

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

Injury No.: 94-204617

Employee: Ronald Wright  
Employer: Ford Motor (Settled)  
Insurer: Self-Insured (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 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 Law. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated January 16, 2009. The award and decision of Administrative Law Judge Matthew D. Vacca, issued January 16, 2009, 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 2<sup>nd</sup> day of September 2009.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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William F. Ringer, Chairman

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Alice A. Bartlett, Member

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John J. Hickey, Member

Attest:

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Secretary

## AWARD

Employee:	Ronald Wright	Injury No.:	94-204617
Dependents:	N/A		Before the
Employer:	Ford Motor		<b>Division of Workers'</b>
Additional Party:	Second Injury Fund (settled)		<b>Compensation</b>
Insurer:	Self		Department of Labor and Industrial
Hearing Date:	November 13, 2008		Relations of Missouri
			Jefferson City, Missouri
		Checked by:	MDV:cw

### 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 13, 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? 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: Twisted knee
12. Did accident or occupational disease cause death? No Date of death?
13. Part(s) of body injured by accident or occupational disease: Left knee
14. Nature and extent of any permanent disability: 45% left knee
15. Compensation paid to-date for temporary disability: -0-
16. Value necessary medical aid paid to date by employer/insurer? \$2,540.00

Employee: Ronald Wright

Injury No.: 94-204617

- 17. Value necessary medical aid not furnished by employer/insurer?
- 18. Employee's average weekly wages: \$846.96
- 19. Weekly compensation rate: \$470.06/\$246.22
- 20. Method wages computation: Agreed

**COMPENSATION PAYABLE**

21. Amount of compensation payable:

72 weeks of permanent partial disability from Employer	Settled
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22. Second Injury Fund liability: Yes

18.93 weeks of permanent partial disability from Second Injury Fund	\$4,692.34
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<b>TOTAL:</b>	<b>\$4,692.34</b>
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23. Future requirements awarded: None

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 of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: Lynn Barnett

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

Employee:	Ronald Wright	Injury No.:	94-204617
Dependents:	N/A	Before the	
Employer:	Ford Motor Company (Settled)	<b>Division of Workers'</b>	
Additional Party:	Second Injury Fund	<b>Compensation</b>	
Insurer:	Self	Department of Labor and Industrial	
		Relations of Missouri	
		Jefferson City, Missouri	
		Checked by:	MDV:cw

### **PRELIMINARY MATTERS**

Three claims, 94-204617, 98-179139, and 98-141001 were all tried together. Pursuant to 8CSR 20-3.050 (1) (2) (3) the earlier claim is designated the master proceeding and the evidence and transcript will be maintained in the earlier file. The issues presented are the nature and extent of Second Injury Fund Liability.

### **FACTS**

1. Claimant was 62 years old on the date of the hearing. Claimant was born December 22, 1948, and married to Paula Wright.
2. June of 1999 was Claimant's last day worked with Ford Motor Company.
3. Claimant worked for Ford Motor Company as an inspector performing electrical tests, brake tests, and performing any other labor work that might be necessary. Claimant worked on the assembly line when not working as an inspector.
4. Claimant tested brakes by taking equipment off of a hook weighing 45lbs., placing the equipment in vehicles, started the equipment and tested the brakes. The test either came out positive or negative after which Claimant would tag the vehicle okay if it passed the test and if it failed Claimant would tag the vehicle as a failure. Claimant would then return the equipment to the hook and walk up to the next vehicle and start the procedure over.
5. In testing the brakes, Claimant did not have to get in and out of the vehicle, but he did have to do a lot of walking on the assembly line floor. Claimant worked for 10 years as an inspector, prior to this Claimant worked on the production line installing glass, or trim, or working on the chassis.
6. Claimant did not have a particular job. Claimant was the utility player who could do quite a number of different jobs.
7. Claimant went to work in May of 1988 for Ford Motor Company. Prior to that Claimant worked at Southwestern Bell silver pages in marketing, but that venture failed and

Claimant moved on to Chrysler from 1973 to 1981 where he held a variety of positions, some in management.

8. Claimant was a supervisor of the North receiving dock at Chrysler. Claimant was also a foreman receiving inbound stock, controlling the flow of trucks, inbound and outbound freight and worked as a utility general foreman overseeing the entire trim department. Claimant also coordinated other supervisors.
9. As the foreman on the receiving dock, Claimant would often have to pry dock plates up with a steel pry bar sometimes 10 to 15 times per day on the dock.
10. Claimant was in the Air Force from 1966 to 1970 working in inventory management control and following that Claimant was honorably discharged from the Air Force.
11. Claimant worked earlier for Motorola installing equipment in police cars. Claimant would string cable, remove seats from cars, tear out existing equipment and get ready for the installation of new electronics.
12. In June of 1988, Claimant developed carpal tunnel syndrome bilaterally and underwent surgery with Dr. Cohen. Claimant still has pain in both hands from that condition, stiff fingers, and pain in his palms and thumbs as well as weakness. The condition never really got better according to Claimant. Claimant worked for one year with the syndrome before the surgery. The surgery did stop the arms from going to sleep. Claimant has a problem gripping or squeezing small objects, or holding onto things. Following the surgery Claimant was constantly moved around the assembly plant until he could find a job that he could do given the problems with his hands.
13. The first injury at issue here was to the left knee in 1994. Claimant was walking down a ramp on the assembly line at Ford when he turned and twisted his left leg which immediately became swollen. Claimant sought medical treatment and was placed in a knee brace, eventually surgery was performed by Dr. Bassman. The surgery with Dr. Bassman did not relieve all of Claimant's complaints so he followed up with Dr. Van Ryn and another surgery was performed a year later. When Claimant returned to work following this injury he had some difficulty. Claimant's job was to check electric components in vehicles and this would require him to sit inside the vehicle itself with no seats and no stool. Getting in and out and pushing the pedals in the car which aggravated Claimant's knee pain. Following those two surgeries Claimant had a constant pain in his left knee and is unable to kneel.
14. Six months later, because Claimant was favoring his left knee, Claimant also started having problems with his right knee. Surgery was performed on the right knee by Dr. Van Ryn and Claimant returned to work. The right leg was not as bad as the left leg. Claimant continued to work even though Claimant could not bend, squat, or kneel with either knee. Claimant remained under Dr. Van Ryn's care for two years following the three knee surgeries and continued to work as best as he could. Claimant continued to have difficulties even though he has a high tolerance for pain.

15. The second accident occurred on August 4, 1998 when Claimant was stepping up onto the production line when he fell while holding a case of parts in his arms. When Claimant fell he hyper-extended his arms and both shoulders and Claimant's head hit the floor in a type of whiplash motion. Claimant was knocked unconscious and injured both shoulders, his upper back and head. Claimant also cut his nose, skinned his head and face. Claimant immediately went to the medical department which immediately sent him to the emergency room at De Paul Hospital. It was immediately apparent that Claimant's right shoulder was dislocated and an Arthrogram was performed on his left shoulder. Claimant was off work for 10 days. Dr. Van Ryn started to treat Claimant's shoulders with cortisone injections in both shoulders and physical therapy for a couple of months. Things became complicated when Claimant was going to physical therapy and healing from the second accident.
16. On December 9, 1998, Claimant was working light duty when he began reaching for some push pins in the ceiling when Claimant felt a pop and tear in his right bicep tendon. The right bicep tendon tore off the bone and slipped down subdermally into the elbow area. Dr. Van Ryn was already scheduled to see Claimant the next day as a result of his August injury and therefore Claimant received treatment immediately for the biceps tendon tear.
17. In February Claimant went to see Dr. Lehman on his own through his private insurance. Dr. Lehman took over Claimant's care at that time. Claimant underwent right shoulder and left elbow surgery in July and after healing from those procedures, Claimant underwent left shoulder surgery in December or January. The procedures performed were an Arthrogram of both shoulders and an ulnar nerve transposition of the left elbow.
18. Claimant received Temporary Total Disability until October of 2000.
19. Claimant had been released to light duty from all of his medical procedures and was scheduled to return to work on a Monday. Claimant had been to work hardening and was all set to return to work when Employer said that because Claimant needed to get a clearance from a psychiatrist and a psychiatric evaluation because the Employer apparently believed that Claimant was only able to do light duty he must be experiencing some sort of psychological problem.
20. Claimant was referred to Dr. Rohen M.D. and was referred to a psychologist for counseling. Dr. Becker treated Claimant for pain management to help him deal with chronic pain in his shoulder, neck, knees, hands that existed 24 hours a day 7 days a week.
21. Claimant could not put his hands over his head, he could not reach out in front of him, he was unable to put on a shirt, and his physical symptoms were beginning to affect his whole life. Claimant became despondent over the way he was treated at work with the psychological clearance and became depressed at his own physical limitations. Claimant was then fired by Ford.
22. Claimant describes a pain cycle where he was constantly dealing with pain and his whole life became about dealing with pain almost as if it were an obsession. Claimant became angry, he had difficulty dealing with people and was concentrating solely on his pain, feeling overwhelmed in his life and was further exasperated by the fact that he was not

receiving unemployment insurance and Ford refused Claimant any form of disability and no worker's compensation or Temporary Total Disability.

23. Claimant fell under the care of Dr. Padda for pain control and therapy. Claimant described the previous cycle of pain, for example; he would use his shoulders, his upper back would lock up; if he relied on his elbows, his shoulders became problematic. So it seemed as if he was in a disability syndrome where one problem fed off the other, which then made him anxious and overwhelmed which further caused spikes in his tension, and anxiety.
24. Following all the injuries here, and Claimant's healing there from, Claimant underwent knee replacement.
25. Claimant doesn't believe that he can perform his former supervisory duties because of difficulty he has walking up steps, distances and using pry bars to pry up dock plates.
26. In the past Claimant had seen the employee assistant program or EAP over stress and money items, time he was losing from work, problems with his wife and depression. The EAP helped Claimant get back to his base line and he discontinued counseling.
27. Claimant has two years of community college, training and a pilot's license, but has been unable to fly since 1998 when he injured both of his shoulders. Claimant cannot get in and out of planes.
28. In 2003 Claimant underwent a lumbar laminectomy which is not related to any of the work claims listed.

### **FINDING OF FACT RULINGS OF LAW**

1. Claimant suffered a bilateral carpal tunnel syndrome in 1988 which left him with a 17 ½ Permanent Partial Disability for each upper extremity with a 10% load factor added for the multiplicity of the injuries. (67.375)
2. In the first worker's compensation claim herein (1994) Claimant sustained a 45% Permanent Partial Disability measured at the level of the left knee. for the injuries and two surgeries there, Claimant also sustained a 25% Permanent Partial Disability of the right knee injury and surgery as a result of his altered gait for favoring of the left knee. The left and right knees are working in a synergistic fashion so as to require a 10% loading factor. (123.2)
3. As a result of the August 4, 1998, injury Claimant sustained a 25% Permanent Partial Disability to each shoulder and a 35% Permanent Partial Disability to the left elbow as a result of the nerve transposition. A loading factor of .25 is added to the injuries therein. (236.875)
4. As a result of the 1998 injury that occurred on December 9, 1998, Claimant sustained a 22 ½ % Permanent Partial Disability for the un-repairable biceps tendon tear and a 30% Permanent Partial Disability measured at the level of the body as a whole for psychological impairment and pain syndrome. (172.2)

5. The 1994 knee injury (123.2) combines with the 1988 bilateral carpal tunnel syndrome in a synergistic fashion which exceeds the simple sum total of the injuries and which is best represented by a factor of .10%  $(123.2 + 67.375) \times .10 = 19.06$
6. The injury August 4, 1998, which consist of the two shoulders and left elbow (236.875) combined with the left knee injury from 1994 (123.2) and the 1988 bilateral carpal tunnel syndrome (67.375) in a synergistic fashion which exceeds the simple sum total of the injuries and which is best reflected by a multiplicity factor of .3.  $(236.875 + 67.375 + 123.3) \times .3 = 128.235$
7. The last injury on December 9, 1998, consisting of a 22 ½% Permanent Partial Disability of the biceps tendon (52.2) and a 30% Permanent Partial Disability of the body as a whole (120) is combining with the other 1998 injury  $(116 + 73.5) + .25 + 67.375$ , 1994 injury (126.72), and the 1988 carpal tunnel syndrome (67.375) injury again in a fashion which exceeds the simple sum total of injuries and which synergistic effect is best represented by a loading factor of 5.

**DICUSSION**

Claimant is not permanent and totally disabled though he is very close to that line. I think with his past education and managerial training and transferable skills, he could find some higher level sedentary work, but given his age and disabilities it is going to be difficult. Nevertheless, I believe I have loaded the permanent disability sufficiently as to adequately compensate Claimant for the severity of his injuries and the difficulty he will carry in his pursuit of suitable gainful employment.

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

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

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

A true copy: Attest:

\_\_\_\_\_  
*Jeffrey W. Buker*  
*Director*  
*Division of Workers' Compensation*

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

Injury No.: 98-141001

Employee: Ronald Wright  
Employer: Ford Motor (Settled)  
Insurer: Self-Insured (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 section 287.480 RSMo. We have reviewed the evidence, heard the parties' arguments, and considered the whole record. Pursuant to section 286.090 RSMo, we modify the award. The award and decision of Administrative Law Judge Matthew D. Vacca, issued January 16, 2009, is attached and incorporated by this reference to the extent it is not inconsistent with our findings, conclusions, award, and decision herein.

The administrative law judge miscalculated the Second Injury Fund liability for permanent partial disability in this matter. The administrative law judge found: 1) that the disability from the primary injury resulted in 172.2 weeks of permanent partial disability; 2) that employee's pre-existing disabilities equaled 427.45 weeks of permanent partial disability; and, 3) that the synergistic effect of employee's primary injury combined with his preexisting disabilities results in an enhancement of his permanent partial disability by a factor of 50%. Based upon these findings, the Second Injury Fund is liable for 299.825 weeks of permanent partial disability, depicted mathematically as:  $(172.2 + 427.45) \times .50 = 299.825$ .

Based on the above calculation, the Commission ascertains and determines that the correct amount of the Second Injury Fund's liability is \$88,367.42 and we modify the January 16, 2009, award accordingly.

As stated above, all remaining findings of fact and conclusions of law are affirmed.

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 2<sup>nd</sup> day of September, 2009.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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William F. Ringer, Chairman

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Alice A. Bartlett, Member

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John J. Hickey, Member

Attest:

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Secretary

## AWARD

Employee:	Ronald Wright	Injury No.: 98-141001
Dependents:	N/A	Before the
Employer:	Ford Motor Company (Settled)	<b>Division of Workers'</b>
Additional Party:	Second Injury Fund	<b>Compensation</b>
Insurer:	Self	Department of Labor and Industrial
Hearing Date:	November 13, 2008	Relations of Missouri
		Jefferson City, Missouri
		Checked by: MDV:cw

### 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: December 09, 1998
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: Injured shoulders and body as a whole when fell.
12. Did accident or occupational disease cause death? No Date of death?
13. Part(s) of body injured by accident or occupational disease: Shoulder and body as a whole when fell
14. Nature and extent of any permanent disability: 22.5% Shoulder; 30% Body as a whole
15. Compensation paid to-date for temporary disability: \$36,010.88
16. Value necessary medical aid paid to date by employer/insurer? \$25,075.35

Employee: Ronald Wright Injury

No.: 98-141001

- 17. Value necessary medical aid not furnished by employer/insurer?
- 18. Employee's average weekly wages: \$972.88
- 19. Weekly compensation rate: \$562.67/\$294.73
- 20. Method wages computation:

**COMPENSATION PAYABLE**

- 21. Amount of compensation payable:

weeks of temporary total disability (or temporary partial disability)	Previously settled
172.2 weeks of permanent partial disability from Employer	
weeks of disfigurement from Employer	
Permanent total disability benefits from Employer beginning , for Claimant's lifetime	

- 22. Second Injury Fund liability: Yes No Open

299.825 weeks of permanent partial disability from Second Injury Fund	\$88,367.42
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TOTAL:	\$88,367.42
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- 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 of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

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

Employee:	Ronald Wright	Injury No.: 98-141001
Dependents:	N/A	Before the
Employer:	Ford Motor Company (Settled)	<b>Division of Workers'</b>
Additional Party:	Second Injury Fund	<b>Compensation</b>
		Department of Labor and Industrial
		Relations of Missouri
		Jefferson City, Missouri
Insurer:	Self	Checked by: MDV:cw

### **PRELIMINARY MATTERS**

Three claims, 94-204617, 98-179139, and 98-141001 were all tried together. Pursuant to 8CSR 20-3.050 (1) (2) (3) the earlier claim is designated the master proceeding and the evidence and transcript will be maintained in the earlier file. The issues presented are the nature and extent of Second Injury Fund Liability.

### **FACTS**

1. Claimant was 62 years old on the date of the hearing. Claimant was born December 22, 1948, and married to Paula Wright.
2. June of 1999 was Claimant's last day worked with Ford Motor Company.
3. Claimant worked for Ford Motor Company as an inspector performing electrical tests, brake tests, and performing any other labor work that might be necessary. Claimant worked on the assembly line when not working as an inspector.
4. Claimant tested brakes by taking equipment off of a hook weighing 45lbs., placing the equipment in vehicles, started the equipment and tested the brakes. The test either came out positive or negative after which Claimant would tag the vehicle okay if it passed the test and if it failed Claimant would tag the vehicle as a failure. Claimant would then return the equipment to the hook and walk up to the next vehicle and start the procedure over.
5. In testing the brakes, Claimant did not have to get in and out of the vehicle, but he did have to do a lot of walking on the assembly line floor. Claimant worked for 10 years as an inspector, prior to this Claimant worked on the production line installing glass, or trim, or working on the chassis.
6. Claimant did not have a particular job. Claimant was the utility player who could do quite a number of different jobs.
7. Claimant went to work in May of 1988 for Ford Motor Company. Prior to that Claimant worked at Southwestern Bell silver pages in marketing, but that venture failed and

Claimant moved on to Chrysler from 1973 to 1981 where he held a variety of positions, some in management.

8. Claimant was a supervisor of the North receiving dock at Chrysler. Claimant was also a foreman receiving inbound stock, controlling the flow of trucks, inbound and outbound freight and worked as a utility general foreman overseeing the entire trim department. Claimant also coordinated other supervisors.
9. As the foreman on the receiving dock, Claimant would often have to pry dock plates up with a steel pry bar sometimes 10 to 15 times per day on the dock.
10. Claimant was in the Air Force from 1966 to 1970 working in inventory management control and following that Claimant was honorably discharged from the Air Force.
11. Claimant worked earlier for Motorola installing equipment in police cars. Claimant would string cable, remove seats from cars, tear out existing equipment and get ready for the installation of new electronics.
12. In June of 1988, Claimant developed carpal tunnel syndrome bilaterally and underwent surgery with Dr. Cohen. Claimant still has pain in both hands from that condition, stiff fingers, and pain in his palms and thumbs as well as weakness. The condition never really got better according to Claimant. Claimant worked for one year with the syndrome before the surgery. The surgery did stop the arms from going to sleep. Claimant has a problem gripping or squeezing small objects, or holding onto things. Following the surgery Claimant was constantly moved around the assembly plant until he could find a job that he could do given the problems with his hands.
13. The first injury at issue here was to the left knee in 1994. Claimant was walking down a ramp on the assembly line at Ford when he turned and twisted his left leg which immediately became swollen. Claimant sought medical treatment and was placed in a knee brace, eventually surgery was performed by Dr. Bassman. The surgery with Dr. Bassman did not relieve all of Claimant's complaints so he followed up with Dr. Van Ryn and another surgery was performed a year later. When Claimant returned to work following this injury he had some difficulty. Claimant's job was to check electric components in vehicles and this would require him to sit inside the vehicle itself with no seats and no stool. Getting in and out and pushing the pedals in the car which aggravated Claimant's knee pain. Following those two surgeries Claimant had a constant pain in his left knee and is unable to kneel.
14. Six months later, because Claimant was favoring his left knee, Claimant also started having problems with his right knee. Surgery was performed on the right knee by Dr. Van Ryn and Claimant returned to work. The right leg was not as bad as the left leg. Claimant continued to work even though Claimant could not bend, squat, or kneel with either knee. Claimant remained under Dr. Van Ryn's care for two years following the three knee surgeries and continued to work as best as he could. Claimant continued to have difficulties even though he has a high tolerance for pain.

15. The second accident occurred on August 4, 1998 when Claimant was stepping up onto the production line when he fell while holding a case of parts in his arms. When Claimant fell he hyper-extended his arms and both shoulders and Claimant's head hit the floor in a type of whiplash motion. Claimant was knocked unconscious and injured both shoulders, his upper back and head. Claimant also cut his nose, skinned his head and face. Claimant immediately went to the medical department which immediately sent him to the emergency room at De Paul Hospital. It was immediately apparent that Claimant's right shoulder was dislocated and an Arthrogram was performed on his left shoulder. Claimant was off work for 10 days. Dr. Van Ryn started to treat Claimant's shoulders with cortisone injections in both shoulders and physical therapy for a couple of months. Things became complicated when Claimant was going to physical therapy and healing from the second accident.
16. On December 9, 1998, Claimant was working light duty when he began reaching for some push pins in the ceiling when Claimant felt a pop and tear in his right bicep tendon. The right bicep tendon tore off the bone and slipped down subdermally into the elbow area. Dr. Van Ryn was already scheduled to see Claimant the next day as a result of his August injury and therefore Claimant received treatment immediately for the biceps tendon tear.
17. In February Claimant went to see Dr. Lehman on his own through his private insurance. Dr. Lehman took over Claimant's care at that time. Claimant underwent right shoulder and left elbow surgery in July and after healing from those procedures, Claimant underwent left shoulder surgery in December or January. The procedures performed were an Arthrogram of both shoulders and an ulnar nerve transposition of the left elbow.
18. Claimant received Temporary Total Disability until October of 2000.
19. Claimant had been released to light duty from all of his medical procedures and was scheduled to return to work on a Monday. Claimant had been to work hardening and was all set to return to work when Employer said that because Claimant needed to get a clearance from a psychiatrist and a psychiatric evaluation because the Employer apparently believed that Claimant was only able to do light duty he must be experiencing some sort of psychological problem.
20. Claimant was referred to Dr. Rohen M.D. and was referred to a psychologist for counseling. Dr. Becker treated Claimant for pain management to help him deal with chronic pain in his shoulder, neck, knees, hands that existed 24 hours a day 7 days a week.
21. Claimant could not put his hands over his head, he could not reach out in front of him, he was unable to put on a shirt, and his physical symptoms were beginning to affect his whole life. Claimant became despondent over the way he was treated at work with the psychological clearance and became depressed at his own physical limitations. Claimant was then fired by Ford.
22. Claimant describes a pain cycle where he was constantly dealing with pain and his whole life became about dealing with pain almost as if it were an obsession. Claimant became angry, he had difficulty dealing with people and was concentrating solely on his pain, feeling overwhelmed in his life and was further exasperated by the fact that he was not

receiving unemployment insurance and Ford refused Claimant any form of disability and no worker's compensation or Temporary Total Disability.

23. Claimant fell under the care of Dr. Padda for pain control and therapy. Claimant described the previous cycle of pain, for example; he would use his shoulders, his upper back would lock up; if he relied on his elbows, his shoulders became problematic. So it seemed as if he was in a disability syndrome where one problem fed off the other, which then made him anxious and overwhelmed which further caused spikes in his tension, and anxiety.
24. Following all the injuries here, and Claimant's healing there from, Claimant underwent knee replacement.
25. Claimant doesn't believe that he can perform his former supervisory duties because of difficulty he has walking up steps, distances and using pry bars to pry up dock plates.
26. In the past Claimant had seen the employee assistant program or EAP over stress and money items, time he was losing from work, problems with his wife and depression. The EAP helped Claimant get back to his base line and he discontinued counseling.
27. Claimant has two years of community college, training and a pilot's license, but has been unable to fly since 1998 when he injured both of his shoulders. Claimant cannot get in and out of planes.
28. In 2003 Claimant underwent a lumbar laminectomy which is not related to any of the work claims listed.

### **FINDING OF FACT RULINGS OF LAW**

1. Claimant suffered a bilateral carpal tunnel syndrome in 1988 which left him with a 17 ½ Permanent Partial Disability for each upper extremity with a 10% load factor added for the multiplicity of the injuries. (67.375)
2. In the first worker's compensation claim herein (1994) Claimant sustained a 45% Permanent Partial Disability measured at the level of the left knee. for the injuries and two surgeries there, Claimant also sustained a 25% Permanent Partial Disability of the right knee injury and surgery as a result of his altered gait for favoring of the left knee. The left and right knees are working in a synergistic fashion so as to require a 10% loading factor. (123.2)
3. As a result of the August 4, 1998, injury Claimant sustained a 25% Permanent Partial Disability to each shoulder and a 35% Permanent Partial Disability to the left elbow as a result of the nerve transposition. A loading factor of .25 is added to the injuries therein. (236.875)
4. As a result of the 1998 injury that occurred on December 9, 1998, Claimant sustained a 22 ½ % Permanent Partial Disability for the un-repairable biceps tendon tear and a 30% Permanent Partial Disability measured at the level of the body as a whole for psychological impairment and pain syndrome. (172.2)

- 5. The 1994 knee injury (123.2) combines with the 1988 bilateral carpal tunnel syndrome in a synergistic fashion which exceeds the simple sum total of the injuries and which is best represented by a factor of .10%  $(123.2 + 67.375) \times .10 = 19.06$
- 6. The injury August 4, 1998, which consist of the two shoulders and left elbow (236.875) combined with the left knee injury from 1994 (123.2) and the 1988 bilateral carpal tunnel syndrome (67.375) in a synergistic fashion which exceeds the simple sum total of the injuries and which is best reflected by a multiplicity factor of .3.  $(236.875 + 67.375 + 123.3) \times .3 = 128.235$
- 7. The last injury on December 9, 1998, consisting of a 22 ½% Permanent Partial Disability of the biceps tendon (52.2) and a 30% Permanent Partial Disability of the body as a whole (120) is combining with the other 1998 injury  $(116 + 73.5) + .25 + 67.375$ , 1994 injury (126.72), and the 1988 carpal tunnel syndrome (67.375) injury again in a fashion which exceeds the simple sum total of injuries and which synergistic effect is best represented by a loading factor of 5.

**DICUSSION**

Claimant is not permanent and totally disabled though he is very close to that line. I think with his past education and managerial training and transferable skills, he could find some higher level sedentary work, but given his age and disabilities it is going to be difficult. Nevertheless, I believe I have loaded the permanent disability sufficiently as to adequately compensate Claimant for the severity of his injuries and the difficulty he will carry in his pursuit of suitable gainful employment.

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

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

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

A true copy: Attest:

\_\_\_\_\_  
Jeffrey W. Buker  
Director  
Division of Workers' Compensation

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

Injury No.: 98-179139

Employee: Ronald Wright  
Employer: Ford Motor Company (Settled)  
Insurer: Self-Insured (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 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 Law. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated January 16, 2009. The award and decision of Administrative Law Judge Matthew D. Vacca, issued January 16, 2009, 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 2<sup>nd</sup> day of September 2009.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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William F. Ringer, Chairman

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Alice A. Bartlett, Member

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John J. Hickey, Member

Attest:

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Secretary

## AWARD

Employee:	Ronald Wright	Injury No.:	98-179139
Dependents:	N/A		Before the
Employer:	Ford Motor Company		<b>Division of Workers'</b>
Additional Party:	Second Injury Fund		<b>Compensation</b>
Insurer:	Self		Department of Labor and Industrial
Hearing Date:	November 13, 2008		Relations of Missouri
			Jefferson City, Missouri
		Checked by:	MDV:cw

### 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?
4. Date of accident or onset of occupational disease: August 4, 1998
5. State location where accident occurred or occupational disease was contracted: St. Louis, County? Yes
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:  
Slipped injuring shoulders and elbow.
12. Did accident or occupational disease cause death? No Date of death?
13. Part(s) of body injured by accident or occupational disease: Both shoulders and left elbow
14. Nature and extent of any permanent disability: 25% each shoulder 35% left elbow
15. Compensation paid to-date for temporary disability: \$803.81
16. Value necessary medical aid paid to date by employer/insurer? \$21,714.12

Employee: Ronald Wright

Injury No.: 98-179139

- 17. Value necessary medical aid not furnished by employer/insurer?
- 18. Employee's average weekly wages: \$972.88
- 19. Weekly compensation rate: \$562.67/294.73
- 20. Method wages computation: Agreed

**COMPENSATION PAYABLE**

21. Amount of compensation payable:

236.875 weeks of permanent partial disability from Employer (Previously Settled)

22. Second Injury Fund liability: Yes

91.275 weeks of permanent partial disability from Second Injury Fund \$37,794.70

128.235 Uninsured medical/death benefits

**TOTAL:** \$37,794.70

23. Future requirements awarded: None

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 of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: Lynn Barnett

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

Employee:	Ronald Wright	Injury No.: 98-179139
Dependents:	N/A	Before the
Employer:	Ford Motor Company (Settled)	<b>Division of Workers'</b>
Additional Party:	Second Injury Fund	<b>Compensation</b>
		Department of Labor and Industrial
		Relations of Missouri
		Jefferson City, Missouri
Insurer:	Self	Checked by: MDV:cw

### **PRELIMINARY MATTERS**

Three claims, 94-204617, 98-179139, and 98-141001 were all tried together. Pursuant to 8CSR 20-3.050 (1) (2) (3) the earlier claim is designated the master proceeding and the evidence and transcript will be maintained in the earlier file. The issues presented are the nature and extent of Second Injury Fund Liability.

### **FACTS**

1. Claimant was 62 years old on the date of the hearing. Claimant was born December 22, 1948, and married to Paula Wright.
2. June of 1999 was Claimant's last day worked with Ford Motor Company.
3. Claimant worked for Ford Motor Company as an inspector performing electrical tests, brake tests, and performing any other labor work that might be necessary. Claimant worked on the assembly line when not working as an inspector.
4. Claimant tested brakes by taking equipment off of a hook weighing 45lbs., placing the equipment in vehicles, started the equipment and tested the brakes. The test either came out positive or negative after which Claimant would tag the vehicle okay if it passed the test and if it failed Claimant would tag the vehicle as a failure. Claimant would then return the equipment to the hook and walk up to the next vehicle and start the procedure over.
5. In testing the brakes, Claimant did not have to get in and out of the vehicle, but he did have to do a lot of walking on the assembly line floor. Claimant worked for 10 years as an inspector, prior to this Claimant worked on the production line installing glass, or trim, or working on the chassis.
6. Claimant did not have a particular job. Claimant was the utility player who could do quite a number of different jobs.

7. Claimant went to work in May of 1988 for Ford Motor Company. Prior to that Claimant worked at Southwestern Bell silver pages in marketing, but that venture failed and Claimant moved on to Chrysler from 1973 to 1981 where he held a variety of positions, some in management.
8. Claimant was a supervisor of the North receiving dock at Chrysler. Claimant was also a foreman receiving inbound stock, controlling the flow of trucks, inbound and outbound freight and worked as a utility general foreman overseeing the entire trim department. Claimant also coordinated other supervisors.
9. As the foreman on the receiving dock, Claimant would often have to pry dock plates up with a steel pry bar sometimes 10 to 15 times per day on the dock.
10. Claimant was in the Air Force from 1966 to 1970 working in inventory management control and following that Claimant was honorably discharged from the Air Force.
11. Claimant worked earlier for Motorola installing equipment in police cars. Claimant would string cable, remove seats from cars, tear out existing equipment and get ready for the installation of new electronics.
12. In June of 1988, Claimant developed carpal tunnel syndrome bilaterally and underwent surgery with Dr. Cohen. Claimant still has pain in both hands from that condition, stiff fingers, and pain in his palms and thumbs as well as weakness. The condition never really got better according to Claimant. Claimant worked for one year with the syndrome before the surgery. The surgery did stop the arms from going to sleep. Claimant has a problem gripping or squeezing small objects, or holding onto things. Following the surgery Claimant was constantly moved around the assembly plant until he could find a job that he could do given the problems with his hands.
13. The first injury at issue here was to the left knee in 1994. Claimant was walking down a ramp on the assembly line at Ford when he turned and twisted his left leg which immediately became swollen. Claimant sought medical treatment and was placed in a knee brace, eventually surgery was performed by Dr. Bassman. The surgery with Dr. Bassman did not relieve all of Claimant's complaints so he followed up with Dr. Van Ryn and another surgery was performed a year later. When Claimant returned to work following this injury he had some difficulty. Claimant's job was to check electric components in vehicles and this would require him to sit inside the vehicle itself with no seats and no stool. Getting in and out and pushing the pedals in the car which aggravated Claimant's knee pain. Following those two surgeries Claimant had a constant pain in his left knee and is unable to kneel.
14. Six months later, because Claimant was favoring his left knee, Claimant also started having problems with his right knee. Surgery was performed on the right knee by Dr. Van Ryn and Claimant returned to work. The right leg was not as bad as the left leg. Claimant continued to work even though Claimant could not bend, squat, or kneel with either knee. Claimant remained under Dr. Van Ryn's care for two years following the three knee surgeries and continued to work as best as he could. Claimant continued to have difficulties even though he has a high tolerance for pain.

15. The second accident occurred on August 4, 1998 when Claimant was stepping up onto the production line when he fell while holding a case of parts in his arms. When Claimant fell he hyper-extended his arms and both shoulders and Claimant's head hit the floor in a type of whiplash motion. Claimant was knocked unconscious and injured both shoulders, his upper back and head. Claimant also cut his nose, skinned his head and face. Claimant immediately went to the medical department which immediately sent him to the emergency room at De Paul Hospital. It was immediately apparent that Claimant's right shoulder was dislocated and an Arthrogram was performed on his left shoulder. Claimant was off work for 10 days. Dr. Van Ryn started to treat Claimant's shoulders with cortisone injections in both shoulders and physical therapy for a couple of months. Things became complicated when Claimant was going to physical therapy and healing from the second accident.
16. On December 9, 1998, Claimant was working light duty when he began reaching for some push pins in the ceiling when Claimant felt a pop and tear in his right bicep tendon. The right bicep tendon tore off the bone and slipped down subdermally into the elbow area. Dr. Van Ryn was already scheduled to see Claimant the next day as a result of his August injury and therefore Claimant received treatment immediately for the biceps tendon tear.
17. In February Claimant went to see Dr. Lehman on his own through his private insurance. Dr. Lehman took over Claimant's care at that time. Claimant underwent right shoulder and left elbow surgery in July and after healing from those procedures, Claimant underwent left shoulder surgery in December or January. The procedures performed were an Arthrogram of both shoulders and an ulnar nerve transposition of the left elbow.
18. Claimant received Temporary Total Disability until October of 2000.
19. Claimant had been released to light duty from all of his medical procedures and was scheduled to return to work on a Monday. Claimant had been to work hardening and was all set to return to work when Employer said that because Claimant needed to get a clearance from a psychiatrist and a psychiatric evaluation because the Employer apparently believed that Claimant was only able to do light duty he must be experiencing some sort of psychological problem.
20. Claimant was referred to Dr. Rohen M.D. and was referred to a psychologist for counseling. Dr. Becker treated Claimant for pain management to help him deal with chronic pain in his shoulder, neck, knees, hands that existed 24 hours a day 7 days a week.
21. Claimant could not put his hands over his head, he could not reach out in front of him, he was unable to put on a shirt, and his physical symptoms were beginning to affect his whole life. Claimant became despondent over the way he was treated at work with the psychological clearance and became depressed at his own physical limitations. Claimant was then fired by Ford.
22. Claimant describes a pain cycle where he was constantly dealing with pain and his whole life became about dealing with pain almost as if it were an obsession. Claimant became angry, he had difficulty dealing with people and was concentrating solely on his pain, feeling overwhelmed in his life and was further exasperated by the fact that he was not

receiving unemployment insurance and Ford refused Claimant any form of disability and no worker's compensation or Temporary Total Disability.

23. Claimant fell under the care of Dr. Padda for pain control and therapy. Claimant described the previous cycle of pain, for example; he would use his shoulders, his upper back would lock up; if he relied on his elbows, his shoulders became problematic. So it seemed as if he was in a disability syndrome where one problem fed off the other, which then made him anxious and overwhelmed which further caused spikes in his tension, and anxiety.
24. Following all the injuries here, and Claimant's healing there from, Claimant underwent knee replacement.
25. Claimant doesn't believe that he can perform his former supervisory duties because of difficulty he has walking up steps, distances and using pry bars to pry up dock plates.
26. In the past Claimant had seen the employee assistant program or EAP over stress and money items, time he was losing from work, problems with his wife and depression. The EAP helped Claimant get back to his base line and he discontinued counseling.
27. Claimant has two years of community college, training and a pilot's license, but has been unable to fly since 1998 when he injured both of his shoulders. Claimant cannot get in and out of planes.
28. In 2003 Claimant underwent a lumbar laminectomy which is not related to any of the work claims listed.

### **FINDING OF FACT RULINGS OF LAW**

1. Claimant suffered a bilateral carpal tunnel syndrome in 1988 which left him with a 17 ½ Permanent Partial Disability for each upper extremity with a 10% load factor added for the multiplicity of the injuries. (67.375)
2. In the first worker's compensation claim herein (1994) Claimant sustained a 45% Permanent Partial Disability measured at the level of the left knee. for the injuries and two surgeries there, Claimant also sustained a 25% Permanent Partial Disability of the right knee injury and surgery as a result of his altered gait for favoring of the left knee. The left and right knees are working in a synergistic fashion so as to require a 10% loading factor. (123.2)
3. As a result of the August 4, 1998, injury Claimant sustained a 25% Permanent Partial Disability to each shoulder and a 35% Permanent Partial Disability to the left elbow as a result of the nerve transposition. A loading factor of .25 is added to the injuries therein. (236.875)
4. As a result of the 1998 injury that occurred on December 9, 1998, Claimant sustained a 22 ½ % Permanent Partial Disability for the un-repairable biceps tendon tear and a 30% Permanent Partial Disability measured at the level of the body as a whole for psychological impairment and pain syndrome. (172.2)

5. The 1994 knee injury (123.2) combines with the 1988 bilateral carpal tunnel syndrome in a synergistic fashion which exceeds the simple sum total of the injuries and which is best represented by a factor of .10%  $(123.2 + 67.375) \times .10 = 19.06$
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Claimant is not permanent and totally disabled though he is very close to that line. I think with his past education and managerial training and transferable skills, he could find some higher level sedentary work, but given his age and disabilities it is going to be difficult. Nevertheless, I believe I have loaded the permanent disability sufficiently as to adequately compensate Claimant for the severity of his injuries and the difficulty he will carry in his pursuit of suitable gainful employment.

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

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

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

A true copy: Attest:

\_\_\_\_\_  
*Jeffrey W. Buker*  
*Director*  
*Division of Workers' Compensation*