

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. E809076**

**JERRY M. WILSON, EMPLOYEE**

**CLAIMANT**

**JENNIFER CONSTRUCTION COMPANY  
INC., EMPLOYER**

**RESPONDENT**

**CINCINNATI INSURANCE COMPANY,  
INSURANCE CARRIER/TPA**

**RESPONDENT**

**INTERIM ORDER AND OPINION  
FILED SEPTEMBER 23, 2003**

Hearing before Chief Administrative Law Judge David Greenbaum on August 4, 2003, at Little Rock, Pulaski County, Arkansas.

Claimant represented by Mr. Kenneth A. Olsen, Attorney-at-Law, Little Rock, Arkansas.

Respondents represented by Mr. William C. Frye, Attorney-at-Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted August 4, 2003, to determine claimant's entitlement to additional workers' compensation benefits.

This case has been the subject of prior proceedings. It is undisputed that the claimant sustained a compensable injury on July 17, 1998, when several roof trusses fell on him, striking his right hip and back. The claimant sustained a lumbar back injury, as well as a post-traumatic, deep vein thrombosis in the right lower extremity which has apparently since resolved. The claimant has been examined and evaluated by numerous physicians, including several orthopedic specialists, a neurosurgeon, as well as other health care providers.

By agreement of the parties, the following issues were presented for determination:

- 1) Respondents' responsibility for outstanding medical expenses.
- 2) Claimant's entitlement to permanent impairment benefits.

The first issue can be decided based upon the record as it stands. However, because of the inconsistencies in the expert medical opinion of record and for reasons set out further below, the claimant's entitlement to permanent impairment benefits, if any, requires further development of the medical evidence. Pursuant to A.C.A. §11-9-705, I have determined that an independent medical examination and evaluation is necessary.

The claimant contended that he sustained an eleven percent (11%) permanent impairment. Conversely, respondents maintained that the claimant did not sustain any impairment as a result of the July 17, 1998, admitted injury. In support of his contention, claimant relies primarily upon the medical opinion of Dr. Robert H. May, an orthopedic surgeon in Russellville, Arkansas. Respondents rely primarily on the opinion of Dr. Jim J. Moore, a neurosurgeon in Little Rock, Arkansas. The depositions of both Dr. May and Dr. Moore were introduced at the hearing. It must be noted that although Dr. May did base his impairment rating, in part, on objective medical findings, he utilized the Fifth Edition rather than the Fourth Edition of the A.M.A., *Guides to the Evaluation*

*of Permanent Impairment.* Further, Dr. May considered the claimant's complaints of pain, as well as range of motion in his assessment which must be excluded under our laws. However, Dr. May stated that he observed muscle spasms, and, in addition, pigmentation changes and a fibrous mass in the exact location of the claimant's spine in which he sustained bruising as a result of being struck by the roof trusses on July 17, 1998. Dr. Moore failed to observe any such discoloration. I feel compelled to point out that I personally observed some scarring or discoloration at the August 4, 2003, hearing, the significance of which needs to be addressed by an independent examiner.

After a thorough review of the record as a whole, to include conflicting medical evidence which this administrative law judge finds difficult to reconcile, together with my personal observations, it is herein concluded that an independent medical examination and evaluation is necessary in this case. Accordingly, Dr. Kenneth Rosenzweig, an orthopedic specialist, Arkansas Specialty Orthopedics, 600 South McKinley Street, Suite 102, Little Rock, Arkansas 72205, is hereby selected to perform an examination and evaluation at respondents' expense.

The parties are to communicate with each other and with Dr. Rosenzweig's office in arranging a mutually convenient time for the examination and evaluation. In addition, the parties are to provide Dr. Rosenzweig with any diagnostic studies and/or reports to assist him in avoiding any duplication of

studies; however, Dr. Rosenzweig is authorized to conduct additional studies that he deems reasonably necessary to ascertain the nature and extent of claimant's injury and to address the issue of whether claimant has sustained permanent impairment attributable to the July 17, 1998, admitted injury. The cost of claimant's examination and evaluation is to be borne by respondent/insurance carrier, Cincinnati Insurance Company, P.O. Box 25947, Little Rock, Arkansas 72221.

By necessity, claimant's entitlement to permanent impairment benefits, if any, is held in abeyance, pending receipt of Dr. Rosenzweig's narrative report.

IT IS SO ORDERED.

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DAVID GREENBAUM  
Chief Administrative Law Judge