



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 4/22/25

**REQUESTER:** Jeanne Snider

**PRESENTER:** Jeanne Snider, Assistant City Attorney

**ITEM TITLE:** CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF A COURT ORDER: A RECOMMENDATION FOR APPROVAL OF A COURT ORDER IN THE TOTAL AMOUNT OF \$10,368 REGARDING ALLEN SHELTON VS. THE CITY OF NORMAN, OKLAHOMA WORKERS' COMPENSATION COMMISSION CASE 2024-03108 M.

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### **BACKGROUND:**

Allen Shelton is a Heavy Equipment Operator in the Stormwater Division for the City of Norman's Public Works Department. He was hired as a Maintenance Worker I on April 5, 1999 and promoted to Heavy Equipment Operator on April 18, 2005.

Mr. Shelton filed claim CM3-2024-03108 M with the Oklahoma Workers' Compensation Commission on June 6, 2024, alleging a single incident injury to the Right Shoulder on May 19, 2023 when throwing tree logs into the truck bed. The claim was accepted and proceeded through the normal litigation process. A trial was held April 1, 2025 on the issue of nature and extent of permanent partial disability. On April 7, 2025, the Court awarded Mr. Shelton 8 percent (\$10,368) Permanent Partial Disability (PPD) to the RIGHT SHOLDER to be paid to Mr. Shelton weekly at the rate of \$360 commencing December 4, 2023 until the entire award is paid in full. It is recommended that the City comply with the Order. Further, because the entire portion of the award has accrued, it is recommended that the total award be paid in full.

### **DISCUSSION:**

Medical Treatment. Mr. Shelton was initially seen at Immediate Care of Oklahoma's urgent care the day of his injury for acute right shoulder pain, diagnosed with a shoulder sprain, treated conservatively and taken off work until a scheduled follow-up appointment. On May 22, 2023, he was seen at Norman Occupational Medicine. After review of imaging and in consideration of a reported previous right shoulder injury which required surgery in 2008, he was sent for a magnetic resonance imaging (MRI) on May 26, 2023. Physical therapy was then ordered; however, due to continued symptomology, he was referred for orthopedic evaluation. On June 28, 2023, Mr. Shelton was seen by Dr. Wilson and diagnosed with adhesive capsulitis and non-surgical treatment to include an intra-articular shoulder injection as well as continued physical therapy was recommended. He underwent the injection by Dr. Smathers on August 1, 2023 and

physical therapy through October 31, 2023. Mr. Shelton continued to follow-up with Dr. Wilson and was released back to work on November 6, 2023 and at maximum medical improvement on December 4, 2023.

Issues for Trial. The issue tried on April 1, 2025, before the Oklahoma Workers' Compensation Commission was nature and extent of permanent partial disability benefits to the right shoulder. Permanent partial disability is a factual determination made by the Workers' Compensation Commission Trial Judge based on doctors' opinions and medical records regarding the extent of permanent partial impairment.

Evaluations. On August 14, 2024, Mr. Shelton was rated by Dr. Lonnie Litchfield who opined 19% (\$24,624) impairment to the right shoulder over and above the prior injury and rotator cuff repair in 2008 and continued care in the form of pain management to include assignment of a pain management specialist for treatment as well as given entitlements for prescription medications or any treatments his treating physician deems necessary. The City then had Mr. Shelton evaluated by Dr. William Jones on December 12, 2024. Dr. Jones opined 2% (\$2,592) impairment to the right shoulder over and above the prior injury with surgery in 2008. The Workers' Compensation Commission Trial Judge is free to make a ruling within the range of medical evidence presented at the time of trial. The City's maximum permanent partial impairment exposure would be \$24,624.

Court Award: The case was heard by the Workers' Compensation Commission on April 1, 2025. After hearing the Claimant's testimony and considering the expert medical evidence, the Court entered its Order on April 7, 2025. The Court found Mr. Shelton to have sustained a compensable work-related injury to the RIGHT SHOULDER on May 19, 2023.

The Court's findings are set out in the Order as follows:

-3.- "That as a result of said injury, claimant has sustained 8% Permanent Partial Disability to the RIGHT SHOULDER. At claimant's rate of compensation, this is equal to an award of \$10,368.00, which shall be paid to claimant weekly at the rate of \$360.00 commencing December 4, 2023, until the entire award is paid in full."

As can be noted in No. 3 of the Commission's Order, Permanent Partial Disability (PPD) compensation is expressed in terms of "weeks" of compensation with an accompanying "weekly wage rate." Workers' Compensation awards are normally paid at the weekly rates over a period of time. Mr. Shelton's weekly wage PPD rate is \$360.00. In this instance, the entire portion of the award has accrued and is to be paid in a lump sum.

-4.- "Maximum attorney fees of 20% of the permanent partial disability benefits are awarded herein, pursuant to 85A O.S., §82."

Further, in complying with the Order, the City will incur additional costs and fees as set out in Paragraph Nos. 5 through 7. Special Occupational Health and Safety Fund Tax in the amount of \$77.76, Workers' Compensation Administration Fund in the amount of \$207.36, filing fee to the Workers' Compensation Court in the amount of \$140.00, and filing fee to Cleveland County in the amount of \$154.14. The costs and fees total \$579.26, which brings the total cost of this Order to \$10,947.26. Adequate funds are available in the Order/Settlements Account

(43330102-42131).

-8.- "Pursuant to 85A O.S. § 31(7), For injuries occurring on or after July 1, 2019, a Multiple Injury Trust Fund assessment in the amount of \$311.04, representing (3%) of the Claimant's permanent partial disability award shall be deducted and paid to the Oklahoma Tax Commission by the Respondent.

If approved by Council, Mr. Shelton and his attorney would be paid the accrued lump sum amount. Since the entire portion of the award has accrued, it is recommended that the total award be paid in full less the Multiple Injury Trust Fund assessment amount.

**RECOMMENDATION:**

The issues tried on April 1, 2025, were nature and extent of permanent partial disability benefits to the RIGHT SHOULDER. The Court Award in this case is within the medical evidence submitted. It is not anticipated a more favorable ruling for the City could be achieved by further litigation. It is recommended that the City move forward to comply with this Order.

Acceptance of the Order would require payments as outlined above. The Order would be certified to the Cleveland County District Court to be placed on the property tax rolls for collection over the next three years in accordance with 85 O.S. § 313, 51 O.S. § 159, and 62 O.S. § 361, *et seq.* Certifying the Order to the property tax rolls would, in effect, reimburse the City's Workers' Compensation Fund over the next three years.