

Joseph Baum III v. St. Clair County

Q-Dex 2010-0915

WC# 08-11198

Cite Key:

Q-Dex 2010-0050 = 10-IWCC-0050

Q-Dex 2010-2-12 = 2010 Appellate Court Q-Dex Case #12

Q-Dex 2010-1-03 = 2010 Supreme Court Q-Dex Case #3

08 WC 11198

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STATE OF ILLINOIS        )  
                                           ) SS.  
 COUNTY OF ST. CLAIR    )

|                                     |                                       |
|-------------------------------------|---------------------------------------|
| <input type="checkbox"/>            | Injured Workers' Benefit Fund (§4(d)) |
| <input type="checkbox"/>            | Rate Adjustment Fund (§8(g))          |
| <input type="checkbox"/>            | Second Injury Fund (§8(e)18)          |
| <input type="checkbox"/>            | PTD/Fatal denied                      |
| <input checked="" type="checkbox"/> | None of the above                     |

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Joseph Baum III,  
 Petitioner,

vs.

NO. 08 WC 11198

St. Clair County,  
 Respondent.

**10<sup>T</sup>WCC0915**

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection and the nature and extent of Petitioner's disability, and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof. The Commission is making factual findings because the parties waived such findings at arbitration.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On February 13, 2008, Petitioner suffered accidental injuries that arose out of and in the course of his employment with Respondent when he fell from a ladder striking his face and left upper extremity. As a result of this work accident, Petitioner sustained multiple fractures to the left side of his face, fractures of his left wrist, and injuries to his left eye. Dr. Camp performed emergency surgery to Petitioner's face and placed plates and screws into the orbit of Petitioner's left eye. (Px-2). Dr. Camp performed a canthopexy of Petitioner's left lower eyelid on May 1, 2008. (Px-4).

Respondent does not dispute the award of 10% loss of use of the Petitioner's hand. Issues in dispute are the extent of the person as a whole award and the award of 60% loss of use of the Petitioner's left eye.

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Multiple fractures of the orbit wall, orbit rim, zygomatic arch and the significant surgery to repair them warrant the person as a whole loss of 15%. Petitioner still experiences numbness to the left side of his face. (T-13). Moreover, he occasionally experiences sharp pains above his left eye near his left temple. (T-14).

Petitioner's decreased vision and eyelid problem warrants the left eye permanency award of 60%. The record fully supports the Arbitrator's award. Respondent's Section 12 examiner's diagnoses included: (1) work-related orbital fractures, left and (2) work-related damage to the infraorbital nerve and inferior eyelid complex on the left leading to poor left lower lid function and secondary exposure keratitis and secondary to corneal scarring with irregular astigmatism and resulting decreased vision on the left." (Px-9).

As of trial, Petitioner was still seeing his ophthalmologist every six to eight weeks and was regularly using eyedrops. He explained that his left eye produces almost no natural tears and he has to add several drops, daily, depending on the conditions. (T-19). In addition, Petitioner has chosen not to undergo repair of an eyelid condition for which plastic surgery has been recommended. (T-21).

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed December 7, 2009 is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

The probable cost of the record to be filed as return to Summons is the sum of \$35.00, payable to the Illinois Workers' Compensation Commission in the form of cash, check or money order therefor and deposited with the Office of the Secretary of the Commission.

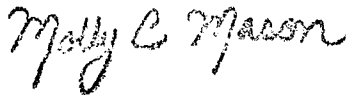
DATED: **SEP 17 2010**

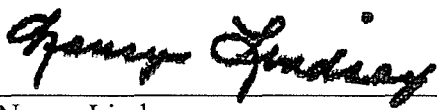
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drd/dd

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Daniel R Donohoo

  
Molly C. Mason

  
Nancy Lindsay

**BAUM III,JOSEPHJY**

Employee/Petitioner

Case# **08WC011198**

**10IWCC0915**

**ST CLAIR COUNTY**

Employer/Respondent

On 12/07/2009, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 0.15% shall accrue from the date listed above to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

A copy of this decision is mailed to the following parties:

0071 BONIFIELD & ROSENSTENGEL PC  
JON E ROSENSTENGEL  
16 E MAIN  
BELLEVILLE, IL 62220

0810 BECKER PAULSON & HOERNER PC  
RODNEY THOMPSON  
5111 W MAIN ST  
BELLEVILLE, IL 62226

COUNTY OF **St. Clair**

- |                                     |                                       |
|-------------------------------------|---------------------------------------|
| <input type="checkbox"/>            | Injured Workers' Benefit Fund (§4(d)) |
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| <input type="checkbox"/>            | Second Injury Fund (§8(e)(18))        |
| <input checked="" type="checkbox"/> | None of the above                     |

**ILLINOIS WORKERS' COMPENSATION COMMISSION  
ARBITRATION DECISION  
REGARDING THE NATURE AND EXTENT OF THE INJURY**

**Josephiy Baum III**  
Employee/Petitioner

Case # **08 WC 11198**

v.

**Belleville**

**St. Clair County**  
Employer/Respondent

**10IWC0915**

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Jennifer Teague**, arbitrator of the Commission, in the city of **Belleville**, on **November 25, 2009**. The only disputed issue is the nature and extent of the injury. By stipulation, the parties agree on the following items:

- On **February 13, 2008**, the respondent **St. Clair County** was operating under and subject to the provisions of the Act.
- On this date, the relationship of employee and employer did exist between the petitioner and respondent.
- On this date, the petitioner sustained accidental injuries that arose out of and in the course of employment.
- Timely notice of this accident was given to the respondent.
- In the year preceding the injury, the petitioner earned \$ **39,678.08**, and the average weekly wage was \$ **763.04**.
- At the time of injury, the petitioner was **40** years of age, ***married*** with **3** children under 18.
- Necessary medical services have been provided by the respondent.
- The respondent shall pay the petitioner temporary total disability benefits of \$ **508.69**/week for **17 1/7** weeks, from **February 14, 2008** through **June 12, 2008**, which is the period of temporary total disability for which compensation is payable.
- To date, \$ **8,755.45** has been paid for TTD and/or maintenance benefits.

After reviewing all of the evidence presented, the arbitrator hereby makes findings regarding the nature and extent of the injury, and attaches the findings to this document.

- The respondent shall pay the petitioner the sum of \$ 457.82/week for a further period of 192.7 weeks, as provided in Section 8(e) and 8(d)(2) of the Act, because the injuries sustained caused <sup>80% Dex On-Line</sup> 10% permanent partial disability to Petitioner's left hand, 15% permanent partial disability to the body as a whole, and 60% permanent partial disability to Petitioner's left eye.
- The respondent shall pay the petitioner compensation that has accrued from February 13, 2008 through November 25, 2009 and shall pay the remainder of the award, if any, in weekly payments.
- The respondent shall pay all for reasonable and necessary medical services, as provided in Section 8(a) of the Act.

**Findings of Fact Waived by Parties**

**RULES REGARDING APPEALS** Unless a Petition for Review is filed within 30 days after receipt of this decision, and a review is perfected in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

**STATEMENT OF INTEREST RATE** If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Signature of arbitrator

**December 1, 2009**

Date

DEC 7 2009