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WEEKLY

Cable installer recovers costs for injured shoulder

BY ALAN SCHER ZAGIER

Special to Missouri Lawyers Media

An Imperial man injured in an August 2014 workplace accident while employed by Charter Communications was awarded more than \$73,000 in disputed medical costs plus legal fees after the company's claims administrator challenged a subsequent surgery to fully repair his torn rotator cuff.

According to testimony before the state Division of Workers' Compensation following a hardship petition, broadband cable installer Gabriel Overy, 31, injured his right shoulder while loading an 80-pound ladder atop his van. He subsequently had surgery in December 2014 for what was initially diagnosed as an inter-articular tear of his rotator cuff.

Overy sought a second opinion in early 2015 as his shoulder pain persisted despite a post-surgery steroidal injection and regular physical therapy. He had another surgery for what the second doctor diagnosed as a more severe interstitial tear in April 2015.

The follow-up surgery was performed only after Charter did not respond to "repeated demands for additional care that went unanswered," said plaintiff's attorney Mark Cantor. An attorney for the cable company did not respond to a request for comment.

Overy received slightly more than \$10,200 in temporary total disability through May 4, but the company declined to pay the roughly \$51,000 in

medical costs billed by the second surgeon. Further, Charter fired Overy for being "non-compliant" with his medical care, according to Cantor.

The state Division of Workers' Compensation awarded Overy \$73,344 to cover his medical bills, legal fees and temporary and total disability payments that were halted in May. Administrative Law Judge Joseph Denigan ruled that the employer offered a "dubious defense" even after Dr. Matthew Collard, the surgeon who first operated on Overy, "made multiple admissions" during depositions that "contradict his own medical analysis that no additional surgery was necessary" and also demonstrate the employer's "neglect of treatment authorizations."



Mark Cantor

\$73,344.55 AWARD

WORKERS' COMPENSATION

■ **Venue:** Division of Workers' Compensation, St. Louis

■ **Case number/date:** 14-062048/July 22, 2015

■ **Caption:** Gabriel Overy v. Charter Communications

■ **Breakdown of value:** \$19,362.21 in attorney fees and court costs; \$51,290.42 in medical costs; \$2,691.92 in temporary total disability payments

■ **Claimant's attorney:** Mark Cantor, Cantor & Burger, St. Louis

■ **Employer/Insurer's attorney:** David Reynolds, Evans & Dixon, St. Louis