

**FINAL AWARD ALLOWING COMPENSATION**  
(Affirming Award and Decision of Administrative Law Judge)

Injury No. 12-048415

Employee: Steven R. Bladdick  
Employer: Mehlville Fire Protection District (Settled)  
Insurer: Missouri Fire & Ambulance District Co. (Settled)  
Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo. Having reviewed the evidence and considered the whole record, the Commission finds that the award of the administrative law judge is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Law. Pursuant to § 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated June 17, 2015. The award and decision of Administrative Law Judge Joseph E. Denigan, issued June 17, 2015, is attached and incorporated by this reference.

The Commission further approves and affirms the administrative law judge's allowance of attorney's fee herein as being fair and reasonable.

Any past due compensation shall bear interest as provided by law.

Given at Jefferson City, State of Missouri, this 15<sup>TH</sup> day of October 2015.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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John J. Larsen, Jr., Chairman

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James G. Avery, Jr., Member

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Curtis E. Chick, Jr., Member

Attest:

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Secretary

## AWARD

Employee: Steven R. Bladdick Injury No.: 12-048415  
Dependents: N/A Before the  
Employer: Mehlville Fire Protection District (settled) **Division of Workers'**  
**Compensation**  
Department of Labor and Industrial  
Additional Party: Second Injury Fund Relations of Missouri  
Jefferson City, Missouri  
Insurer: Missouri Fire & Ambulance District Co. (settled)  
Hearing Date: March 2, 2015 Checked by: JED

### FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? Yes
2. Was the injury or occupational disease compensable under Chapter 287? Yes
3. Was there an accident or incident of occupational disease under the Law? Yes
4. Date of accident or onset of occupational disease: April 6, 2012 (stipulated)
5. State location where accident occurred or occupational disease was contracted: St. Louis County
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? Yes
8. Did accident or occupational disease arise out of and in the course of the employment? Yes
9. Was claim for compensation filed within time required by Law? Yes
10. Was employer insured by above insurer? Yes
11. Describe work employee was doing and how accident occurred or occupational disease contracted:  
Claimant sustained shoulder injury after falling downward on stairs in full fireman's gear while carrying EMS equipment.
12. Did accident or occupational disease cause death? No Date of death? N/A
13. Part(s) of body injured by accident or occupational disease: left shoulder
14. Nature and extent of any permanent disability: 30% PPD of left shoulder; 90.3 weeks PPD from SIF.
15. Compensation paid to-date for temporary disability: 7,305.51
16. Value necessary medical aid paid to date by employer/insurer? \$40,074.00

- 17. Value necessary medical aid not furnished by employer/insurer? N/A
- 18. Employee's average weekly wages: N/A
- 19. Weekly compensation rate: \$811.73/\$425.19
- 19. Method wages computation: Stipulation.

**COMPENSATION PAYABLE**

20. Amount of compensation payable:

69.6 weeks PPD from Employer (settled)

21. Second Injury Fund liability: Yes

90.3 weeks PPD from the SIF \$38,394.66

**TOTAL:** \$38,394.66

22. Future requirements awarded: None

Said payments to begin immediately and to be payable and be subject to modification and review as provided by law.

The compensation awarded to the claimant shall be subject to a lien in the amount of 25% of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

James J. Sievers

**FINDINGS OF FACT and RULINGS OF LAW:**

Employee:	Steven R. Bladdick	Injury No.:	12-048415
Dependents:	N/A		Before the
Employer:	Mehlville Fire Protection District (settled)		<b>Division of Workers'</b>
			<b>Compensation</b>
Additional Party:	Second Injury Fund		Department of Labor and Industrial
			Relations of Missouri
			Jefferson City, Missouri
Insurer:	Missouri Fire & Ambulance District Co. (settled)		
Hearing Date:	March 2, 2015	Checked by:	JED

This case involves a left shoulder injury resulting to Claimant with the stipulated accident date of April 6, 2012 with multiple allegations of synergistic disability against the Second Injury Fund (“SIF”). Employer and its insurer previously settled their risk of liability. Both parties are represented by counsel. The single issue for trial is the liability of the SIF.

**FINDINGS OF FACT**

1. Claimant testified that he was in his fireman’s “turn-out gear” when he fell down some steps while carrying other (EMS) equipment. Claimant sustained a current 30 percent PPD of the left shoulder as a result of the reported injury. Claimant settled his primary claim in that amount (Exhibit A).
2. In 1989, Claimant settled a right knee injury for 20 percent PPD (Exhibit *Roman Numeral I*).
3. In 2000, Claimant settled a left knee injury for 22.5 percent PPD, another right knee injury for 7 percent PPD, and a lumbar injury for 3.5 percent PPD (Exhibit *Roman Numeral I*).
4. In 2003, Claimant settled a third right knee injury for 15 percent PPD (Exhibit *Roman Numeral I*).
5. In 2004, Claimant settled a cervical spine injury for 28.5 percent PPD (Exhibit *Roman Numeral I*).
6. In 2006, Claimant settled a second left knee injury for 16 percent PPD and a right shoulder injury for 15 percent PPD (Exhibit *Roman Numeral I*).
7. Claimant’s credible testimony regarding his injuries and treatment, and the resulting permanent problems of pain and curtailed activity, supports the foregoing settlements.
8. Separately, Claimant’s prior Awards support the PPD values herein and those findings are incorporated by reference (Exhibits 3, 4, and 5).

9. In addition, Claimant's disability from the current injury and that pre-existing the current injury are found to be hindrances and obstacles to employment as manifest by regular pain, range of motion curtailments, mobility deficits and guarding that created and continue to create problems at work. Claimant is a supervisor and may be able to avoid unusually difficult tasks as needed and/or as circumstances permit.

### *Opinion Evidence*

Claimant offered the narrative report of Dr. David Volarich, admitted as Exhibit 1. Dr. Volarich examined Claimant in 2006, 2012, 2013, and 2014 and issued disability reports on each occasion. He reviewed the medical record. Dr. Volarich diagnosed Claimant's left shoulder with rotator cuff tear, biceps tear and impingement; noteworthy is the arthroscopic procedure followed by open surgery. Nevertheless, Dr. Volarich assigned a 40 percent PPD of the left shoulder. He made physical findings of the primary and pre-existing injuries which form the basis of PPD in each of multiple injuries described above.

Dr. Volarich stated Claimant's pre-existing disability combines with the disability caused by the primary injury to form an increased overall disability that is greater than the simple sum of the disabilities. Dr. Volarich specifically identified the opposing shoulder injuries making overhead work very difficult and multiple knee injuries preventing full squat, prolonged weight bearing and impact activity.

Dr. Volarich's opinions were well reasoned and unrebutted in the record.

## RULINGS OF LAW

### Nature and Extent of Permanent Disabilities

The stipulated PPD for the current disability on the reported (primary) injury is 69.6 weeks. The PPD for the evidenced pre-existing PPD items equates to 291.6 weeks. These PPD values are supported by the prior settlements, prior Awards, trial testimony and Dr. Volarich's opinions. These settled permanent partial disabilities continue "undiminished" by law. Section 287.190.2 RSMo (2005). The passage of time and degenerative process (ongoing from the 2006 recovery until the reported accident date herein), by reasonable inference, is some evidence of a worsening of PPD in some instances that is consistent with Dr. Volarich's stated ratings, which are higher than some of the settlement values and PPD findings contained in the prior Awards. This 6 year period pre-exists the reported injury to the left shoulder.

### Liability of the SIF

SIF liability is premised on synergistic combination of the primary and pre-existing disabilities. Synergy is the concept in which the current PPD and the pre-existing PPD are found, in combination, to create a "substantially greater" disability, or an increased overall disability, and for which the employer should not be held liable. Section 287.220.1 RSMo (2000). The SIF

is not responsible for subsequent deterioration, i.e. during the period 2012 and date of hearing. Lawrence v. Joplin R-VIII School Dist., 834 S.W.2d 789 (Mo.App. 1992).

Here, Claimant’s primary disability is found to synergize with each of the pre-existing items of PPD. These synergies are easily recognized as common *opposing limb* synergy, *upper body-lower body* synergy, plus synergy with the body core (spine). This synergistic disability represents serious ambulation, carrying, push/pull, lifting, stability and impact deficits. The evidence fairly equates to additional PPD liability of the SIF warranting a loading factor of 25 percent of the total weeks of PPD.

Conclusion

Accordingly, on the basis of the substantial competent evidence contained within the whole record, Claimant is found to have sustained an additional 90.3 weeks PPD as a result of the combination between the primary injury and the synergistic pre-existing PPD, for which the SIF is responsible.

Date: \_\_\_\_\_

Made by: \_\_\_\_\_

JOSEPH E. DENIGAN  
*Administrative Law Judge*