

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F403603

BARBARA S. EDWARDS, EMPLOYEE	CLAIMANT
FAMILY DOLLAR STORES, INC., EMPLOYER	RESPONDENT
ST. PAUL TRAVELERS, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED NOVEMBER 30, 2005

Hearing before Chief Administrative Law Judge David Greenbaum on November 4, 2005, at Jonesboro, Craighead County, Arkansas.

Claimant represented by Mr. John C. Barttelt, Attorney-at-Law, Jonesboro, Arkansas.

Respondents represented by Mr. Mark Alan Peoples, Attorney-at-Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted November 4, 2005, to determine whether the claimant sustained a compensable injury within the meaning of the Arkansas Workers' Compensation Laws.

A prehearing conference was conducted in this claim on September 21, 2005, and a Prehearing Order was filed on said date. At the hearing, the parties announced that the stipulations, issues, as well as their respective contentions were properly set out in the Prehearing Order. A copy of the Prehearing Order was introduced as "Commission's Exhibit 1" and made a part of the record.

It was stipulated that the employment relationship existed between the parties at all relevant times, including March 26, 2004; that the claimant's average

weekly wage was sufficient to entitle her to compensation rates of \$115.00 per week for both temporary total disability and permanent partial disability; and that respondents have controverted the claim in its entirety.

By agreement of the parties, the primary issue presented for determination was whether the claimant sustained a compensable heart attack. If overcome, claimant's entitlement to associated benefits must be addressed.

Claimant contended, in summary, that she sustained a heart attack on March 26, 2004, as the result of extraordinary job stress, specifically, during an armed robbery; that respondents should be held responsible for all hospital, medical, and related expenses; that she was entitled to temporary total disability benefits from the date of the injury and continuing through April 15, 2004; and that a controverted attorney's fee should attach to any benefits awarded. The claimant specifically reserved all additional entitlements.

The respondents contended that the claimant cannot prove a compensable heart attack.

The claimant was the only witness to testify. The record is composed solely of the transcript of the November 4, 2005, hearing containing a medical packet consisting of fifteen (15) pages, together with the evidentiary deposition of Dr. Michael Isaacson, taken at the instance of the respondents, which was introduced as "Respondent's Exhibit 1" and retained in the Commission file in bound form.

From a review of the record as a whole, to include medical reports,

documents and other matters properly before the Commission, and having had an opportunity to hear the testimony of the claimant and to observe her demeanor, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. §11-9-704:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The stipulations agreed to by the parties are reasonable and are hereby accepted as fact.
3. The claimant has proven, by a preponderance of the credible evidence, that she sustained a heart attack on March 26, 2004, which arose out of and during the course of her employment with Family Dollar Stores, Inc., which was the result of extraordinary and unusual job stress in comparison to the claimant's regular employment, both extraordinary and unusual physical job stress, as well as extraordinary and unusual employment mental job stress and which was the major cause of the claimant's heart attack.
4. Respondents are responsible for all hospital, medical, and related expenses as the result of the claimant's March 26, 2004, heart attack and remain responsible for continued, reasonably necessary medical treatment.
5. The claimant's healing period ended April 15, 2004, at which time the claimant returned to work for the employer herein.

6. The claimant is entitled to temporary total disability benefits for the period beginning March 27, 2004, and continuing through April 15, 2004.
7. All additional issues have been specifically reserved.

### DISCUSSION

In a workers' compensation case, the claimant has the burden of proving, by a preponderance of the evidence, that her claim is compensable, ie., that her injury was the result of an accident that arose in the course of her employment, and that it grew out of, or resulted from the employment. *Ringier American vs. Combs*, 41 Ark. App. 47, 849 S.W.2d. 1 (1993); *Carman vs. Hayworth, Inc.*, 74 Ark. App. 55, 455 S.W.3d 408 (2001). Further, the claimant must prove a causal connection between the work-related accident and the later disabling injury. *Bates vs. Frost Logging Company*, 38 Ark. App. 36, 827 S.W.2d 664 (1992). The claimant must show a causal relationship exists between her condition and her employment. *Harris Cattle Co., vs. Parker*, 256 Ark. 166, 506 S.W.2d 118 (1974).

There is no presumption that a claim is indeed compensable. *O.K. Processing, Inc., vs. Servold*, 265 Ark. 352, 578 S.W.2d 224 (1979). The party having the burden of proof on the issue must establish it by a preponderance of the evidence. Ark. Code Ann. §11-9-704(c)(2) (Repl. 2002). In determining whether a claimant has sustained her burden of proof, the Commission shall weigh the evidence impartially, without giving the benefit of the doubt to either party. Ark. Code Ann. §11-9-704; *Wade vs. Mr. C. Cavanaugh's*, 298 Ark. 363, 768 S.W.2d

521 (1989); and *Fowler vs. McHenry*, 22 Ark. App. 196, 737 S.W.2d 663 (1987).

The Arkansas Workers' Compensation Law, as amended by Act 796 of 1993 recognizes a variety of work-related injuries, including cardiovascular injuries, Ark. Code Ann. §11-9-102(4)(A)(iv) (Repl. 2002), which provides that "compensable injury" means: Heart or cardiovascular injury, accident, or disease as set out in §11-9-114; which is set out in its entirety below:

**Heart or lung injury or illness.**

(a) A cardiovascular, coronary, pulmonary, respiratory, or cerebrovascular accident or myocardial infarction causing injury, illness, or death is a compensable injury only if, in relation to other factors contributing to the physical harm, an accident is the major cause of the physical harm.

(b)(1) An injury or disease included in subsection (a) of this section shall not be deemed to be a compensable injury unless it is shown that the exertion of the work necessary to precipitate the disability or death was extraordinary and unusual in comparison to the employee's usual work in the course of the employee's regular employment or, alternatively, that some unusual and unpredicted incident occurred which is found to have been the major cause of the physical harm.

(2) Stress, physical or mental, shall not be considered in determining whether the employee or claimant has met his or her burden of proof.

All of the relevant facts in this claim are undisputed. The claimant was the only witness to testify. I found the claimant to be an extremely credible witness. Admittedly, a claimant's testimony is never considered uncontroverted. The testimony if an interested party is always considered to be controverted. *Lambert vs. Gerber Products Co.*, 14 Ark. App. 88, 684 S.W.2d 842 (1985); *Nix vs. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994); *Continental Express vs. Harris*, 61 Ark. App. 198, 965 S.W.2d 84 (1998). However, in the instant case, the claimant's credible testimony and her description of the extraordinary and unusual

circumstances which caused her to suffer a work-related heart attack are corroborated by all of the medical opinion of record. In fact, there is no medical opinion which disputes the causal relationship between the claimant's heart attack and the unusual and unpredicted incident which caused the heart attack. Further, the only expert witness, Dr. Michael Isaacson, a cardiologist in Jonesboro, Arkansas, opined that the work-related incident was the major cause of the injury and the claimant's need for medical treatment. Admittedly, the record reflects that the claimant had pre-existing heart problems, including undergoing a triple by-pass in 1999. Nevertheless, the record reflects that the claimant had no further problems following the 1999 surgery until the undisputed incident on March 26, 2004.

On and before March 26, 2004, the claimant was employed as a cashier for the Family Dollar Store in Wynne, Arkansas. The claimant's description of the events which preceded her heart attack follows:

Q Okay. Now, on March 26, 2004, what time did you go to work that day?

A Around 10:00 o'clock.

Q Around 10:00 o'clock in the morning?

A Right.

Q Okay. And you worked all day. What time did you close that evening?

A Seven o'clock.

Q And who was in the store working with you at the time the store closed at 7:00 o'clock on that evening?

A Tara Hall. She was assistant manager.

Q And you were a cashier?

A I was cashier.

Q Okay. Just, I guess, pick up from what – you went to, I guess, lock the door at 7:00 o'clock?

A We locked both doors at 7:00 o'clock.

Q Pick it up from there and tell us what happened?

A We count the registers down, take the money and put it in our bags, take it up to – we've got three stairs. Upstairs, you go in and there is a safe there. We counted the money down, run it through the computer, and put it in the safe, locked it. Locked the office door, walked down two steps. When we got to the third step, a guy came out from behind some clothes, put a gun to my head, and pushed us over to the side, and demanded the money.

Q Okay. Let's stop right there, okay? I want to take this step by step, all right? And I know this is not a pleasant thing for you to recount for us, and just take your time with it, but we do need to go through this. As you were coming down the stairs, you said you hadn't even gotten to the bottom step when this guy came out?

A Right.

Q And describe the man to me?

A He was completely covered. You could not see anything. He was in ski mask, gloves, coat. All you could see was just a little bit of his eyes. You couldn't see anything else.

Q Was Ms. Hall coming down the stairs right behind you?

A Right behind me.

Q Okay. So you came down the stairs, and what is the first thing you saw when this man came out from behind some clothes?

A A gun pointed at me.

Q Okay. And what did he say to the best of your memory?

A He said he wanted the cash, and then he pushed us over to the side there and –

Q How did he push you?

A Through my back.

Q He placed his hand on your back?

A Right, and shoved up, and then he grabbed Tara, pulled her around to where I was at. When we were standing there, he told us to get on the floor. I was standing there, and he put his hand on my shoulder and pushed me down. Tara had already laid down. She laid down, I was watching her, and he shoved me down, and he took the handcuffs and handcuffed Tara, and then he came over to me and he took my hands and put them – crossed them behind me and handcuffed me, and he crossed my feet and handcuffed them. And then he wanted to know if that was all the cash. We told him yes.

Q Now, both you and Ms. Hall were on the floor handcuffed at this time?

A Right.

Q Let me just stop you right there. He crossed your feet before he handcuffed you?

A No, he handcuffed my hands –

Q Okay.

A – and then he crossed my feet.

Q He crossed your feet?

A Right, and handcuffed my feet.

Q So that your ankles were crossed?

A Right.

Q All right.

A And they were so tight. They were awfully tight. They just cut into me.

Q Are you talking about your hands or your feet?

A Both of them. I had bruises on both hands and feet.

Q Okay.

A And then when he – he wanted my car keys, and when he – he just asked for my car keys, and I didn't understand because of the mask. I looked at him and he kicked me on the feet and he said, "Car keys." And I just told him where my car keys were at.

Q Okay. And once he – I'm assuming he then went and got your car keys, is that correct?

A He got my cars [sic] keys and my purse was sitting there. We'd just got paid. He got my check, everything out of my purse and threw it across where we were at, and he walked over, he stepped over me, and when he stepped back over, he stepped on my leg. Then he just got my keys, held them in front of me, and said, "Which one is the car key?" I showed him which one was it, and he was gone.

Q Well, did he go out the front door?

A Went out the front door.

Q Okay. So at this point in time you and Ms. Hall were laying – are you by the front door or behind the registers? Where were you actually laying in the store?

A The office is like right here, and you step down.

Q Okay. I want you to understand this gentleman is trying to make a record for us, and the record isn't very clear when you are making hand movements and saying right here.

A I know.

Q How far from the front door were you laying? In feet, how far were you from the front door?

A Probably about – I'd say eight feet, around eight feet.

Q If somebody had been standing at the front door, would you have been visible, or were you off to the side?

A We were off to the side.

Q Okay. When he left through the front door, did he have to unlock the front door?

A Yes.

Q Did he leave it unlocked, or did he lock it back?

A You can't lock it. You have to leave it unlocked.

Q Okay. So he left it unlocked?

A Right.

Q When he did that, what did you and Ms. Hall do?

A We laid there for a little while, and then we – her grandmother started banging on the door hollering for us?

Q Who did?

A Tara's grandmother.

Q Tara's grandmother.

A Because he had gotten the car – her car instead of my car and left with a two-year-old baby in it. And she was banging on the door hollering for both of us. And, finally, it was just about impossible for us to – she could not open the door.

Q That was my next question. Why was she banging on the door?

A You can't open it from the outside, on that door.

Q Okay.

A It has to have a key to do it, unlock it, and she couldn't get in.

Q Well, did you understand that he had taken the car with the baby in it?

A Not at that point.

Q Okay. What did you do?

A We were trying to wrestle around to get up to get there. So we just wiggled around and around till we could get to the door, and we kicked the door open.

Q Okay. Now, I want to explore that just a little bit. I want to ask you some questions. When you say you wiggled around, you told us you were eight feet from the door to begin with. Tell us in more detail what you mean when you say you wiggled around?

A We just scooted on the floor and around to get to the door, I mean, just inch by, you know, just wiggled to the door.

Q Basically crawled to the door?

A Right.

Q Eight feet away?

A Uh-huh.

Q And did you both of you do it at the same time?

A Yes.

Q What happened when you got to the door?

A We kicked the door open enough that her grandmother could get her hand in the door to open it for us to get out.

Q Okay. And when the grandmother opened the door, what happened then?

A We was trying – she ran in the store while we held the door open so she could use the phone to call the police. There was no phones, he had pulled all the lines out. So there was a guy at the bank, the little bank across there, he saw us, and he came over and called the police for us.

Q Are you still lying in the floor at this time?

A No, we're up.

Q Then you jumped ahead of us, and I want to take this step by step, okay? It's

important. You wiggled to the door and you kicked the door open for her?

A Right.

Q I want to know what you did. Not her, not Tara, I want to know what you did from that point on, okay?

A We got to the door, and we got out. I was sitting there holding the door with my body for her grandmother to get in the door.

Q Okay. Now, you said you were sitting there. Had you gotten up?

A I had not got to my feet. Her grandmother helped us up to out [sic] feet. We was trying to climb up, trying to get up the best we could.

Q When did you go from a prone position to a sitting position?

A Oh, I don't – I cannot remember.

Q Was that part of the wiggling process?

A Yes.

Q When you were wiggling, were you sitting up?

A Up enough that we could do it, get up.

Q Okay. Again, you have to say yes or no.

A Yes.

Q All right. So you were sitting up when you got to the door?

A Right.

Q Okay. So the grandmother comes in, there's no phone, and she goes to the bank. How do you finally get to your feet from sitting on the door? How do you finally get onto your feet?

A All I know is somehow we got – her grandmother helped us up. We were standing at – but my feet was crossed. Tara's feet was not crossed, mine was. He crossed my feet and handcuffed them.

Q Yes, ma'am.

A And we got – tried to wiggle them loose as much as we could. So the handcuffs did work a little loose on us and I finally worked my feet around.

Q Okay. Now, how much physical exertion did it take to do that process? From the start of the time that you wiggled across the floor and got to your feet and you were trying to get your handcuffs loose, tell us physically how easy that was or how difficult that was for you?

A It was terrible. You just can't wiggle with them handcuffs, and I was exhausted by the time I got to the door. I was – I was out of breath. I was just trying my best to keep going, just getting out to the door.

Q It goes without saying it was a pretty frightening incident in addition to all of that?

A Yes.

Q How long then after – if I understand this correctly, and if I don't, please tell me, but you're on your feet, you're trying to loosen the handcuffs a little bit?

A Right.

Q How long are you in that position or that place before the police arrive?

A Ten minutes or so.

Q So you're standing on your feet with your feet crossed –

A Yes.

Q – for ten minutes?

A Yes.

Q Bound at the feet and bound at the wrists?

A Right.

Q For ten minutes?

A Yes. And trying all the time – working trying to get loose and just –

Q And tell us about that process in terms of, again, how difficult that was and how much work that was?

A It was hard. You're just pulling and yanking and just trying to get loose. You're just – it was just hurting. I was hurting. My hands, feet, my ankles hurt. My feet, the wrists were – I just had bruises on them where we tried to get out. We was –

Q When the police got there, I'm assumed they got you out of the handcuffs?

A Right. (Tr.9– 18)

The claimant testified that following the incident, she got sick at her stomach and reported that she was not feeling well, but did not request or seek medical assistance the evening of the armed robbery. She maintained that she went home thinking she would improve and attributing her symptoms to being so scared following the traumatic event. She related that because her symptoms did not improve overnight, she went to the Cross County Hospital the following morning where it was determined she had sustained a heart attack at which time she was transported, by ambulance, to Jonesboro, Arkansas, where she was hospitalized for three (3) days. The claimant's primary treating physician has been Dr. Michael Isaacson, a cardiologist who previously treated the claimant for her cardiac problems in 1999. The claimant underwent a heart catheterization on March 27, 2004, and stenting, and was discharged on March 30, 2004. As previously pointed out, the claimant returned to work for the employer herein on April 15, 2004.

The claimant's primary care physician, Dr. Julie Dow, issued a June 24, 2004, opinion report addressed to whom it may concern which states:

I am Ms. Edward's PCP and am writing this letter to confirm that I agree with her cardiologist that her acute myocardial infarction was triggered by and largely due to the stress from the immediately preceding [sic] armed robbery [sic] she witnessed. She had been monitored for her heart closely prior to the event and was stable. Please call our office with any questions. (Cl. Ex. A, p.13)

In a report dated September 28, 2004, Dr. Michael L. Isaacson, the claimant's cardiologist, issued a report addressing the cause of claimant's heart attack which states:

This letter is being addressed concerning a patient of mine since 1999, Ms. Barbara Edwards. She has a history of known cardiac disease having had bypass surgery back in 1999. I again saw her in April of 2004 after she had an acute nontransmural myocardial infarction. She was hospitalized and had intervention with a PTCA stent. She is still under my care. Her heart attack occurred after the stress from a recent armed robbery at that time. I do feel like this contributed to her myocardial infarction and hospitalization. If you have any questions concerning her care of [sic] if you will need any records, please feel free to contact me. (Cl. Ex. A, p.14)

Dr. Isaacson issued a clarifying report in response to a letter from claimant's attorney, addressing the major cause requirement of A.C.A. §11-9-114. In the report, Dr. Isaacson opines:

Upon close review of her database, it is my clinical opinion that the robbery incident where Ms. Edwards, as a clerk for Family Dollar Store, was robbed at gunpoint, handcuffed and thrown to the floor, was indeed the major cause of her subsequent non ST elevation myocardial infarction occurring the following day on 03/27/05 [sic]. It has been demonstrated numerous times that an extreme emotional, and in this case even physical event, can precipitate a sudden myocardial infarction and in my opinion, this is exactly what did occur after. (Cl. Ex. A, p.15)

Because respondents did not clearly articulate the specific reasons that it controverted compensability of this claim, I am compelled to speculate on the reasons for controversion; however, based upon respondents' cross-examination of Dr. Isaacson, it appears that respondents are relying upon A.C.A. §11-9-

114(b)(2) which states that stress cannot be considered in determining whether the claimant has met her burden of proof. To the contrary, Dr. Isaacson's cross-examination testimony reinforces rather than weakens the causal connection between the claimant's injury and her employment. After acknowledging that the claimant had pre-existing heart problems, Dr. Isaacson was questioned about the stress of the armed robbery. A portion of his testimony follows:

Q ...I asked her, "Do you believe it was the stress of having the gun pointed at her head that caused the cardiac problems to manifest themselves again?" And she agreed with that.

Do you agree with her assessment of what caused her heart attack?

A Yeah, I do. You know, I went back – I subsequently wrote another letter, and I went back and looked and I had not seen Ms. Edwards for a cardiac problem, or any problem really, it looks like the last time I had seen her was '99, but let me look back prior to that time. And it's a known fact that emotional duress can precipitate plaque rupture, which we think is what causes myocardial infarction or heart attack.

Q Physically, what happens when emotional stress triggers a heart attack?

A Well basically, particularly in Ms. Edwards' situation where somebody pointed a gun at her, you turn on the nervous system and basically scares the hell out of you. And that really does send a surge from the sympathetic nervous system, adrenaline, epinephrine, norepinephrine, and all of those things, that scare and fright type phenomenon, can cause a plaque that heretofore had been a stable plaque to rupture. And that's how a lot of heart attacks occur. In fact, we think 70 percent of heart attacks occur on blockages under 50 percent.

And there's a trigger, such as a gun pointed at you, that can trigger these things to rupture at a weakened site of the plaque and then clot forms just like putting a gun or a shotgun barrel in the mud and plugging it.

So, yeah, I think that's about as good a stressor as I can think of that could precipitate an event in somebody that had documented coronary disease already.

Q It was, and I can't remember the exact time, but 8:00, 9 o'clock in the evening

when the robbery occurred –

A Right.

Q – then she sought medical treatment the next day.

A Right.

Q Do we know when the heart attack occurred?

A Let me go back here and see if I can find the history and physical that correlates with that, and I'm not sure that she listed it. The day that she says – the day that the robbery occurred was what day, the 26<sup>th</sup> or the 27<sup>th</sup> of March?

Q I believe it was in April.

A Because actually I think it was my partner that admitted her.

MR. BARTTELT: In her deposition you referred to it as late March.

A Yeah, because I have a history and physical by Dr. D. V. Patel, one of my partners, that admitted her on the 27<sup>th</sup> of March of '04, and she was transferred in from Wynne with uncontrolled chest pain and a mildly elevated Troponin, which is just one of our markers indicating the death of a few cells of the heart muscle. And I don't know when the robbery was.

Q I think it was the 26<sup>th</sup>.

MR. BARTTELT: March 26<sup>th</sup>.

Q She sought medical treatment the next day.

A Right.

Q Was it probably the next day before the heart attack occurred?

A Based on timing, it would appear that that's, that's the time frame.

Q If you know, you may not be able to answer this question, the emotional trauma that she was undergoing in the interim between the having had the gun pointed at her head, understandably would cause a person emotional trauma, that built up over that period of time of 12 to 18 hours, that would lead someone to have a heart

attack?

A Yes, I mean, it – you know, obviously it would be easier say if it happened right when she had the – but it does, I mean, you’ve got the fright and the stress and the come down, as you might say. After having the gun pointed at her head, she’s probably on quite an epinephrine high for, you know, I would say 24 hours after that phase.

And sometimes it’s this pulsatility that seems to get people in trouble where you’re kind of going on an up and down roller coaster type pattern of emotion that can trigger these things.

MR. PEOPLES: Doctor, that’s all I have. Thank you very much. (Resp. Ex. 1, pp.5-8)

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A My memory is that – in fact, I think my nurse who probably saw Ms. Edwards, which is the usual way, before I did the following day said, “My God, she had a gun stuck in her face and was robbed the day before.” So that’s what I remember, that she had had a pretty specific traumatic emotional event within the 24-hour time frame.

Q If you will, assume that the facts will also show in this case that she was handcuffed, bound, and placed on the floor during the time of the robbery. Would those actions contribute to the emotional and physical stress?

A Absolutely. And, you know, again, this was a while off and I remember her talking about being handcuffed now, but whether or not we listed that specifically, we knew she had had a major emotional trauma.

Q And the physical nature, not just having the gun stuck in her face, but the physical nature of the robbery, did you take that into account when you gave us your opinions in this case?

A Yes. I think that the whole, the whole episode – I mean, obviously it’s one thing if somebody waves a gun at you for 2 seconds and then is out the door, much less handcuffing you and you’re not knowing what’s going to happen next is a major addition to the – and I had forgotten even that aspect of it.

Q You wrote a report and sent it to me –

A I had a June 15<sup>th</sup>, 2005 report.

Q I believe that's it, that's correct.

Did you review that report before coming to the deposition?

A I really did not, Stephanie had pulled the history and physical part, and I do actually describe that in there.

Q Okay. Is it still your opinion that the robbery, the events of the robbery, both the physical and the emotional aspects of the robbery was the major cause of Ms. Edwards' heart attack?

A I do think it was the major precipitating cause of the heart attack, yes.

Q And is that also the major reason for her need of treatment?

A Yes.

MR. BARTTELT: That's all I have.

#### EXAMINATION

BY MR. PEOPLES:

Q But it was more the emotional than the physical, wasn't it?

A Probably more of the emotional than physical. I mean, I wasn't there so I don't know the extremes of the physical aspect. I know the emotional aspect was high from that.

MR. PEOPLES: Thank you, Doctor, very much.

#### EXAMINATION

BY MR. BARTTELT:

Q Doctor, would you agree that the physical factors also contributed to her heart attack?

A I think those two go hand in hand. The physical aspect with the way things went down obviously enhanced the emotional aspect as well. So I don't – they're intertwined, I don't know that I can tease those two apart.

MR. BARTTELT: Thank you.

EXAMINATION

BY MR. PEOPLES:

Q Physical exertion can lead to – I mean, you hear about people having heart attacks when they're out shoveling snow, so, I mean, of that nature that doesn't really involve an emotional component. The physical exertion that she was under at the time of the robbery, if we take away the emotional component, would not have been sufficient to be a major cause of a heart attack, would not have been sufficient to be a major cause of a heart attack, would it, based on what you know?

A I mean as far as – that's a point that's going to be hard for me to tease. I don't know – obviously, it doesn't sound like she was marched anywhere or – from a physical endurance type factor. But the things that were physically done to her, I guess, would be enough to add to the emotional duress. But, again, you get into that teasing out of the two. (Resp. Ex. 1, pp.10-13)

The provisions of the Workers' Compensation Act are to be strictly construed. Apparently, based upon the foregoing, respondents appear to be arguing that stress cannot be considered in determining whether a claimant has met her burden of proof. However, when A.C.A. §11-9-114 is read in its entirety, it is apparent that day-to-day job stress, both physical and mental, cannot be considered and that only extraordinary and unusual, physical or mental stress must be found when compared to the employee's usual work in order to find a heart attack compensable. Clearly, in the instant case, the job stress both physically and mentally, was extraordinary and unusual. Accordingly, I find that the claimant has proven, by a preponderance of the credible evidence, that she sustained a compensable heart attack within the meaning of our workers' compensation laws.

In addition to attempting to eliminate extraordinary and unusual work-related

stress as the cause of claimant's heart attack, which, in my opinion is clearly not the law, the only other possible defense to this claim is that any medical opinions addressing compensability were not stated with a reasonable degree of medical certainty. The deposition of Dr. Isaacson was taken at the instance of the respondents. When the deposition is reviewed in its entirety, Dr. Isaacson opined that the traumatic event of an armed robbery was the major cause of the claimant's heart attack. His opinion is asserted with clear and medically supported documentation that the accident and injury was caused by the work-related incident and is stated with reasonable certainty.

#### AWARD

Respondent, St. Paul Travelers Insurance Company, is hereby directed and ordered to pay, to the claimant, temporary total disability benefits at the rate of \$115.00 per week beginning March 27, 2004, and continuing through April 15, 2004.

Respondents are further directed and ordered to pay all outstanding hospital, medical, and related expenses as the result of claimant's compensable heart attack, and respondents remain responsible for continued, reasonably necessary medical treatment.

Additionally, claimant's attorney, Mr. John Barttelt, is hereby awarded the maximum statutory attorney's fee on this entire Award, to be paid pursuant to Ark. Code Ann. §11-9-715.

All accrued benefits shall be paid in lump sum and without discount.

This Award shall bear interest at the legal rate until paid.

IT IS SO ORDERED.

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DAVID GREENBAUM  
Chief Administrative Law Judge