

Gerald Orchard v City of Novi
Settlement Authority Request
June 2026**Accident Description**

This 56-year-old sign technician in the Department of Public Works was injured when a sixty-five pound hammer fell from a bucket truck and struck his right shoulder. The incident occurred on June 6, 2017. He also worked as a snowplow operator during the winter months. He began working for the member in January of 1996.

Additional Facts

Mr. Orchard started with conservative treatment and was eventually diagnosed with right subscapularis tear, proximal bicep tendonitis with subluxation, and subacromial bursitis/impingement. Surgery had been recommended by his treating physician, so we referred him to an Independent Medical Examination ("IME"). (An IME is a medical examination with a doctor who is not the claimant's own treating physician, and is a way for us to obtain another medical opinion to verify or refute the treating physician's opinion or the claimant's own complaints.). The IME physician did conclude that shoulder surgery would be recommended and that it was related to the work incident of June 6, 2017. Mr. Orchard therefore underwent the right shoulder surgery on December 1, 2017. He continued however to experience pain in his shoulder.

An updated IME was scheduled with Dr. Lennox in June of 2018, and he concluded there was ongoing disability, and that surgical treatment was needed and was related to the work incident. Mr. Orchard elected to have Dr. Lennox perform the second surgery, which took place in July of that year. Mr. Orchard continued to have ongoing complaints and therefore underwent a third right shoulder surgery in April of 2019 for removal of scar tissue. Mr. Orchard continued to have ongoing right-shoulder complaints and was referred to a functional capacity evaluation ("FCE"). (An FCE is a comprehensive evaluation to assess an individual's physical abilities, endurance, and limitations.). The FCE demonstrated overall consistency and maximum effort given by Mr. Orchard. The FCE set the following restrictions: restricted lifting to thirty-five pounds from floor to knee, twenty-five pounds from knee to waist, and ten pounds from waist to overhead level bilaterally.

He continued to have pain and was referred to another IME. This IME physician diagnosed him with continued right shoulder pain because of the work injury and the three surgeries. The IME physician felt that he could return to work within the restrictions set by the FCE. He also confirmed that the ongoing complaints were related to the work event.

An updated IME took place in August of 2020 to determine if his condition had changed. The IME indicated that there were no objective findings that would explain the ongoing subjective complaints of pain; however, the restrictions set forth in the FCE were continued. The member was able to accommodate these restrictions for a period of time, but could not do so indefinitely, and so in May of 2020, he was terminated from his employment.

Status

Vocational rehabilitation was initiated in August of 2021. Mr. Orchard then retained an attorney and filed an Application for Hearing. We therefore ceased traditional vocational rehabilitation efforts and referred his claim for



a Post-Injury Wage Earning Capacity evaluation ("PIWEC"). This showed open positions within Mr. Orchard's skillset averaging \$24/hour, which resulted in an elimination of his workers' compensation benefit because the PIWEC estimate was larger than his weekly workers' compensation rate.

We paid this claim voluntarily from June 7, 2017 through August 8, 2023, at which time we disputed benefits as the PIWEC estimate was larger than his weekly workers' compensation rate.

In October of 2025, the member offered Mr. Orchard a janitorial position which was within his restrictions, but it was rejected. Plaintiff attorney argued this offer of employment would be unreasonable as Mr. Orchard moved to the west side of the state. This is a reasonable rejection to the offer.

Surveillance was completed on multiple occasions which revealed no other outside activities.

Mr. Orchard was approved for Social Security Disability benefits in July of 2024. A Medicare Set Aside ("MSA") will therefore be necessary.

Financial

We've paid a total of \$207,650 in wage loss benefits and \$122,539 on this matter. He is currently 56 years old. His weekly work comp rate is \$784.13. The wage loss exposure to age 65 is therefore \$366,973.

Recommendation

A facilitation on this matter took place in April. The facilitator recommended a settlement of \$125,000 plus funding of an MSA in the amount of \$10,000, for a total settlement of \$135,000. This amounts to just over three years of wage loss benefits. We have therefore tentatively settled this matter for **\$135,000**, pending your approval. We do have a wage loss exposure, and we are able to resolve a longstanding claim.