

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F110461

JIMMY JENNINGS, EMPLOYEE

CLAIMANT

**COOPER TIRE & RUBBER CO.,
SELF-INSURED EMPLOYER**

RESPONDENT

CROCKETT ADJUSTMENT, TPA

RESPONDENT

INTERIM OPINION FILED OCTOBER 31, 2005

On October 27, 2005, a hearing was held on the Motion to Dismiss filed herein by the respondents on August 30, 2005. The claimant was represented by Mr. Matt Thomas of El Dorado, Arkansas. Respondents were represented by Mr. Michael Dennis of Pine Bluff, Arkansas. The claimant stated that he is now ready to pursue a full hearing, and the respondents did not object to the scheduling of a full hearing. Therefore, the Motion to Dismiss filed herein will be taken under advisement, and a full hearing will be scheduled by this Order. The parties agreed to incorporate the stipulations, issues, and contentions set forth in the Prehearing Order filed June 7, 2004, and the same are replicated below.

It is stipulated that the Arkansas Workers' Compensation Commission has jurisdiction of this claim; that the employee/employer/carrier relationship existed at all relevant times, including August 27, 2001, and June, 2003; that on August 27, 2001, the claimant sustained a compensable injury to his left knee; that respondents accepted the August 27, 2001, left-knee injury as compensable and paid benefits; and that on July 22, 2003, the Commission granted the claimant a change of physician to Dr. Kenneth Gati.

By agreement of the parties, the issues to be presented for determination are whether the claimant sustained a compensable injury to his right knee in June, 2003;

whether additional medical treatment is reasonably necessary in connection with the August 27, 2001, compensable injury; whether additional medical treatment is reasonably necessary in connection with the June, 2003, injury if it is found to be compensable; and controversion and attorney's fees.

The claimant contends that he sustained a compensable injury to his right knee in June, 2003; and that additional medical treatment, specifically the treatment and bilateral knee surgery recommended by Dr. Gati, is reasonably necessary in connection with both of his compensable injuries.

The respondents contend that the claimant has received all reasonable and necessary medical treatment and that any further treatment which has been prescribed by physicians is neither reasonable nor necessary or is not related to a compensable injury; and that the claimant did not sustain a compensable right-knee injury in June, 2003.

In addition to his own testimony, the claimant reserves the right to call Dr. Kenneth Gati as a witness. The parties reserve the right to call any witness identified by the opposing party.

Medical records must be indexed by medical provider, chronologically arranged, and identified by page number. A comprehensive index must be included with each set of medical records submitted. Any medical exhibit exceeding fifty (50) pages must be abstracted. Only medical records which are relevant to the issues being litigated should be submitted. Further, the parties are advised that exhibits should not be highlighted or underlined. If any exhibits are altered, it will be necessary to substitute those pages before the transcript is prepared for appeal. **Failure to comply with these directives may result in sanctions, including the exclusion of the medical records**

from evidence.

Rather than submit duplicate medical, the parties are encouraged to jointly submit a comprehensive set of relevant medical records. **Medical records will not be retrieved from the Commission's file except in extraordinary circumstances.**

Exhibits and the identity of witnesses must be exchanged at least seven (7) days prior to the hearing. All depositions must be completed prior to the hearing. Medical reports must be exchanged at least seven (7) days prior to the hearing pursuant to ARK. CODE ANN. § 11-9-705 (c). Evidence not disclosed in compliance with this Order shall not be considered as evidence unless prior permission of the Commission is obtained and for good cause shown.

By agreement of the parties, this matter is hereby scheduled for a formal hearing on **Thursday, February 23, 2006, at 11:00 a.m. in the Hearing Room of the Arkansas Oil and Gas Commission, 2215 West Hillsboro, El Dorado, Arkansas.**

Please keep the scheduled hearing date flexible in the event that the case may be heard at an earlier time, and ask your client and any witnesses to call you on the day of the hearing to confirm the hearing time in case of any changes.

Kindly give at least five (5) days notice prior to the hearing for docket changes. Last minute re-scheduling and/or cancellation may result in sanctions (order of dismissal, assessment of hearing costs, court reporter expenses, witness and attorney's fees, etc.).

IT IS SO ORDERED.

J. MARK WHITE
Administrative Law Judge