

File Number:  
Merit Review4-D-RECO

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U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS  
PO BOX 8300 DISTRICT 6 JAC  
LONDON, KY 40742-8300  
Phone: (904) 366-0100

March 30, 2016

Date of Injury: |  
Employee:

Dear

This concerns your compensation case and your request for reconsideration received on

We have evaluated the evidence submitted and have reviewed the merits of your case under 5 U.S.C. 8128. You have provided sufficient evidence to warrant modification of the decision dated  
Based on the information received, the decision is now vacated.

The reasons for this decision are outlined in the enclosed Notice of Decision.

Sincerely,

Senior Claims Examiner

PAUL H FELSER  
FELSER LAW FIRM, P.C.  
QUEENSBOROUGH BANK BUILDING  
7393 HODGSON MEMORIAL DRIVE  
SUITE 102  
SAVANNAH, GA 31406

*If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.*

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**NOTICE OF DECISION**  
**Claimant Name:**  
**Case Number:**

**ISSUE:** The issue for determination is whether the evidence presented is of sufficient probative value to vacate the decision dated 05/18/2015.

**REQUIREMENTS FOR ENTITLEMENT:** In accordance with the regulations set forth in 20 CFR § 10.609, if an application for reconsideration is accompanied by new and relevant evidence or by an arguable case for error, OWCP will conduct a merit review of the case to determine whether the prior decision should be modified. If sufficient evidence exists to overturn the prior decision, it should be vacated.

**BACKGROUND:** On [redacted] you filed a claim for Traumatic Injury indicating you sustained an injury or medical condition on [redacted] as a result of your employment.

On [redacted] a formal decision was issued denying your claim on injury as the medical evidence was not sufficient to support the injury was due to the work event as claimed.

You disagreed with that decision and requested reconsideration per appeals form/letter received in our office on [redacted]. On [redacted] a formal decision was issued denying modification of the decision denying your claim, finding the medical evidence still did not support the injury was causally related to the work event as claimed.

You disagreed with the [redacted] decision and requested reconsideration by letter/appeal request form received on [redacted].

**DISCUSSION OF EVIDENCE:** The evidence reviewed in support of your reconsideration request includes:

- Authorization for representation from attorney Paul Felser dated [redacted]
- Letter from Dr. [redacted] dated [redacted]
- Undated letter from Dr. [redacted] received in our office on [redacted]
- Treatment notes from 78<sup>th</sup> Medical Group dated [redacted]
- Correspondence from your attorney requesting case file copies

Dr. [redacted] states in his letter dated [redacted] that by history your symptoms began at work in [redacted] when you were assisting another employee put a deck panel on a rack and felt a pop in your shoulder. Dr. [redacted] states per MRI done on [redacted] you have a partial thickness tear of the left shoulder and AC joint DJD. He reports your condition continues to worsen despite conservative treatment. Dr. [redacted] states it is his medical opinion that the lifting of the 190 pound deck panel at work is the reason for your left shoulder conditions.

Dr. [redacted] in his letter received [redacted] states again that your injury occurred at work when lifting the deck panel and felt a pop in your shoulder. He states it is his professional opinion that the injury to the left shoulder was a result of the work event occurring on [redacted]. Dr. [redacted] also states the if present prior to the work injury then the injury certainly aggravated osteoarthritis and degenerative joint disease.

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Your attorney states the basis of his reconsideration request is the "new" medical evidence of file and that your claim was unfairly denied because Dr. \_\_\_\_\_ who treats you for your right shoulder did not provide a narrative medical report to support the history of the injury and opinion on how it is related.

**BASIS FOR DECISION:** I have reviewed your file in its entirety and find the medical evidence including the new evidence is sufficient to support the traumatic injury of partial thickness rotator cuff tear of the left shoulder is causally related to the work event as described occurring on \_\_\_\_\_ when you lifted a deck panel. I find Dr. \_\_\_\_\_ has given an history of the injury consistent with your claim and a medical reasonable diagnosis as a result of lifting the deck panel.

**CONCLUSION:** Therefore, the decision dated \_\_\_\_\_ is vacated.

Your case is now accepted for left shoulder rotator cuff tear.

Senior Claims Examiner