

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F305872**

**DAVID SIMMS, EMPLOYEE**

**CLAIMANT**

**HECKETT MULTI SERVICES, EMPLOYER**

**RESPONDENT**

**PACIFIC EMPLOYERS INS/ESIS, CARRIER/TPA**

**RESPONDENT**

**OPINION FILED MARCH 19, 2004**

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on December 19, 2003, at Jonesboro, Craighead County, Arkansas.

Claimant represented by the HONORABLE JOHN BARTTELT, Attorney at Law, Jonesboro, Arkansas.

Respondents represented by the HONORABLE JAMES C. BAKER, JR., Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted in the above-styled claim to determine claimant's entitlement to workers' compensation benefits.

On October 14, 2003, a prehearing conference was conducted in this claim, from which a prehearing order of the same date was filed. The prehearing order reflects stipulations entered by the parties, issues to be addressed during the course of the hearing, and the parties' respective contentions relative to the issues. The prehearing order is herein designated a part of the record as Commission's Exhibit #1.

The testimony of David Simms, the claimant, James Haddock, and Richard Trout, coupled with medical reports, photographs, and other documents comprise the record in this claim.

## DISCUSSION

\_\_\_\_\_David Simms, the claimant, with a date of birth of March 15, 1970, is a high school graduate with post-secondary education and training. Specifically, claimant is a licence practice nurse in the state of Missouri. Claimant commenced his employment with respondent on August 24, 1998.

Respondent-employer, Heckett Multi Services, is a worldwide organization that specializes in metal services type work. Robert Trout, superintendent for respondent-employer's operation and at the Nucor steel plant, testified:

We are stationed in steel mills all over the world and pretty much do anything that the steel mill does not want to do. (T. 74)

Throughout the entirety of his employment with respondent claimant has performed the job duties of a Komatsu rail crane operator.

In describing the Komatsu, claimant testified:

That is an excavator that has been adapted to set on four railroad tracks and it has three yard grapple on the end of a stick and it's used to pick up scrap metal and put into a bucket and then the bucket is taken to the mill. (T.8)

The record reflects a photograph of the Komatsu, Claimant's Exhibit No. 2. In further describing the Komatsu claimant testified:

. . . Most people have probably seen the small ones working on the side of the road digging out ditches. You take one about three times that size and when you're sitting in the seat you are approximately 15 to 16 feet off the ground., You have a 50 foot boom, three yards grapple and it travels up and down. It's set up on rounds. It travels north and

south up and down a scrap line. (T.10)

The evidence in the record reflects that metal is retrieved by the Komatsu operator from piles of scrap along the rail line and deposited in a charge bucket. The charge bucket is fixed to a scale car which is attached to the Komatsu. The Komatsu, charge bucket, and railcar are all reflected in the photo identified in the record as Claimant Exhibit #2.

The Komatsu rail crane is attached to the scale car, which has the charge bucket attached, by a coupling similar to those which attached railroad cars. The coupling is described by the witnesses as a knuckle. The record reflects photography of the coupling identified as Claimant Exhibit #3 through #5.

James Haddock, the supervisor on A crew, for respondent-employer testified regarding the weights of the charge bucket, scale car, and Komatsu:

The empty bucket is approximately 135, 135,000.  
And the scale car I'm going to say is 250, something  
around in that area and then, you know, once you  
add the scrape to the bucket, which usually we put  
120, 000 in the second, 210 in the first or  
230 in the first and the Komatsu is probably 250,  
300 maybe. (T.72)

In his testimony, the claimant estimate a 2 to 1 or 3 to 1 ratio of weight between a nearly full charged bucket on the scale car and Komatsu rail crane. (T. 43)

The testimony in the record reflects that respondent-employer operate three sets of rail lines into the Nucor Steel Mill, A, B, and C lines. C lines, which is the shortest of the three rail lines was estimated to be the length of five football fields. Claimant operated the Komatsu rail car on C line. During the pertinent time period claimant was assigned to a shift which commenced at 7:00 P.M. and concluded at 7:00 A.M. Check out sheets were provided to be

completed by operators regarding the equipment. The date reflected on the check out sheet is the date that the operator began his shift. The check out sheet, with pertinent information, was turn in by the operator at the conclusion of the shift. (Respondent #1, Exhibits 5-25)

Claimant acknowledged that he experience low back complaints prior to May 2003. In fact, the claimant dates his low back complaint to 1991 when he suffered an injury to his low back while in active duty military service as a part of Operation Desert Storm. As a consequence of the afore, claimant has been assessed with a 30% service connected disability relative to his low back. Claimant received medical treatment for the low back complaint at the VA Hospital. Claimant asserts, however, that he did not experience any complaints relative to his neck or thoracic region prior to May 7, 2003. Though employed by respondent-employer for a period of five years, claimant is a residence of Kennett, Mo.

Claimant asserts that on May 7, 2003, near the conclusion of his shift, he suffered an injury to his neck, upper back, and aggravation of his pre-existing low back complaint, within the course and scope of his employment with respondent at approximately 5:00 a.m:

On May 7<sup>th</sup> while I was loading a fresh charge bucket around 5:00 a.m. that morning I had went to take off from a pile because I had thrown in what was enough scrap for that layer. The computer screen had blue and red numbers. When you have red numbers you get your next layer and it switches you to the next layer so you can take off.

\* \* \*

That means say you are at pile A and you throw it in there and it hits red, that means you can hit your next layer and move down to pile B. And so when I went to take - - I hit it but the touch screen is kind of sensitive and sometimes it takes it real easy,

sometimes it's not. Well, I had taken off with the machine, went to travel and noticed that it had not switched. And with the tracks being unlevel, you can let off of it and let it coast and it will jump back and it will usually put you right back, right in your little zone that you need to be in because it has a tolerance of a thousand pounds under or a thousand pounds over the setting. So, I let off of it, the number became red again, I pushed my next layer, the computer accepted it, it changed me to my next layer. I want to take off again and when I did it snatched - - the scale car had rolled up on the Komatsu so when I took off the Komatsu takes off and it pulls all this slack out of this knuckle and just created a whiplash effect and caused my neck to snap and that's when I first noted that my neck was bothering me. (T18-19)

The testimony of the claimant reflects that following the whiplash effect he began having pain in his shoulders and pain down his left arm.

Claimant acknowledged that he did not report the injury of May 7, 2003, to his immediate supervisor at the time of the occurrence or at the conclusion of his shift. Claimant's immediate supervisor was James Haddock. Further, claimant maintains that he did complete a check out sheet at the conclusion of his shift, however did not include the accident on the document. While there is some dispute regarding the ramification or consequences of failure of the operators to complete the check out sheet, in light of the fact that claimant acknowledged he did not make an entry on the document regarding the May 7, 2003, incident, the existence or the location of such a document relative to the May 6, 2003, is of no effect to the present claim.

Claimant testified that he was hopeful that the whiplash injury was minimal and would resolve. Claimant also reasoned that at the conclusion of his shift on May 7, 2003, he would be off work for a period of four days, and if the symptoms had not resolved during the off period he

could receive treatment from his family physician. Claimant testified that he did not feel that he was popular individual in his employment with respondent because he relayed his concerns, without reservations, regarding the equipment in his entries on the check out sheets. Claimant specifically testified that approximately two to three weeks prior to the May 7, 2003, accident he had consistently relayed his concerns regarding the equipment:

On the check out sheet is where you list defects and then the bottom has a block for comments and I would basically everyday, try to get it everyday, that the Komatsu was riding extremely rough, the knuckle had too much slack in it and it was killing my back. (T.18)

A review of the check out sheets contained in the record is corroborative of the afore assertion of the claimant. (RX.1, Exhibit #5 through #26)

On May 8, 2003, claimant was seen by his family physician, Dr. Wuthis Soonattrakul, also known as Dr. Woody, in the Kennett clinic. The May 8, 2003, entry in the records of the Kennett Clinic of Dr. Woody, relative to the claimant, reflects that the claimant was seen for follow-up for low back pain. The May 8, 2003, report of Dr. Woody also reflects that the claimant had neck pain and tight muscles; and a whiplash type injury resulting in pain in the neck and upper thoracic spine. The medical report reflects the impression of Dr. Woody relative to the claimant's complaints as that of cervical and upper thoracic pain, low back, and probably degenerative spine disease. During the May 8, 2003, visit Dr. Woody recommended an MRI of the claimant's cervical and upper thoracic spine and provided medication to the claimant. (CX 1, p1-2)

At the conclusion of the claimant's designated off days, he returned to his regular job

duties with respondent on May 11, 2003. Claimant's testimony reflects that he continued to experience residuals of the May 7, 2003, injury, to include increased pain in his low back, pain in his neck, and upper back. Claimant also noted pain in his shoulder and headaches as well as numbness in the upper extremity which he later attribute to residuals of the May 7, 2003, injury. Claimant however did not report the injury to supervisory personnel of respondent once he returned to work on May 11, 2003.

On May 17, 2003, claimant underwent an MRI of his lumbar and thoracic spine at Twin River Regional Medical Center, in Kennett, Mo., pursuant to the recommendation of Dr. Woody. (CX 1, p3-4). The medical in the record reflects that the Dr. Woody obtained the results of the MRI on May 19, 2003, and as a result of same recommended a neurosurgical referral. (CX 1, P5)

The testimony of the claimant reflects that he did not learn the results of the MRI until May 20, 2003. Claimant's testimony reflects that he received information from his mother that Dr. Woody's office had been attempting to contact the claimant. Claimant did follow-up Dr. Woody, via telephone, following the information gained from his mother.

Claimant noted that between the time of his May 8, 2003, visit to Dr. Woody and once he returned to work on May 11, 2003, while he discharged his regular employment duties his symptoms remained present and in fact progressively worsened. Claimant had been provided pain pills and muscle relaxants by Dr. Woody during the May 8, 2003, visit. The testimony of the claimant reflects that he relayed to Dr. Woody the history of the May 7, 2003, injury at the time of the May 8, 2003, visit. (T. 29)

The testimony of the claimant reflects that after being informed of the results of the MRI

by Dr. Woody on May 20, 2003, he proceeded to work at his usual time and performed his regular job duties. The following morning when he got off work at 7:00 a.m., claimant reported the injury to supervisory personnel and his need for medical treatment. Specifically, claimant testified that he reported the injury to James Haddock, his immediate supervisor, and Rodney Barns, the safety man. Regarding the reporting of May 21, 2003, to his immediate supervisor, James Haddock, claimant testified:

I told him that a couple of weeks ago I had hurt my neck and my lower back had been bothering me pretty bad and that I wanted to go see a doctor. (T.32).

Following the reporting, an incident report was completed by Mr. Haddock and the claimant was taken to respondent's designated medical provider, Dr. John Williams, by Rodney Barns.

Claimant maintains at the time of his initial visit with Dr. Williams on May 22, 2003, he did not relay that his neck pain had been bothering him for the last six months:

No, sir, I believe I told him I had lower back pain for the last six months and that the neck pain and thoracic started approximate two weeks earlier. (T. 85)

Claimant testified that he was provided a prescription for some muscle relaxants and a light pain pill by Dr. Williams during the May 22, 2003, visit, and released to return to work with instructions not to do any heavy lifting. Claimant was also provided a follow-up appointment by Dr. Williams during the initial visit. (RX 1, Exhibit #2)

Claimant continued to discharge his regular job duties as a Komatsu crane operator following the May 22, 2003, visit to Dr. Williams. Claimant was seen in follow-up by Dr. William on June 2, 2003. The testimony of the claimant reflects that at the time of the June 2,

2003, visit to Dr. Williams he also had in his possession a copy of the report relative to the May 17, 2003, MRI scan which had previously been order by Dr. Woody:

Dr. Williams. He told me to come back and see him in a week. When I came back I had the copy of my MRI results. And I talked to him and everything and he was talking like he wanted me to go back to work and I asked him if he would read these MRI results before he made his decision. Well, when he read the MRI results he told me that I needed to go see a neurosurgeon and he referred me to Dr. Boyd. (T.33)

The June 2, 2003 report of Dr. Williams, relative to the claimant regarding the follow-up visit is corroborative of the above testimony of the claimant. In addition to noting he results of the MRI scan, the June 2, 2003, office note of Dr. Williams reflects that the claimant was still hurting and related the same to his driving machines at work. The June 2, 2003, office note of Dr. Williams reflects an assessment of the claimant's complaints as thoracic and cervical back pain, thoracic and lumbar scoliosis and elevated blood pressure. Claimant was provided medication by Dr. Williams during the June 2, 2003, visit and released to return to work at a sit down job. The office note further reflects Dr. Williams' plans to refer the claimant over to Dr. Allen Boyd for a neurosurgical evaluation. (RX 1, Exhibit #3)

The claimant continued to discharge employment duties with respondent until his June 9, 2003, visit to Dr. Allen Boyd, a Memphis neurosurgeon. Claimant drove from his residence Kennett, Mo. to the June 9, 2003, scheduled appointment with Dr. Boyd in Memphis, Tennessee. Upon arriving at the office of Dr. Boyd, claimant learned that respondent had informed Dr. Boyd's office that compensability of the claimant's medical treatment was denied. Since he had driven to the appointment claimant elected to be seen by Dr. Boyd pursuant to the

appointment, however the cost for the visit was filed with the claimant's group health care provider.

The June 9, 2003, report of Dr. Boyd, reflects relative to the claimant:

David Simms is here seeing me today mainly because of neck and left arm pain. The pain does not go below the elbow on the left. It has been pretty severe for about 2 weeks. He has had neck pain before with the machine that he operates. I don't quite understand the machine but it is pretty rough apparently. The left arm pain has been mainly for the last 2 weeks or so now. He has been on light duty and that has helped a lot as far as his pain.

He has an HNP central at C6 on his MRI, more prominent on the sagittals than the axials. He has probably partial extrusion left cervical 5, better seen on the axials really than the sagittals. The C5 herniated disc is the likely cause for his severe left arm pain.

\* \* \*

IMPRESSION: Central cervical 6 herniated disc, left cervical 5 probable partial extrusion with cervical 6 radiculopathy.

I have offered him the idea of surgery. I went over the various approaches with him posterior to decompress the left C6 nerve root at the C5 disc level versus anterior cervical 5-6 and 6-7 discectomy, fusion and plating, etc. Understandably he would very much like to avoid surgery if he can and I don't blame him for that. (CX 1, p6)

Following the claimant's June 9, 2003, initial evaluation by Dr. Allen Boyd, he was seen in follow-up on June 11, 2003, by his family physician, Dr. Woody. (CX. p8) On June 11, 2003, Dr. Woody authored a documents wherein he expressed the opinion that the claimant's neck

injury was job related. (CX 1, p9)

Claimant was next seen by Dr. Boyd on June 19, 2003. After noting the status of the claimant's neck complaint, the failure to obtain relief from pain through conservative measures, the June 19, 2003, report of Dr. Boyd noted that claimant wanted to go forward with the surgery, anterior discectomy and fusion at C5 and C6 with plating. The June 19, 2003, office visit report concludes:

He also has some trouble with his low back but we will put all of this on hold until we get his neck taken care of. (CX 1, p10)

On June 25, 2003, claimant underwent surgery under the care of Dr. Boyd at Baptist Memorial Hospital, in Memphis, Tennessee for diagnosed cervical 5 and cervical 6 herniated disc. (CX 1, p11-12). A July 17, 2003, report of Dr. Boyd reflects that the claimant was seen in follow-up on said date for an office visit. The report reflects that the claimant was 100% better and pleased with the results of the surgery. The July 17, 2003, office note further reflects:

He is eager to get back to work. If his cervical spine x-rays look okay and he can stand the pain then we'll let him go back to work although it is perry early..

His trouble started on the morning of 5/7/03 at about 5:00 in the morning. He was loading something or operating some equipment. He didn't have any neck pain prior to that injury.

He had a tear in the posterior longitudinal ligament at surgery at cervical 5 and also a rent in the posterior longitudinal ligament at cervical 6.

In my opinion, his trouble started with the May 7, 2003, injury, he gives by history, and that is compatible with his findings and surgery and on the

MRI. (CX 1, p13)

Claimant returned to the employment of respondent on July 22, 2003, and has continued in the employment of same since. Claimant noted, as reflected in the July 17, 2003, office note of Dr. Boyd, that following his surgery he had an excellent result with an immediate relief of pain in his neck, shoulder, and arm along with the numbness and weakness. Further, claimant noted that following the surgery he received immediate relief from the headache that he had been experiencing since the injury. Claimant attributes the aggravation of his low back pain to the May 7, 2003, injury along with the neck and thoracic pain.

The testimony of Mr. James Haddock, the claimant's immediate supervisor during the pertinent time period, reflects that to the best of his knowledge, claimant told him that he hurt his back on the night of May 21, 2003. Mr. Haddock's testimony reflects, with respect to the report that the claimant made on May 21, 2003:

He come in at the end of the shift when we got off that morning. He come in and told me that he had hurt his back and his neck, and that he felt like that he needed to go to the doctor. (T. 66)

Mr. Haddock completed the supervisor's report of accident/investigation at the time claimant reported the accident to him on May 21, 2003. (RX 1, Exhibit #1). Regarding the mechanics of the supervisor's report, Mr. Haddock testified:

I wrote that in the computer, you know, the top part and then the part about the curvature of the spine and what the doctor said. (T. 68)

While it is undisputed that the claimant reported the injury to supervisory personnel on May 21, 2003, Mr. Haddock's testimony regarding when the claimant said the injury occurred it is

speculative and equivocal at best.

While the supervisor report of accident/investigation reflects the date of accident as May 21, 2003, and time as 8:30, the evidence reflects that the afore is the time and date that the accident was reported to Mr. Haddock. Mr. Haddock's testimony reflects that claimant came after the shift was over. The record reflects the shift of the claimant ended at 7:00 a.m. The document, Respondent #1, Exhibit No. 1, has a notation in both the a.m. and p.m. box. Further, the documents contains information regarding Dr. Williams' findings, that the claimant had curvature in his spine, which could not have been known at the time the claimant initially reported the injury to respondent on May 21, 2003. Mr. Haddock responded to the question of when the claimant said the accident occurred, "to the best of my knowledge, it was the night, the 21<sup>st</sup>, that night". (T. 67)

After a thorough consideration of all of the evidence in this record, to include the testimony of the witness, a review of the medical reports, photographs, and application of the appropriate of the statutory provision, in make the following:

#### **FINDINGS**

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On May 7, 2003, the relationship of employee-employer-carrier existed among the parties.
3. On May 7, 2003, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$367.00/\$275.00 for temporary total disability/permanent partial disability benefits.
4. On May 7, 2003, the claimant sustained an injury arising out of and in the course

of his employment.

5. The claimant was temporarily totally disabled for the period beginning June 9, 2003 through July 22, 2003.

6. The respondent shall pay all reasonable hospital and medical expenses arising out of the injury of May 7, 2003.

7. The respondents have controverted this claim in its entirety.

### CONCLUSIONS

Claimant asserts that he sustained an injury arising out of and in the course of his employment with respondent on May 7, 2003, as a result of a specific incident identifiable by time and place of occurrence. Respondents deny the compensability of the claim in its entirety.

The present claim is one governed by the provisions of Act 796 of 1993, in that the claimant asserts entitlement to workers' compensation benefits as a result of an injury having been sustained subsequent to the effective date of the afore provision. To prove a compensable injury as a result of a specific incident which is identifiable by time and place of occurrence claimant must establish by a preponderance of the evidence a injury arising out of and in the course of employment; that the injury caused internal or external harm to the body which required medical services or resulted in disability; medical evidence supported by objective findings, as defined in Ark. Code Ann. §11-9-102(16), establishing the injury; and that the injury was caused by a specific incident and identifiable by time and place of occurrence. Ark. Code Ann. §11-9-102(4)(A)(i)(Repl. 2002). Should the claimant fail to establish by a preponderance of the evidence any of the requirements for establishing the compensability of his claim, compensation must be denied. Mikel v. Engineered Specially Plastic, 56 Ark. App. 126, 938

S.W. 2d 876 (1997).

In the instant claim, it is undisputed that claimant discharged the employment duties as a Komatsu crane operator in the employment of respondent. Further, while claimant experience difficulties with his lower back prior to May 7, 2003, for which he received treatment and had been assessed with a 30% service connected disability by the Veterans Administration, there is no evidence that claimant experience complaints or required medical treatment relative to his cervical or thoracic spine prior to May 7, 2003.

The evidence in the record preponderates that the claimant suffered a whiplash type injury on the morning of May 7, 2003, while operating the Komatsu crane when the slack in the coupling between the Komatsu railcar and the scale car with the charge bucket was taken up.

Claimant creditably testified regarding the specific event:

When it happened, it happened so quick it slung me around and basically just almost threw me out of the seat. But, I 'm really not sure how to answer your question - - (T 47-48)

Claimant did not appreciate the severity of his injury at the time of the occurrence. Claimant was due to be off work for the next four days and hoped that the same would afford an opportunity to recuperate from the injury. Barring the afore, claimant noted that had access to his family physician, Dr. Woody, in Kennett, Mo., and could receive medication to address the symptoms until they resolved. It is undisputed that the claimant did not report the May 7, 2003, accident or injury to supervisory personnel of respondent until May 21, 2003.

The medical reflects that claimant was seen by his family physician on May 8, 2003, and relayed a history of the May 7, 2003, injury to same as the basis for his complaint of neck and

upper thoracic back pain. Claimant was provided medical treatment relative to the May 8, 2003, visit and arrangements were had to obtain an MRI scan of the affective areas. The May 17, 2003, MRI scan disclosed objective findings of injury relative to the claimant's cervical spine. Claimant underwent surgery relative to the herniated disc in his cervical spine on June 25, 2003, under the care of Dr. Allen Boyd. Further, claimant received immediately relief from his symptoms following the surgery.

The medical reflects that both the claimant's family physician, Dr. Woody, and the claimant's treating neurosurgeon, Dr. Boyd, have expressed opinions relating the claimant's injury and medical treatment relative to same to the May 7, 2003, injury suffered by the claimant in his employment with respondent.

There is no medical or evidence in the record to reflect that claimant suffered an injury in any other event or else where between the time of the May 7, 2003, accident in the employment of respondent and the initial medical treatment on May 8, 2003, relative to same. Likewise, there is no evidence to reflect an intervening event suffered by the claimant between May 8, 2003, and May 17, 2003, when the claimant underwent an MRI relative to his cervical and thoracic spine pursuant to the directions of Dr. Woody. Claimant has sustained his burden of proof by a preponderance of the credible evidence that he sustained an injury arising out of and in the course of his employment with respondent, May 7, 2003, which caused internal harm to his body and required medical services on May 8, 2003. Further, the evidence preponderates that the injury resulted in disability and the need for medical treatment. Claimant has presented medical evidence supportive by objective findings of an injury to his cervical and thoracic spine as well as a aggravation of the pre-existing lumbar condition. The employer takes the employee as he

finds him. In the instant claim, the evidence reflects that the injuries suffered by the claimant in the May 7, 2003, accident were principally to his cervical and thoracic spine. There is no evidence in the record to reflect that the claimant has been required to remain off work as a result of the exacerbation or aggravation of the pre-existing low back complaint. Finally, the evidence preponderates that the injury suffered by the claimant was caused by a specific incident and is identifiable by time and place of occurrence. Respondents have controverted the compensability of the claimant's May 7, 2003, compensable injury in its entirety.

The evidence reflects that claimant was referred to Dr. Allen Boyd, by Dr. John Williams, respondent designated medical provider. Claimant preceded to scheduled neurosurgical evaluation with Dr. Boyd on June 9, 2003, pursuant to the referral of Dr. Williams, relative to the May 7, 2003, compensable injury. Claimant was not informed by respondent prior to arriving at the office of Dr. Boyd in Memphis, Tennessee that respondents were controverting the claim and liability for medical treatment, to include the neurosurgical evaluation with Dr. Boyd. As previously noted, claimant is a residence of Kennett, Mo. Claimant preceded with treatment under the care of Dr. Boyd during the June 9, 2003, visit, however filed the claim with his group health provider. In addition to filing his claim for medical treatment with the group health care provider, Blue Cross/Blue Shield, the testimony of the claimant reflects that approximately a week prior to returning to work on July 22, 2003, he received a check in the amount of \$500.00, in short term indemnity benefits. In light of the compensability of claim, as found above, respondents are liable for reimbursing the third-party carrier, to include Blue Cross/Blue Shield, and any other carrier for sums paid to and on behalf of the claimant relative to the May 7, 2003, compensable injury.

The evidence discloses that the claimant was off work from June 9, 2003, until July 23, 2003, as a result of the May 7, 2003, compensable injury. During the afore time period, claimant was within his healing period, and totally incapacitated from engaging in employment. Claimant is entitled to the payment of temporary total disability benefits for the time period June 9, 2003 through July 22, 2003. Respondents have controverted claimant's entitlement to temporary total disability benefits

### AWARD

Respondents are hereby ordered and directed to pay to the claimant temporary total disability benefits at a weekly compensation benefit rate of \$367.00, for the period June 9, 2003 to July 22, 2003, and a result of the claimant's compensable injury of May 7, 2003. Said sums accrued shall be paid in lump without discount.

Respondents are further ordered and directed to pay all reasonable related medical, hospital, nursing, and other apparatus expenses, to include medical related travel, growing out of the claimant's compensable injury of May 7, 2003

Respondents are further ordered and directed to reimburse the group health care provider or any other carrier for sums paid to and on behalf of the claimant relative to the May 7, 2003, compensable injury. Upon reimbursing the afore carriers and health care providers, respondents may claim credit for the indemnity benefits paid to the claimant by the health care provider.

Maximum attorney fees are herein awarded to the claimant's attorney the Honorable John Barttel, on the controverted portion of this Award, pursuant to Ark. Code Ann. §11-9-715.

This Award shall bear interest at the legal rate pursuant to Ark. Code Ann. §11-9-809, until paid.

Matters not addressed herein are expressly reserved.

**IT IS SO ORDERED.**

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**Andrew L. Blood**  
**Administrative Law Judge**