shells out of a tub on the ground and inspect them by rolling them around in his hands. He would run the shells through a series of gauges using his hands and fingers and enter data into a computer. On the dry powder supply job he would prepare dry powder at various locations. This involved lifting crates of powder onto crates. He reviewed the job videos. He said they were accurate but not complete.

Petitioner testified that he reported to the plant medical department in September, 2007, with complaints of numbness in his fingers, dropping things, pain in his wrists and his right shoulder was bothering him. He testified that he started noticing the problems at the end of the adjuster job. Respondent's medical decided that his condition was not work related and advised Petitioner to treat with his family physician.

Petitioner saw Dr. Babb, his personal physician, on 10/1/07 complaints of bilateral wrist pain and numbness into the ulnar distribution of both hands and bilateral shoulder pain, right worse than left. Dr. Babb ordered an EMG and referred him to Dr. Rogalsky, an orthopedist.

Petitioner was seen by Dr. Rogalsky on 10/19/07 with complaints of bilateral wrist pain, shoulder and hand complaints. Diagnosis was bilateral c carpal tunnel syndrome with possible cubital tunnel syndrome, right greater than left, and subacromial impingement. An MRI of the right shoulder on 10/23/07 showed either tendonosis or partial rotator cuff tear and AC joint changes suggestive of impingement syndrome. Dr. Rogalsky performed a surgical right carpal tunnel release, right ulnar nerve transposition at the elbow and right open anterior acromioplasty on 12/13/07. No surgical intervention was required on the rotator cuff. Dr. Rogalsky performed a left carpal tunnel release and

left ulnar nerve transposition at the elbow on 1/10/08. Petitioner returned to work full duty on 3/6/08 and continued doing his regular job until he left Respondent's employ on 4/5/08.

Dr. Rogalsky was given a job description by Petitioner. He testified that Petitioner's work activities were causative of his right shoulder impingement syndrome. He testified that the work activities caused or contributed to the carpal tunnel syndrome and cubital tunnel syndrome.

The parties agreed that Petitioner was off work from 9/27/07 through 3/5/08, a period of 22 6/7 weeks. Petitioner was paid \$5,892.89 in group non-occupational disability benefits for which Respondent seeks credit.

Dr. Rotman evaluated Petitioner at Respondent's request on 4/13/09. He reviewed medical records, a Physical Demands Analysis prepared for Respondent and job videos produced by Respondent for the adjuster and QV inspector jobs. He took a job description from Petitioner. Petitioner agreed that the job description Dr. Rotman reported was accurate. Dr. Rotman stated that no activities in the jobs would be a cause of chronic impingement of either shoulder. There were no aggravating factors for a cubital tunnel syndrome or carpal tunnel syndrome. He stated that Dr. Rogalsky's treatment showed a complete lack of conservative treatment for any of the conditions he diagnosed.

Petitioner testified that the tingling in his hands and fingers has subsided. His bilateral grip is not as strong. He cannot lean on his elbows as the pressure causes pain. He does not have any pain in his right shoulder but he does not have as much strength.

No claim for medical bills was presented by Petitioner.

**Therefore the Arbitrator concludes:**

1. Petitioner's bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome and right shoulder impingement are causally related to his hand/arm/shoulder repetitive use from his job as an adjuster and inspector. The opinions of Dr. Rogalsky are more persuasive than those of Respondent's witness.
2. The parties agreed that Petitioner was temporarily totally disabled from 9/27/07 through 3/5/08, a period of 22 6/7 weeks for which compensation is payable. Respondent is entitled to credit under Section 8(j) for group non-occupational benefits paid in the amount of \$5,892.89.
3. As a result of his injuries Petitioner has sustained the loss of 20% of each hand, 20% of the left arm and 30 % of the right arm.