

**STATE OF VERMONT
DEPARTMENT OF LABOR**

Daniel Colburn

Opinion No. 18R-25WC

v.

By: Beth A. DeBernardi
Administrative Law Judge

Marmon Holdings, Inc. d/b/a
Sonnax Transmission Company

For: Kendal M. Smith
Commissioner

State File No. SS-58615

RULING ON CLAIMANT'S MOTION TO RECONSIDER

APPEARANCES:

Noah J. Jallo-Prufer, Esq., for Claimant
Oliver A. Abbott, Esq., for Defendant

BACKGROUND:

1. Claimant seeks reconsideration of the Commissioner's denial of his partial summary judgment motion and her granting of Defendant's cross motion. *See Colburn v. Marmon Holdings, Inc. d/b/a Sonnax Transmission Co.*, Opinion No. 13-25WC (September 4, 2025) ("*Colburn I*").
2. The undisputed material facts recited in *Colburn I* establish that Claimant sustained electrocution injuries to his upper and lower extremities arising out of and in the course of his employment with Defendant.
3. The first dispute in *Colburn I* was whether Claimant was entitled to permanent partial disability benefits based on his allegedly having reached end medical result for his upper extremity injury, without reaching end medical result for his lower extremity injury. Claimant contended that he was entitled to benefits for his upper extremity injury now, despite not being at end medical result for all components of his injury. Defendant argued that an injured worker must be at end medical result for all components of the compensable injury before being entitled to permanent partial disability benefits. The Commissioner found in Defendant's favor on this legal dispute and granted summary judgment on this issue. *See Colburn I*, at Conclusion of Law No. 24.
4. The second dispute in *Colburn I* was whether Claimant had actually reached end medical result for his upper extremity injury. Claimant contended that he had, but Defendant disagreed. Based on the record before the Department at the time the cross motions were considered, the Commissioner found a genuine issue of material fact as to Claimant's end medical result status for his upper extremity injury. Accordingly, she ruled that he had

not established end medical result as a matter of law. *See Colburn I*, at Conclusion of Law Nos. 28-29.

5. On September 18, 2025, Claimant filed a Motion to Reconsider. Defendant opposed the motion on October 20, and Claimant replied on October 21. The Department has reviewed all these filings.

CONCLUSIONS OF LAW:

The Standard for Reconsideration

1. A motion to reconsider should not be granted solely to relitigate an issue that has already been decided. *Martin v. The Sugarman of Vermont, LLC*, Opinion No. 08R-23WC (June 13, 2023); *Gadwah v. Ethan Allen*, Opinion No. 33R-11WC (November 28, 2011), citing *Shrader v. CSX Transp., Inc.*, 70 F.3d 255 (2d Cir. 1995). The *Shrader* Court set forth the standard for reconsideration as follows:

The standard for granting such a motion is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked – matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.

70 F.3d at 257.

See also Oeschger v. GeneThera, Inc., 395 F.Supp.3d 345, 351 (D. Vt. 2019) (citing *Shrader*'s standard for reconsideration).

The Department's Obligation to Rule on Claimant's Arguments

2. Claimant's Motion to Reconsider first asks the Department to rule on every argument he made in his Motion for Partial Summary Judgment. Claimant notes that *Colburn I* addressed "many, but not all" of the arguments he raised. *Claimant's Motion to Reconsider*, at 2.
3. Claimant's summary judgment motion consisted of 22 pages, not including exhibits.¹ After Defendant filed a response and cross motion, Claimant filed a 29-page reply. Claimant's filings included many arguments and theories spread over 51 pages. In ruling on the parties' cross motions, the Commissioner read and considered the entirety of Claimant's filings. However, she did not find it necessary to respond to every one of Claimant's arguments to explain her reasoning in *Colburn I*.
4. Under the Vermont Workers' Compensation Act, the Commissioner may hold a hearing to determine disputed issues. 21 V.S.A. § 663(a). The Workers' Compensation Rules provide that disputes may also be resolved on summary judgment, if appropriate.

¹ The page limit for summary judgment motions is 15 pages. *See* Workers' Compensation Rule 17.2550.

Workers' Compensation Rule 17.2500. Whether deciding a disputed claim by hearing or summary judgment, the Commissioner issues a written decision.

5. The statute provides that decisions of the Commissioner "may include abbreviated findings of fact or conclusions of law, or both, when appropriate." 21 V.S.A. § 663(b). The statute further provides that awards after hearing shall be "supported by findings of fact and the applicable law." 21 V.S.A. § 664. Notably, the statute does not require the Commissioner to recount every argument presented by each party and respond to each one. Rather, the statute requires the Commissioner to support his or her decision by citing the applicable law. 21 V.S.A. § 664. The Commissioner's ruling in *Colburn I* includes 24 paragraphs of undisputed material facts and 29 conclusions of law supporting the ruling. The statute requires no more. Accordingly, Claimant's request that the Commissioner respond in writing to every argument he presented in his summary judgment motion is denied.

Entitlement to Permanent Partial Disability Benefits Prior to Reaching End Medical Result for All Components of the Compensable Injury

6. Claimant's Motion to Reconsider presents the arguments that he made in his Motion for Partial Summary Judgment concerning whether an injured worker is entitled to permanent partial disability benefits prior to reaching end medical result for all components of the compensable injury. After reviewing Claimant's Motion to Reconsider, I conclude that the motion essentially seeks to relitigate the issue that was already decided in *Colburn I*. Claimant's Motion to Reconsider consists of arguments that he either made, or could have made, in his summary judgment motion. Claimant does not point to any controlling law or data that the Department overlooked in *Colburn I*, as set forth in the *Shrader* standard for reconsideration.
7. In his Motion to Reconsider, Claimant also disagrees with the Commissioner's analysis of whole person impairment in *Colburn I*, at Conclusion of Law Nos. 9-13, and he challenges the Commissioner's analysis of the workability of his position that injured workers are entitled to a series of permanent partial disability awards based on separate impairment ratings for each component of their compensable injuries. *Colburn I*, at Conclusion of Law Nos. 18-20. However, "[w]hen a party merely disagrees with the previous court decision, such disagreement should be resolved in the 'normal appellate process,' not in a motion for reconsideration." *Chet's Shoes, Inc. v. Kastner*, 710 F.Supp.2d 436, 454 (D. Vt. 2010).
8. For these reasons, I conclude that Claimant has not met the strict standard for reconsideration of *Colburn I*'s conclusion that an injured worker must be at end medical result for all components of the compensable injury before being entitled to permanent partial disability benefits.

End Medical Result for Claimant's Upper Extremity Condition

9. The parties' dispute about whether Claimant has reached end medical result for his upper extremity injury is moot now. Defendant obtained an expert medical opinion from

Deirdre Donaldson, MD, after the summary judgment motions were filed, that Claimant has reached an end medical result for his upper extremity condition. *Defendant's Response to Motion to Reconsider*, at 2. Based on that medical opinion, Defendant now agrees with Claimant that he has reached end medical result for his upper extremity condition. *Defendant's Response*, at 5.

10. In *In Re P.S.*, 167 Vt. 63, 67 (1997), the Vermont Supreme Court held that cases or claims become moot when the issues presented are no longer “live.” The Court explained that an actual live dispute must be present at *all* stages of review, not just when the case was filed. *Id.* As the parties’ dispute about the end medical result status of Claimant’s upper extremity condition here is now resolved, the Department lacks jurisdiction to reconsider that portion of the *Colburn I* summary judgment ruling. *See, e.g., Paige v. State*, 2017 VT 54, ¶ 7 (case becomes moot and the court loses jurisdiction when there is no longer an actual controversy).²

ORDER:

For all these reasons, Claimant’s Motion to Reconsider is hereby **DENIED**.

DATED at Montpelier, Vermont on November 24, 2025.

Chris Winters
Deputy Commissioner

² On September 23, 2025, Claimant’s counsel represented that “none of [Claimant’s] providers have any additional treatments to recommend” for his lower extremity condition. *See* Claimant’s counsel’s September 23, 2025 email to the Department. If so, then Claimant may be at end medical result for his lower extremity condition as well. Accordingly, it appears that Claimant’s claim for permanent partial disability benefits may be ready to proceed as outlined in Workers’ Compensation Rule 10.1200.