

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

Injury No.: 05-078070

Employee: James Faulkerson
Employer: JW Aluminum/Alumax Foils
Insurer: Hartford Fire Insurance Company
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund

Date of Accident: June 6, 2005

Place and County of Accident: St. Louis County, Missouri

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by section 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 Act. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated March 8, 2007, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Matthew D. Vacca, issued March 8, 2007, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 4th day of October 2007.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: James Faulkerson

Injury No.: 05-078070

Dependents: N/A
Employer: JW Aluminum/Alumax Foils
Additional Party: Second Injury Fund
Insurer: Hartford Fire Insurance Co.
Hearing Date: February 21, 2007

Before the
**Division of Workers'
Compensation**
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Checked by: MDV:tr

FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? No
2. Was the injury or occupational disease compensable under Chapter 287? No
3. Was there an accident or incident of occupational disease under the Law? No
4. Date of accident or onset of occupational disease: June 6, 2005
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? No
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: N/A
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: N/A
14. Nature and extent of any permanent disability: N/A
15. Compensation paid to-date for temporary disability: -0-
16. Value necessary medical aid paid to date by employer/insurer? -0-

Employee: James Faulkerson Injury No.: 05-078070

17. Value necessary medical aid not furnished by employer/insurer? -0-
18. Employee's average weekly wages: \$618.00
19. Weekly compensation rate: \$412.00/\$354.05
20. Method wages computation:

COMPENSATION PAYABLE

21. Amount of compensation payable: None
22. Second Injury Fund liability: No

23. Future requirements awarded: N/A

Said payments to begin N/A 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 N/A of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

N/A

FINDINGS OF FACT and RULINGS OF LAW:

Employee:	James Faulkerson	Injury No.: 05-078070
Dependents:	N/A	Before the Division of Workers' Compensation
Employer:	JW Aluminum/Alumax Foils	Department of Labor and Industrial Relations of Missouri
Additional Party:	Second Injury Fund	Jefferson City, Missouri
Insurer:	Hartford Fire Insurance Co.	Checked by: MDV:tr

ISSUES PRESENTED

The issues presented for resolution by way of this hearing are medical causation, arising out of and in the course of employment, the nature and extent of permanent partial disability to include disfigurement, past medical expenses, temporary total disability benefits from July 20 to September 14 less four days in August and the liability of the Second Injury Fund.

FINDINGS OF FACT

1. Claimant is 48 years old, divorced, has an 18 year old son who is dependent upon him for support, he is right hand dominant and graduated the twelfth grade.
2. The Claimant has worked for JW Aluminum or Alumax Foils for the last twenty-nine years. He is employed as a machine operator. He operates the machine that rolls out aluminum foil. The rolling mill that Claimant operates is made by Hunter Engineering of St. Louis. The rolling mill puts out 3,000 feet of aluminum foil per minute and the mill vibrates extensively. Claimant adjusts the various controls for pressure, temperature

and numerous other variables. He is responsible for manipulating 60 plus knobs. Sixty-percent of Claimant's time is spent adjusting the knobs on the rolling mill. He works 12-hour shifts, 45 minutes for lunch and no scheduled breaks.

3. Claimant would band metal, roll aluminum foil, drive a forklift and work as much as twelve hours a day, seven days a week. Claimant has no other hand intensive activities. He is a numismatist or coin collector.
4. Claimant developed a nodule in the mid palm of his right hand that turned into a soft tissue band radiating into the right small finger which in turn resulted in a flexion contracture of his small finger. This is known as a Dupuytren's Contracture. Claimant underwent surgery to release this contracture with Dr. Pruitt, underwent a course of physical therapy and demobilization and returned to work.
5. Claimant is a recovering alcoholic.
6. Dr. Stregge testified that there is an increased incidence of Dupuytren's Contracture among alcoholics.
7. Claimant is also developing a similar nodule in his left hand.
8. Dr. Stregge does not believe that Claimant's activities at JW Aluminum were a contributing factor to the development of the Dupuytren's Contracture. Dr. Stregge testified, "It's never been documented in the medical literature that work activities, job activities, trauma to the hand have caused Dupuytren's Contracture. There is the high association with alcoholism and northern European descent, both of which were risk factors for him. So those would be fairly high risk factors. But activities involving the hand have never been shown to bring on Dupuytren's Contracture." (Exhibit 1, pg. 9-10). Dr. Stregge does not know whether Dupuytren's Contracture as a result of alcoholism has to be a current alcoholic condition or whether it can be a former alcoholic problem. Claimant is a recovering alcoholic and has not consumed alcohol for six and one-half years.
9. Dr. Schlafly testified on behalf of the Claimant. He took a history of Claimant working at an aluminum factory for the past 27 years full time requiring him to repetitively tighten handles and twist controls on machines and using his hands to turn valves and pull handles on forklift trucks. He uses devices to apply steel bands around the product and that his work required considerable pressure on the palms of his hands as he grabs and twists various objects. Dr. Schlafly believed that Claimant's work at the aluminum factory aggravated the palmar fibromatosis of the right hand and that the occupational duties became a substantial factor in the cause of painful fibromatosis in the right hand and the need for surgery. Dr. Schlafly uses fibromatosis as synonymous with Dupuytren's disease or Dupuytren's Contracture. This is essentially an expansion of the normal fascia that hardens impacting the nerve.
10. Dr. Schlafly notes that there is only vague reference in the literature to occupational association with Dupuytren's. He notes the problem is not as common as carpal tunnel syndrome. (Exhibit H, pg. 17). He agrees that there is an association with alcoholism and Dupuytren's. The doctor believes that the work duties are the prevailing factor and the substantial factor. He believes that the surgeries performed were reasonable and necessary to treat the Claimant for Dupuytren's Contracture. He estimates the permanent partial disability for this condition at 27 ½% of the right hand with one-half of the disability work related and the other one-half disability due to non-occupational factors. Dr. Schlafly agrees that history of alcoholism, seizures, being of northern European descent, Claimant's age and gender are all risk factors for Dupuytren's Contracture. (Exhibit H, pg. 31). Dr. Schlafly admits that he you can see Dupuytren's Contractures in patients who are not employed. (Exhibit H, pg. 33).
11. Dr. Schlafly explains the condition as one where the gristle under the skin of the palm becomes abnormally thick and enlarged and can extend from the palm to the fingers and causes contractures. Dr. Schlafly never really explains how the manual labor causes the normal fascia to expand. Claimant's attorney suggests a repetitive micro trauma theory from Claimant's occupation based on repetitive gripping and lifting with the hand that could cause tears in the blood vessels and capillaries in the palm and could cause abnormal fascia to be prone to tearing. (Exhibit H, pg. 18). Dr. Schlafly doesn't explain how this possible tearing relates to expansion of the fascia. The doctor doesn't really embrace this theory enthusiastically. (Exhibit H, pg. 18). Thus, in context of its entirety, I think this testimony is at most speculative and in the end there is no real evidence that the work caused Claimant's hand problems.

RULINGS OF LAW

1. Claimant has not established that his Dupuytren's Contracture is medically and causally related to his employment at Alumax Foils.
2. Claimant has not proven that his Dupuytren's Contracture arose out of and in the course of his employment at Alumax Foils.

DISCUSSION

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Dr. Schlafly says the condition is related to the work but admits that there are only vague authoritative references to an occupational genesis for the condition. A fair read of his opinion reveals that it is not based on any particular scientific mechanism of injury, it's just his opinion that its work related. Dr. Stregge on the other hand believes the condition is not work related and points to authoritative studies that conclude the most likely cause for Dupuytren's is alcoholism or some other risk factors which Claimant also possesses. Given Claimant's past history of alcoholism, I cannot with confidence say that the work is the medical/causal reason that Claimant suffers from Dupuytren's Contracture or that the work had anything to do with the development of Dupuytren's Contracture. I find such linkage would be mere conjecture.

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Date: _____

Made by: _____

Matthew D. Vacca
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

Patricia "Pat" Secrest
Director
Division of Workers' Compensation