

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F504645**

<b>STEPHEN BRADFORD, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>COOPER TIRE &amp; RUBBER CO., EMPLOYER</b>	<b>RESPONDENT</b>
<b>CROCKETT ADJUSTMENT, CARRIER/TPA</b>	<b>RESPONDENT</b>

**OPINION FILED JUNE 12, 2006**

This matter comes before Administrative Law Judge J. Mark White on the record.

Claimant represented by Mr. Paul Miller, Attorney at Law, Texarkana, Texas.

Respondents represented by Mr. William Bullock, Attorney at Law, Texarkana, Texas.

**STATEMENT OF THE CASE**

Pursuant to the Prehearing Order filed February 13, 2006, the parties agreed to submit consideration of this claim on a stipulated record. The record is comprised of the Prehearing Order filed February 13, 2006; the brief, affidavit, and attached exhibit filed by the claimant, dated March 9, 2006; and the brief filed by the respondents, dated March 21, 2006.

The parties stipulated that the Arkansas Workers' Compensation Commission has jurisdiction of this claim; that the employee/self-insured employer relationship existed at all relevant times, including February 26, 2005; that on February 26, 2005, the claimant sustained a compensable injury to his right shoulder; that the respondent accepted the February 26, 2005 injury as compensable and paid

benefits; that the claimant has reached the end of his healing period; and that the claimant has incurred a permanent partial disability of twenty-one percent (21%) to the body as a whole as a result of his compensable shoulder injury.

The parties agreed that the sole issue to be presented was whether a lump-sum settlement is in the claimant's best interest.

The claimant contends that he has been awarded permanent partial disability benefits based upon his rating of twenty-one percent (21%) disability to the body as a whole; that the claimant requested lump-sum payment due to financial hardship; that the respondent has objected to claimant's request for lump-sum settlement; and that pursuant to Ark. Code Ann. § 11-9-804, it is in the claimant's best interests to receive his settlement in lump sum.

Respondent contends that it objects to the claimant's request for a lump-sum settlement.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record as a whole, to include medical reports, documents, briefs, and other matters properly before the Commission, the following findings of fact and conclusions of law are hereby made in accordance with Ark. Code Ann. § 11-9-704:

1. The Arkansas Workers' Compensation Commission has jurisdiction of 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 evidence that a lump-sum settlement is for his best interest.

### **DISCUSSION**

The claimant sustained a compensable injury to his right shoulder on February 26, 2005, which injury the respondents accepted as compensable and paid benefits. He reached the end of his healing period and was assigned a permanent anatomical impairment rating of 21% to the body as a whole, which rating the respondents have likewise accepted and are currently paying. The claimant now asks that he be granted a lump-sum settlement.

The Workers' Compensation Act provides as follows:

(1) Whenever the Workers' Compensation Commission determines that it is for the best interest of the parties entitled to compensation, and after due notice to all parties in interest of a hearing, the liability of the employer for compensation may be discharged by the payment of a lump sum equal to the present value of all future payments of compensation computed at ten percent (10%) discount, compounded annually.

(2) Lump-sum settlements shall not be allowed if the employer presents evidence which proves by a preponderance of the evidence that ordering the compensation discharged in such a manner would result in a substantial adverse effect on the continuing economic viability of the employer.

Ark. Code Ann. § 11-9-804 (a).

The Supreme Court has interpreted this statute as granting the Commission “broad discretionary powers in granting” lump-sum settlements. *Gill v. Ozark Forest Products, et al*, 255 Ark. 951, 504 S.W.2d 357 (1974). The Court further held that a lump-sum settlement “is an extraordinary remedy that must be used sparingly.” *Id.*

It is first noted that the respondents have introduced no evidence to show that a lump-sum settlement “would result in a substantial adverse effect on the continuing economic viability of the employer.” Ark. Code Ann. § 11-9-804 (a)(2). Therefore, the only question to be answered is whether the proposed settlement is in the best interest of the party “entitled to compensation” – that is, the claimant.

The claimant has returned to work at his old job as a tire builder, However, he testified by affidavit that he wishes to transfer to a less-demanding – and therefore lower-paying – job with the respondent-employer so as to avoid additional damage to his shoulder. In order to financially accomplish that transition, he wishes to obtain a lump-sum settlement so as to reduce his personal debt.

After reviewing the briefs and evidences submitted by the parties, I am persuaded that the claimant's justifications for seeking a lump-sum settlement are reasonable. I find that the claimant has proven by a preponderance of the evidence that a lump-sum settlement is for his best interest.

### **AWARD**

The claimant has proven by a preponderance of the evidence that a lump-sum settlement is for his best interest. The respondent is hereby directed and ordered to discharge its liability by payment of a lump sum equal to the present value of all future payments of compensation computed at ten percent (10%) discount, compounded annually.

**IT IS SO ORDERED.**

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**HON. J. MARK WHITE**  
Administrative Law Judge