



# AWARD

Employee: Peggy Conley

Injury No.: 07-111054

Dependents: N/A

Before the  
**Division of Workers'  
Compensation**

Employer: Schnucks Markets (Settled)

Department of Labor and Industrial  
Relations of Missouri  
Jefferson City, Missouri

Additional Party: Second Injury Fund (Only)

Insurer:

Hearing Date: February 7, 2012

Checked by: CDL

## 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: August 27, 2007
5. State location where accident occurred or occupational disease was contracted: St. Louis, Missouri
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 result of exposure to mold, dust, etc. sustained occupational hazard.
12. Did accident or occupational disease cause death? N/A Date of death?
13. Part(s) of body injured by accident or occupational disease: Breathing problems
14. Nature and extent of any permanent disability: 13.5% permanent partial disability body as a whole
15. Compensation paid to-date for temporary disability: \$1,240.33
16. Value necessary medical aid paid to date by employer/insurer? \$15,275.00

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- 17. Value necessary medical aid not furnished by employer/insurer? N/A
- 18. Employee's average weekly wages: N/A
- 19. Weekly compensation rate: \$482.35/\$389.04
- 20. Method wages computation: Stipulated

**COMPENSATION PAYABLE**

- 21. Amount of compensation payable: 13.5% permanent partial disability body as a whole previously settled for: \$21,158.00
- 22. Second Injury Fund liability: \$482.35 per week starting  
July 9, 2008 and thereafter for Claimant's lifetime.

TOTAL: Indeterminate

23. Future requirements awarded:

Said payments to begin 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 20% of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: Jagadeesh Mandava

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

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**PREFACE**

On February 7, 2012, a hearing was held in the above mentioned matter. Peggy Conley was represented by attorney Jagadeesh Mandava. Claimant’s primary case against her employer Schnucks Market was previously settled and the hearing was against Second Injury Fund only. Second Injury Fund was represented by Samuel You.

**STIPULATIONS**

1. Claimant was entitled to weekly compensation of \$482.35/\$389.04.
2. Claimant sustained an occupational disease rising out of and in the course and scope of her employer Schnucks Markets.

**ISSUES**

Liability of the Second Injury Fund.

**EXHIBITS**

Claimant offered exhibits A through H which were admitted in to evidence without objection. Second Injury Fund offered the deposition of Claimant’s into evidence.

**FINDINGS OF FACT**

At the time of the hearing claimant was 70 years of age and married, had completed the 11<sup>th</sup> grade in high school. Claimant worked for Paramount Jewelers after school, where she waited on customers and did some engraving work.

Claimant became employed with Vikings where she worked for six years where she did bar tending and booking entertainment for the bar.

Claimant left Viking and became part of the Elks Club where she worked for 20 years as a property manager. Claimant oversaw private parties and help set up, and organized parties as well as cleaning up.

Claimant in 1998 went to work for Schnucks as an Assistant Bakery Manager. Claimant did baking, cleaning ovens and handling frozen loads and orders.

Claimant developed exposure to mold and a degreaser compound while working for the employer Schnucks. Claimant developed shortness of breath. Claimant was sent because of shortness of breath to Acute Care. Claimant was diagnosed with occupational asthma. Because of Claimant's shortness of breath, Claimant left her employer Schnucks in April 2008.

Claimant result of her asthma filed a Workers' Compensation case against the employer which was settled for 13.5% permanent partial disability of the body as a whole.

Claimant had the following pre existing injuries and disabilities before the primary injury of August 27, 2007:

- a. In the mid 1980's while Claimant was working at the restaurant The Viking a customer who was intoxicated picked her up and suddenly dropped her, resulting in compressions at fractures T6 and T7. At the time of the hearing Claimant still had back pain, soreness, and tightness across the chest.
- b. August 1, 2000, Claimant dislocated her right elbow when she stepped off a step stool injuring her right elbow when she was working as a volunteer at a retirement home. Claimant testified that as a result of the injury she still has problems lifting and doing other types of work that involves her elbow.
- c. In 2001 Claimant stated that she developed bunions and hammertoes on her left foot which required three different surgeries. On the day of the hearing, as a result of the problems with Claimant's foot she has difficulty standing, squatting, and bending.
- d. In the year 2004, Claimant went to see Dr. Buckley for depression and the doctor prescribed various medications and advised her to go and see a counselor. Claimant at the time of the hearing stated she continues to have psychological problems with family problems.

Dr. Volarich saw the Claimant for an IME on behalf of Claimant's attorney it was his opinion that Claimant had 15% permanent partial disability body as a whole with regard of the pulmonary problem sustained leading up to August 27, 2007. Dr. Volarich also the opinion Claimant had 20% permanent partial disability of the thoracic spine pre existing injury date of August 27, 2007 as well as 35% permanent partial disability of the right foot, 35% permanent partial disability of the left foot and 15% permanent partial disability of the right elbow. Dr. Volarich was of the opinion that Claimant was permanently and totally disabled as a result of the combination of her work injury of August 27, 2007 and her pre existing disabilities.

Dr. Stillings, a psychiatrist, saw the Claimant of behalf of the Claimant's attorney and Dr. Stillings was of the opinion that Claimant's pre existing psychiatric conditions combined synergistically with the conditions and disabilities as a result of the August 27, 2007 rendering Claimant permanently and totally disabled from gainful employment.

**RULINGS OF LAW**

Claimant is permanently and totally disabled as a result of the primary injury of August 27, 2007, combination with her pre existing injuries and disabilities.

Second Injury Fund is liable for permanent and total disability benefits resulting in Claimant's disability from the last injury in combination with the pre existing injuries for the rest of Claimant's life. Thus, Second Injury Fund must pay Claimant \$482.35 per week beginning July 9, 2008 (Claimant's last date of pay from Schnucks) and thereafter for Claimant's lifetime.

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

CORNELIUS T. LANE  
*Administrative Law Judge*  
*Division of Workers' Compensation*