

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
AWCC NO. F203304**

**TERRY BROWN, EMPLOYEE**

**CLAIMANT**

**VS.**

**RONALD MAHAN, EMPLOYER**

**RESPONDENT**

**THE TRAVELERS, CARRIER**

**RESPONDENT**

**OPINION FILED JULY 16, 2003**

Hearing held April 30, 2003, in Little Rock, Arkansas, before *ADMINISTRATIVE LAW JUDGE KAREN McKINNEY*.

Claimant is represented by Mr. Jerry James, Attorney at Law, Post Office Drawer 639, Conway Arkansas 72033.

Respondents are represented by Mr. Robert Montgomery, Attorney at Law, #319, 17200 Chanal Parkway, Suite 300, Little Rock, Arkansas 72223

**STATEMENT OF THE CASE**

The above-styled claim came on for a hearing in Little Rock, Arkansas, on April 30, 2003. A prehearing telephone conference was held on this claim on February 24, 2003, with a Prehearing Conference Order filed on February 27, 2003. The Prehearing Conference Order was marked as Commission's Exhibit No. 1, and introduced into evidence without objection. Pursuant to the Prehearing Conference Order, the parties agreed upon the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim;
2. Respondents have controverted this claim in its entirety.

At the beginning of the hearing, the parties further agreed to stipulate to an average weekly wage of \$550.00 per week.

During the prehearing telephone conference the parties agreed to limit the issues to:

1. Whether claimant was an employee of respondent at the time of claimant's alleged injury;
2. Whether claimant sustained an injury on January 24, 2002, which arose out of and in the course of his employment;
3. If claimant sustained a compensable injury, whether claimant is entitled to medical and indemnity benefits;
4. The calculation of claimant's average weekly wage.

From a review of the record as a whole, to include the medical reports, documents, and all other matters properly before the Commission, and having had an opportunity to hear the testimony of the claimant, Billy Anderson, and Ronald Mahan and observe their demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. § 11-9-704:

#### **FINDINGS OF FACT & CONCLUSIONS OF LAW**

1. The stipulations agreed to by the parties at the prehearing telephone conference conducted on February 24, 2003, and contained in the Prehearing Order filed on February 27, 2003, are hereby accepted as fact.
2. Claimant earned an average weekly wage of \$550.00.
3. Claimant has proven by a preponderance of the evidence that he was an employee of respondent employer on January 24, 2002.

4. Claimant has proven by a preponderance of the evidence that he sustained a compensable injury to his back as the result of a specific incident which arose out of and in the course of his employment, caused internal harm to the body and is supported by objective medical findings of a bulging disc at L3-4 and a herniated disc at L4-5.

5. Claimant has remained within his healing period from January 24, 2002, through a date yet to be determined.

6. Claimant was removed from work by Dr. Philip Tippen with Pemiscot Primary Care Center on February 18, 2002, for one week, until claimant's return visit which was scheduled on February 25, 2002.

7. Claimant did not return to Dr. Tippen for his follow-up appointment on February 25, 2002.

8. Dr. Brewer Rhodes released claimant to return to light duty work on March 25, 2002, with restrictions of no lifting over 20 lbs.

9. Claimant was within his healing period and totally unable to earn wages from February 18, 2002, through March 25, 2002.

10. Claimant has received medical treatment for his compensable back injury from Dr. Brewer Rhodes, St. Bernards Regional Medical Center, and Pemiscot Primary Care Clinic.

11. The medical treatment claimant has received from Dr. Brewer Rhodes, St. Bernards Regional Medical Center, and Pemiscot Primary Care Clinic for his

compensable back injury has been reasonable and necessary medical treatment in connection with his compensable injury.

12. Respondents have controverted claimant's entitlement to the benefits awarded herein.

### CONCLUSION

In January of 2001, when seeking employment through the Employment Security Division in Blytheville, Arkansas, claimant was placed in contact with Patricia Mahan regarding a siding application job. Claimant interviewed with Mrs. Mahan at the Employment Security Division office, was advised that the job paid \$8.50 per hour, work hours were from 8:00 a.m. til 5:30 p. m., and that the job was in Indianapolis, Indiana. Claimant was offered the job. Mrs. Mahan took the claimant to a tool supply company to purchase the claimant tools for the job. Mrs. Mahan purchased the claimant a one-way bus ticket to Indianapolis and sent claimant to the job. Ronald Mahan met the claimant at the bus station, drove him to the apartment complex where the claimant would be staying, and told the claimant about the job. Claimant begin hanging siding for Mr. Mahan the following day.

With regard to his job duties, claimant described his work as helping an experienced applicator cut and hang pieces of vinyl siding. Claimant was advised when to start work in the morning, when to break for lunch, and when to stop work for the day. Mr. Mahan was present on the job site and oversaw the work the

claimant performed. Mr. Mahan had the authority to fire the claimant. Claimant received a pay check every Friday, initially in the amount of \$350.00 per week. Mr. Mahan did not withhold any social security or income taxes out of the claimant's paycheck. While working on the Indianapolis job, claimant received several raises, so that when the job ended in June of 2001 the claimant was earning "right at \$450, \$500 a week." Claimant was advised by Mr. Mahan when the job ended in Indianapolis that he needed to go home and wait for Mr. Mahan to call with information regarding a new job. After being off work for about a week, Mr. Mahan called the claimant and told him that he had a siding job in Memphis. Claimant worked the Memphis job for about a week to ten days then he was directed by Mr. Mahan to go to Little Rock, Arkansas for another job. According to the claimant, he started on the Little Rock job around July 4, 2001. Claimant's duties on the Little Rock job were to empty the cabinets, carpets, blinds, and appliances out of apartments for refurbishing. Mr. Mahan testified that he took the liquidation job only because the claimant had previous experience in this line of work. According to Mr. Mahan, he was paid \$100 per unit for the liquidation job and he agreed to pay the claimant \$500 per week plus allow the claimant to have all the appliances and liquidated materials if the claimant could liquidate 10 units per week.

While working on this liquidation job, claimant injured his back when he was removing a cabinet. Claimant described his injury as follows:

"A. [Mr. Brown] Yes, sir. I picked up a - - one of the biggest, longest cabinets, seven or eight foot long, and I picked

it up and set it down on the counter; then picked it up again to remove it. And as I did, my foot turned and I fell and it fell on top of me, and I pushed it off of me, and I laid there hurt.

“Q. [Mr. James] Wait a minute. Did you fall?

“A. Yes. Plumb to the floor.

“Q. Okay.

“A. And the cabinet fell on top of me, and I pushed it off of me, and then I realized I was hurt. And I didn’t know whether to holler or what. And I really didn’t feel like I could move. Then shortly after that I couldn’t move. And I finally got out of the apartment. And I walked over to my apartment, and - -“ [T32]

On cross examination claimant testified that the accident occurred around 9:00 or 10:00 in the morning. However when the claimant completed a questionnaire for treatment with Cole Chiropractic Clinic on September 24, 2002, claimant stated that the injury occurred at 3:00 in the afternoon. Likewise on cross-examination, the claimant was asked:

“Q. [Mr. Montgomery] Okay. Now, and you said when this occurred, Mr. Brown, that you laid on the - - I guess you were in there in that apartment by yourself?

“A. [Mr. Brown] Yes, sir.

“Q. And you laid on the ground for about five minutes?

“A. On the floor.

“Q. I am curious about that. When I took your deposition last summer, I asked you about that. And on Page 9, beginning at the bottom of Page 8, I asked you. I said, “After you hurt yourself or you fell, did you fall to the

ground or - -“ and your answer was, “No. I almost completely fell, but I pushed the cabinet off of me.” So I am really confused now, Mr. Brown, because you told Mr. James a second ago you laid on the ground for five minutes, which I would take to mean you fell on the ground.

“A. Yes, sir.

“Q. But you told me last summer, “No. I almost completely fell, but I pushed it off of me.” Which on of those answers do you want to go with today?

“A. I was on the floor. It don’t mean that my whole entire body was basically on the floor because my upper body was up like this (indicating), getting the cabinet off of me.

“Q. So which is it? Did you fall or did you not?

“A. Yes, sir, I fell.

“Q. Because later on in that same answer on Page 9, you said, “So I just stood there and tried to work out the problem.” But you are testifying today to Judge McKinney that you fell and laid on the ground for five minutes?

“A. I said four or five minutes, yeah. I didn’t get up off that floor for four to five minutes.” [T32-33]

Respondents presented the testimony of Billy Anderson and Ronald Mahan. Mr. Anderson is the step-son of Mr. Mahan. I do not find the testimony of either of these gentlemen to be credible. Mr. Anderson appeared over-eager to help prove an independent contractor relationship between Mr. Mahan and the claimant. Moreover, Mr. Anderson’s testimony is confusing in that he testified that the

claimant talked to him about hurting his back while moving office equipment for the foreman of the prime contractor, but then he turned around and testified that the claimant “never said nothing to me about hurting his back.” On cross examination, Mr. Anderson testified that he heard the claimant complain about hurting his back somewhere around Mid-February while moving stuff for the foreman of the prime contractor. In this regard, Mr. Anderson testified;

He looked me right in my face and said, “I hurt my back mid-morning moving Ray Piper’s stuff out of one office into the other office.”

Mr. Anderson testified on direct examination that he met the claimant on the Little Rock job site. On cross-examination Mr Anderson acknowledged that he worked with the claimant on the job in Indianapolis. Mr. Anderson further testified that he was paid by Quality Home Improvement, but later clarified his testimony and stated that he was paid by a check from Ronald Mahan.

Mr. Mahan denied that he or his wife had any knowledge about the claimant’s injury until March of 2002. However, the medical record dated February 1, 2002, clearly states that the claimant was in the office with “Employer.” With regard to carrying workers’ compensation insurance, Mr. Mahan testified that he is required to carry the insurance “...to protect my workers. And they sign waivers. They waive the workers’ comp.” Mr. Mahan further testified that he continued to pay the claimant until the claimant quit work in mid-March of 2002. Mr. Mahan also testified that he paid a few of the claimant’s medical bills since the claimant was hurt and he

wanted to help the claimant. Mr. Mahan testified that he offered the claimant management, light duty jobs, on three separate occasions to which the claimant responded; "Your not going to tell my lawyer, are you?"

With regard to the claimant's ability to work his own hours, Mr. Mahan testified that the claimant's work hours were governed by the fact that they were putting siding on an apartment building, and the owners did not want work to begin until after 8:00 in the morning. Mr. Mahan further testified that the claimant had to work "to an appropriate quitting time."

An issue arose regarding the "waiver" Mr. Mahan acquired from the claimant. The copy of the Application for a Certificate of Non-Coverage introduced into evidence is signed by the claimant and notarized on January 9, 2002, which would appear to have been completed prior to the claimant's alleged injury. A Certificate of Non-Coverage was issued in June of 2001. At the request of the claimant's attorney, the original Application was examined by the undersigned and it has been made an exhibit to the transcript by the undersigned. The original Application was initially completed in blue ink. All the dates on the Application have been whited out and a new date inserted in black ink. When the original Application is closely examined the original date which has been whited out by the claimant's signature and the notary public's signature bear a striking resemblance to April, not January.

The first issue which must be decided is whether claimant was an employee

or independent contractor on January 24, 2001, when the claimant alleges to have sustained a compensable injury.

The determination of whether, at the time of an injury, an individual was an independent contractor or an employee depends on the facts of the case. Franklin v. Arkansas Kraft, Inc., 5 Ark. App. 264, 635 S.W.2d 286 (1982). Ordinarily, no one feature of the relationship is determinative. Carter v. Ward Body Works, Inc., 245 Ark. 515, 439 S.W. 2d 286 (1969). The right to control the method and manner of the work is the traditional test applied in Arkansas when considering whether an individual was an employee or an independent contractor. The ultimate question with the right to control test is whether the employer has the right to control, not whether the employer actually exercises control. Wright v. Tyson Foods, Inc., 28 Ark. App. 261, 773 S.W.2d 110 (1989). However, the courts have also considered the “relative nature of the work” test in addition to the right to control test. Sandy v. Salter, 260 Ark. 486, 541 S.W.2d 929 (1976); Sands v. Stombaugh, 11 Ark. App. 38, 665 S.W.2d 902 (1984); Franklin, Supra; Silvicraft, Inc. v. Lambert 10 Ark. App. 28, 661 S.W. 2d 403 (1983). The main consideration of the relative nature of the work test is “the relationship between the claimant’s own occupation and the regular business of the asserted employer.” Salter, Supra; Lambert, Supra.

Consequently, the resolution of whether an individual is an independent contractor or an employee requires an analysis of the factors related to the employer’s right to control and of factors related to the relationship of the work to the asserted employer’s business. In Franklin, Supra, the Court listed the following factors, which may be

relevant to both of these considerations, depending on the facts of the particular claim:

1. The right to control the means and the method by which the work is done;
  2. The right to terminate the employment without liability;
  3. The method of payment, whether by time, job, piece or other unit of measurement;
  4. The furnishing, or the obligation to furnish the necessary tools, equipment, and materials;
  5. Whether the person employed is engaged in a distinct occupation or business;
  6. The skill required in a particular occupation;
  7. Whether the employer is in business;
  8. Whether the work is as an integral part of the regular business of the employer;
  9. The length of time for which the person is employed;
- These are not all of the factors which may conceivably be relevant in a given

case, and it may not be necessary for the Commission to consider all of these factors in some case. The relative weight to be given to the various factors must be determined by the Commission. Franklin, Supra.

In applying the facts of this case to the factors identified by the Court of Appeals in the Lambert decision, I find that the claimant was an employee and not an independent contractor. The evidence reveals that the claimant had been out of work for an extended period of time when he went to the Employment Security Division in Blytheville looking for employment. This status of unemployment is

contrary to the concept of independent contractor. Claimant did not have his own supplies. Upon accepting employment with Mahan Siding, Mrs. Mahan purchased the necessary tools for the claimant to use, and bought the claimant a bus ticket to send him to the job site in Indianapolis. Thus, the claimant did not have his own tools and he did not have the means to even get to the job site. Both factors which weigh against an independent contractor relationship. Claimant was advised that the job paid an hourly wage. Mr. Mahan was present on the job site and retained authority to oversee the work performed by the claimant, and to terminate the claimant. Mr. Mahan further had the authority to tell the claimant what time of day to begin working, when to break for lunch, and when to cease work for the day. There was no written agreement between Mr. Mahan and the claimant establishing an independent contractor relationship. There is no evidence that the claimant was in the siding hanging business holding himself out as an independent contractor. Mr. Mahan, on the other hand was in the siding application business. He hired workers to hang siding on jobs that he successfully bid on through Quality Home Assurance. Mr. Mahan has been in this business for approximately eight years. Mr. Mahan testified that he did not withhold social security and income taxes from his siding hangers because of the secretarial work necessary to “get into the withholding state, federal, and a lot of different type insurances...”

The evidence clearly indicates that the claimant was in no way in a position to be a sole proprietor or, in any other way, to operate his own business. Even

though the claimant's job description changed when he moved to the Little Rock job site and began liquidating the apartments, claimant continued to remain under the control of Mr. Mahan. Claimant did not have his own tools to perform this job, and he relied upon Mr. Mahan to direct his activities.

I note that the facts in this case are substantially similar to the facts in Patrick Golden v. Randy Wiggins Logging, Full Commission Opinion filed July 13, 1998 (E602244). The claimant in Golden was furnished equipment by the respondent, he was under the direct supervision of the respondent, and there was no formal written agreement or contract evidencing a contractual relationship. Accordingly, I find that the claimant was an employee and not an independent contractor.

I further find that the Certificate of Non-coverage introduced into evidence by the respondents was not in effect at the time of the claimant's injury. Moreover, I specifically find that the date on the application bearing the claimant's signature and the date the signature was notarized has been altered to reflect a date prior to the claimant's injury date. Therefore, I am bound by A.C.A. § 11-9-106 to request an investigation by the Fraud Unit of the Arkansas Insurance Department.

This claim is governed by the provisions of Act 796 of 1993. The Full Commission has held that in order to establish compensability of an injury, a claimant must satisfy all the requirements set forth in Ark. Code Ann. § 11-9-102 as amended by Act 796. Jerry D. Reed v. ConAgra Frozen Foods, Full Commission Opinion filed Feb. 2, 1995 (E317744). When a claimant alleges that he sustained

an injury as a result of a specific incident, identifiable by time and place of occurrence, he must prove by a preponderance of the evidence (1) the injury arose out of and in the course of his employment; and (2) the injury caused internal or external harm to the body which required medical services or resulted in disability or death. See Ark. Code Ann. § 11-9-102(4)(A)(i) and § 11-9-102(4)(E)(i) (Repl. 2002). He must also prove (3) that the injury was caused by a specific incident and is identifiable by time and place of occurrence. See Ark. Code Ann. § 11-9-102(4)(A)(i). Moreover, the claimant must establish (4) that the compensable injury is supported by 'objective findings' as defined in § 11-9-102(16)." Ark. Code Ann. § 11-9-102(4)(D); Freeman v. Con-Agra Frozen Foods, 344 Ark. 296, 40 S.W.3d 760 (2001). Medical opinions addressing compensability must be stated within a reasonable degree of medical certainty. Crudup v. Regal Ware, Inc., 31 Ark. App. 804, 20 S.W.3d 900 (2000). If the claimant fails to establish by a preponderance of the credible evidence any of the requirements for establishing the compensability of the injury, he fails to establish the compensability of the claim, and compensation must be denied. Jerry D. Reed, supra.

The evidence reveals that the claimant was injured on or about January 24, 2002, when he was lifting a cabinet during the course and scope of his employment. Respondents offered evidence that the claimant was injured in mid-February while moving furniture for the prime contractor which would place claimant's injury outside the scope of his employment with respondent. I do not find this testimony credible.

Mr. Anderson's testimony was not convincing. Mr. Anderson was too eager to portray himself and the claimant as independent contractors. Mr. Anderson testified that he met the claimant on the Little Rock job, but recanted and later admitted that he first met the claimant on the job site in Indianapolis. Mr. Anderson did not readily acknowledge his relationship with Mr. Mahan, as it was not until cross-examination that it was discovered that Mr. Mahan is Mr. Anderson step-father.

Likewise, I do not find Mr. Mahan's testimony regarding an injury in mid-February to be believable. In this regard, Mr. Mahan denied any knowledge of an injury on his behalf or his wife's behalf until March of 2002. However, the medical records from the clinic in Osceola where the Mahan's reside, reflect that the claimant was seen in the office on February 1, 2002, with complaints of back pain and that the "employer" was in the office with the claimant. One must ask why the claimant was at the doctor's office in Osceola, a town in which he was not working and where he does not reside unless the claimant's testimony is true. Claimant was taken to this clinic by Mrs. Mahan.

Accordingly, after I consider the credible evidence I find that the claimant sustained a specific onset injury on or about January 24, 2002. I further find that the injury caused internal or harm to the body which required medical services or resulted in disability which is established by 'objective findings' of a bulging and a herniated disc. Therefore, I find that the claimant sustained a compensable injury as that term is defined by A.C.A. § 11-9-102.

In reaching this finding, I acknowledge the minor discrepancy with regard to the date of injury and time of injury as found in the medical records. Claimant first sought medical treatment on February 1, 2002, at which time he advised the doctor that he had pain in his back for the past four days. This would place the onset of pain to be on or about January 28, 2002. Subsequently, claimant advised Dr. Rhodes that he injured himself on January 24, 2002. Due to the lapse in time between when the claimant injured his back and when he first pin-pointed a date of injury, I do not find this discrepancy to be of much significant. Claimant injured his back at work. He advised his employer and he was taken to the doctor by his employer. The few days difference between January 24<sup>th</sup> and January 28<sup>th</sup> as the date of injury is inconsequential.

Moreover, I am not persuaded by the minor discrepancy in claimant's testimony regarding whether he fell from the weight of the cabinets to find that the injury did not occur. Claimant offered credible testimony regarding an injury while moving cabinets and falling backwards from the weight of the cabinets. The different terminology used by claimant in describing the incident on two separate occasions is not significant enough to find that the claimant is not telling the truth.

The period of temporary total disability is that period within the healing period in which an employee suffers a total incapacity to earn wages. Ark. State Highway & Trans. Dept. v. Breshears, 272 Ark. 244, 613 S.W.2d 392 (1981). Temporary disability is determined by the extent to which a compensable injury has affected the

claimant's ability to earn a livelihood. An injured employee is entitled to temporary total disability compensation not simply because he has a compensable injury, but rather during the period of time that he is within her healing period for the compensable injury **and** while he is totally incapacitated to earn wages as a result of that injury. Arkansas State Highway & Transportation Dept. V. Breshears, 272 Ark. 244, 613 S.W.2d (1981). Accordingly, to be entitled to temporary total disability benefits, an injured employee must satisfy this two-pronged test.

The "healing period" is defined as the period necessary for the healing of an injury resulting from an accident. Ark. Code Ann. § 11-9-102(13) (Supp. 1997). The healing period continues until the employee is as far restored as the permanent character of her injury will permit. When the underlying condition causing the disability becomes stable and when nothing further will improve that condition, the healing period has ended, and the claimant is no longer entitled to receive temporary total disability compensation or temporary partial disability compensation, regardless of her physical capabilities. Moreover, the persistence of pain is not sufficient in itself to extend the healing period or to find that the claimant is totally incapacitated from earning wages. Mad Butcher, Inc. v. Parker, 4 Ark. App. 124, 628 S.W.2d 582 (1982).

Claimant sustained a compensable injury on or about January 24, 2002. On February 18, 2002, claimant was removed from work by Dr. Philip Tippen with Pemiscot Primary Care Center for one week, until claimant's return visit which was scheduled on February 25, 2002. Claimant did not return to Dr. Tippen for his follow-up appointment on February 25, 2002. The medical records reflect that the

claimant was released by Dr. Brewer Rhodes to return to light duty work on March 25, 2002, with restrictions of no lifting over 20 lbs.

Claimant offered testimony that he was removed from work by Dr. Rhodes prior to February 18, 2002, however there is no evidence to corroborate this statement. Moreover claimant testified that he was released by Dr. Tippen with a 10 pound lifting restriction. Again, there is no evidence to substantiate or corroborate this statement. A claimant's testimony is never considered uncontroverted. Lambert v. Gerber Products Co., 14 Ark. App. 88, 684 S.W.2d 842 (1985). Nix v. Wilson World Hotel, 46 Ark. App. 303, 879 S.W.2d 457 (1994).

Accordingly after considering all the evidence, I find that the claimant was within his healing period and totally incapacitated from earning wages from February 18, 2002, until he was release to return to light duty by Dr. Rhodes on March 25, 2002. See Patterson v. Harris Hospital, Full Commission Opinion filed May 15, 2003 (F101215). There is no evidence that the claimant sought and obtained additional medical treatment to improve his condition. Therefore, I find that the claimant's injury has plataued and will remain in this stable position until such time that active medical treatment resumes. I further find that the claimant was not totally incapacitated from earning wages once he was released to return to work with restrictions by Dr. Rhodes. The fact that claimant did not seek any employment after his release does not negate the fact that he was released to return to work. Therefore I find that claimant is entitled to temporary total disability benefits from February 18, 2002, through March 25, 2002.

When assessing whether medical treatment is reasonably necessary for the treatment of a compensable injury, we must analyze both the proposed procedure

and the condition it is sought to remedy. Deborah Jones v. Seba, Inc., Full Commission Opinion 12/13/89 (D512553).

Claimant sought treatment for his back pain from Dr. Rhodes, St. Bernards Regional Medical Center, and the Pemiscot Primary Care Clinic. The treatment sought was to diagnose and remedy the pain resulting from claimant's compensable injury. There, I find that the treatment sought from these medical care providers is reasonably necessary in connection with claimant's compensable injury, and therefore the liability of respondents.

#### **AWARD**

Claimant was an employee of respondent on January 24, 2001, when he sustained a compensable injury. Claimant was within his healing period and totally incapacitated to earn wages from February 18, 2002, through March 25, 2002. Therefore, claimant is entitled to temporary total disability benefits from February 18, 2002, through March 25, 2002. Claimant is further entitled to medical benefits for treatment he received from Dr. Rhodes, St. Bernards Regional Medical Center, and Pemiscot Primary Care Clinic. Respondents have controverted this claim. Therefore, claimant's attorney is entitled to the maximum statutory fee on the indemnity benefits awarded, one-half ( $\frac{1}{2}$ ) to be paid by the claimant and one-half ( $\frac{1}{2}$ ) to be paid by respondents. Respondents are ordered to withhold claimant's portion of the attorney's fees from the claimant's award and to pay the attorney's fees directly to claimant's attorney.

All sums herein accrued are payable in a lump sum without discount and this award shall draw interest at the maximum legal rate until paid.

**IT IS SO ORDERED.**

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**HON. KAREN McKINNEY**  
Administrative Law Judge