

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F508009

JOHN HALL, III, EMPLOYEE	CLAIMANT
SOUTHWEST STEEL PROCESSING, EMPLOYER	RESPONDENT
LIBERTY MUTUAL FIRE INSURANCE, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED JANUARY 24, 2006

Hearing before Chief Administrative Law Judge David Greenbaum on December 22, 2005, at Jonesboro, Craighead County, Arkansas.

Claimant represented by Mr. James A. McLarty, III, Attorney-at-Law, Newport, Arkansas.

Respondents represented by Mr. Michael E. Ryburn, Attorney-at-Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted December 22, 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 November 9, 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. In addition, at the hearing, the parties stipulated to the applicable compensation rates in the event the claim was found compensable. A copy of the Prehearing Order was introduced as "Commission's Exhibit 1" and made a part of the record without objection.

It is undisputed that the employee/employer/carrier relationship existed at all relevant times, including January 29, 2004, which continued through February 2, 2005; that the claimant earned sufficient wages to entitle him to compensation rates of \$379.00 per week for temporary total disability and \$284.00 for permanent partial disability; and that the respondents had controverted the claim in its entirety.

By agreement of the parties, the primary issue presented for determination concerned compensability. If overcome, claimant's entitlement to associated benefits must be addressed.

Claimant contended, in summary, that he sustained a gradual onset, left shoulder injury which arose out of and during the course of his employment; that he reported his physical problems on or before January 29, 2004, but continued working, performing lighter duty work until February 2, 2005; that respondents should be held responsible for all medical and related treatment, together with continued, reasonably necessary medical treatment; that he was entitled to temporary total disability benefits beginning February 2, 2005, and continuing through the present, maintaining that his healing period had not ended; and that a controverted attorney's fee should attach to any benefits awarded.

The respondents contended that the claimant did not sustain an injury while working for the employer herein, further maintaining that his job duties did not involve rapid and repetitive activities. Respondents specifically asserted that no notice of an alleged injury was given until August 8, 2005, and, in the event

compensability was overcome, that respondent was not responsible for benefits prior to said date.

In addition to the claimant, Jackie Cheshier, Jr., and Leslie Wayne Hartsell were called as corroborating witnesses. The record is composed solely of the transcript of the December 22, 2005, hearing containing several exhibits, together with the evidentiary deposition of Dr. Randy Roberts, taken December 21, 2005, which was submitted subsequent to the hearing and retained in the Commission file in bound form, marked as "Claimant's Exhibit B."

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 witnesses and to observe their 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 hereby accepted as fact.
3. The claimant has proven, by a preponderance of the evidence, that he sustained a gradual onset, left shoulder injury which arose out of and during the course of his employment with Southwest Steel Processing which was confirmed by medical evidence supported by objective findings, and which

was the major cause of his disability and need for treatment.

4. The claimant has shown, by a preponderance of the evidence, that his work duties involved rapid repetitive motion which caused cumulative physical trauma to his left shoulder resulting in the injury which has been diagnosed as a rotator cuff tear of the left shoulder.
5. Respondents are responsible for all hospital, medical, and related treatment as the result of claimant's compensable left shoulder injury, and respondents remain responsible for continued, reasonably necessary medical treatment, including, but not limited to any referrals to an appropriate orthopedic specialist to treat the claimant's injury.
6. The claimant has proven, by a preponderance of the evidence, that he is entitled to temporary total disability benefits beginning February 2, 2005, and continuing through a date yet to be determined.
7. The claimant's healing period had not ended as of the date of the within hearing.
8. Additional issues not addressed herein are specifically reserved for future determination.

#### DISCUSSION

\_\_\_\_\_The facts in this case are undisputed. I found the claimant to be an extremely credible witness. The claimant's credible testimony was corroborated by Jackie Cheshier, Jr., who was his immediate supervisor during his employment with

Southwest Steel Processing. As will be set out further below, it is undisputed that the claimant, at all time, related his physical problems to a work-related injury. However, the record reflects Mr. Cheshier did not appreciate the extent of the claimant's injury and, therefore, never provided prompt, reasonably necessary medical treatment, but, rather, attempted to make accommodations permitting the claimant to continue working until his physical condition deteriorated to the point that the claimant could no longer work.

The claimant, John Hall, III, testified in his own behalf. The claimant is fifty-one (51) years old. He graduated from Newport High School in 1972. He denied any additional vocational training. The claimant began working at age 11, chopping cotton in order to assist his family while going to school. His work history after graduation has consisted primarily of heavy manual labor in various factories in and around Newport, Arkansas. The claimant denied any prior injuries or disabilities before going to work for the respondent on or about March 21, 2003. The record reflects that the claimant's initial job at Southwest Steel was extremely physically demanding. The claimant's description of his work activities which again, is undisputed, and, in fact, corroborated, is set out below:

Q And when you first hired on with Southwest, I will just call it Southwest Steel, what was the first job or the first task that you were put to doing? What did they have you do?

A Placing the boards, placing the billets.

Q Who was your immediate supervisor?

A Rusty Cheshier.

Q When he gets on the stand, his real name is Jackie, but Mr. Cheshier –

A Mr. Chester [sic].

Q – here as your witness was your supervisor?

A Yes, sir.

Q Now, for the Commission and Judge Greenbaum to have some understanding of where we are going from here, I need to ask you some questions to kind of paint a picture of what you were doing. When you say placed parts, placed parts where? What were you placing parts to do or within? Tell us about that.

A The parts is a billet.

Q What is a billet?

A It's a – I have a – I brought a block and a set of tongs.

Q I'm holding in my hand a piece of wood that looks to be about six inches by four or five inches, maybe eight or ten inches long.

A Right.

Q Is that what you have here to be representative of a billet?

A Yes, sir. Yes, sir. The billet would be heavy.

Q The billet that you're talking about was wood?

A No, sir, steel, a steel billet.

Q Steel. And when the billet that you are talking about came to you for you to deal with, was it hot or was it cold?

A It was hot.

Q How hot was it?

A Twenty-three hundred degrees just before it dropped, before it would turn into

a liquid.

Q So this slab of metal, this billet had been heated just to the point before it would melt like butter –

A Right.

Q – and lose its form?

A Yes, sir.

Q And it comes to where you receive it out of some type of machine or conveyor where it has been super heated?

A Four oven.

Q Four oven?

A This billet comes through – they got to preheat, two of them is preheat, and the other two is final heat. Could I stand and show you?

Q Yes, sir, if you would, if you could do that.

A Sort of like this is your oven –

Q Now, you are going back with your left hand?

A Yes, sir this is your oven. This has got an automatic that pushes those billets. You got a man here that loads this oven. It's automatic, comes up over here and you put four of those billets per tray. It steady runs on this machine. When it gets here, you've got a big cylinder that pushes those billets.

Q Pushes it towards you?

A Pushes it through the oven.

Q Through the oven?

A Through the oven, it pushes those billets through the oven. When they come through those four ovens, it drops off in a tray with those tongs there. My job, then you take those – you get that billet, you pull that billet to you, you turn, you go down this chute just like this right here, you go down this chute, come into the press. You

stop that billet right there. I step back.

Q Okay. Now, stop right there, John. Are you telling Judge Greenbaum here that you have taken this billet with a pair of tongs that are very similar to what you have brought over here today?

A Yes, sir, because that billet is red hot.

Q Did you have the tongs that I am holding here fixed up by some shop in Batesville to be very close to what you use?

A Very close to what we use.

Q Were the tongs that you use as long as the ones that you have here?

A Rusty seemed to think they might be a little bit longer, but they're within – they're pretty close. It might have been just a little bit longer.

Q So you are taking these tongs and you are getting on the billet?

A Yes, sir.

Q You are moving the billet from where it came, and you are changing directions, and you are moving the billet again?

A Yes, sir.

Q To get it to do what?

A To go into the press, to the first stage. You put it on the pie pan. You've got that billet into the press, step one.

Q Now, when the billet – you have caused the billet to be where you are putting it for step one, what's going to happen to that billet in step one?

A It's going to be hit.

Q And it's going to be hit by a drop forge press?

A Sixty ton press.

Q Okay. And the 60 ton press comes down and has a die underneath and on top

of the press –

A On top.

Q – and so it is forming – the first step to forming this billet into a part?

A Into a part.

Q Okay.

A Yes, sir.

Q Now, when the drop forge press hits it the first time, you are standing back out of the way –

A Yes, sir. Yes, sir.

Q – and the press operator operates the press?

A Yes, sir.

Q Now, after it has hit it the first time, what do you then do with the tongs and the billet for the second pass through the press?

A You come back in with those tongs, you grab that billet again.

Q Okay.

A That billet is then maybe that tall. It's done been flatten. It's done been pancaked some.

Q Pancaked, okay.

A This billet is hard to get. You have got to grip it with those tongs, because I've seen guys just stand there and they couldn't get it. It kept slipping off, kept slipping off, kept slipping off.

Q So now it's wider?

A Yes, sir, it's wider.

Q Maybe as wide as my book over here now?

A There you go. There you go.

Q Is it easier or harder now to handle?

A Harder.

Q All right. What do you do with the pancaked billet?

A You go up to step two.

Q What is step two?

A You're still in this die, you're still in this big press. You're still in this press. You catch it like that, you go over one more step. You grip it, you take it over to step two.

Q And you reposition the billet for it to be cycled again with the press?

A Yes, sir. You step back, and you hit it again.

Q Okay. What do you do then?

A Okay, when that press goes back up, you come in, you get it, you turn it.

Q All right. Now, by turning it, are you talking that you've now got to grip it and you've got to physically turn –

A Yes, sir. Yes, sir.

Q – it over where the top is now on the bottom?

A Yes, sir, you turn it over to the third stage, third and final stage.

Q All right.

A You turn it over to that stage. You get back. That press operator keys that big press again. It comes down, that part is then formed.

Q Now, what do you then have to do with the formed part?

A You reach and get it with those tongs.

Q Okay. Now, we've got it formed.

A You catch them in the front, you turn them over.

Q You turn it over?

A Yes, sir, just like that on the side.

Q All right.

A You hold those billets with – right, you reach and get that with your left.

Q All right. Now, you're taking your left hand and arm and you are putting it as close as you can to the billet?

A Yes, sir. You get a big heat glove, and you got a whole sleeve.

Q You've got on some protection?

A Yes, sir.

Q Now, what are you going to do with your left arm and your left hand after the third step?

A You got to pick them up and bring them out of that press.

Q All right, and do what with it?

A Yes, sir, you go to a table.

Q All right.

A There's another conveyor table right here. You set it on that conveyor. It goes to the next press.

Q All right. So I'm going to set it over here on the table?

A Yes, sir.

Q And then it moves on?

A It moves on.

Q All right. Take your seat, if you would, and let's talk a little bit about weight. As best you can tell the Commission, John, how heavy would the billet be when it came to you initially?

A We ran three different parts, and the heaviest, some of them would be as much as 60 pounds, some of those blocks 30 to 40. It just depended on what part we was running.

Q Thirty to 60 –

A Yes, sir.

Q – would catch it?

A Would catch it.

Q And all of them would be in the neighborhood of 2,300 degrees Fahrenheit?

A Yes, sir. Yes, sir. They got to be that.

Q Red hot?

A They have to be. Because if you hit it and it wasn't no hotter, you could bust your dies.

Q Now, the tongs that you have here that are representative of what you are using, if I put them on the floor, come to about my belt line. So three feet, maybe a little longer than three feet?

A Yes, sir. That's about where they always came to, about my belt line or a little better, yeah.

Q Okay. How much would you say the tongs themselves weighed if you tried to hold them out? I don't have the strength, I hate to admit, to hold them out very long, but what do you say that tong weighed without the billet in it?

A I would say those tongs would probably go to ten pounds or eight pounds.

Q Give or take?

A Give or take.

Q Now, once you learned how to do the job and got your working speed up to what you could do, tell the Judge how many minutes or seconds went by between each time you had to cycle a new billet?

A When we first started – like I said, this company just had come in and we was trying to get them up and running. When we started, this time cycle was on about a minute.

Q About a minute between one billet to the next?

A Yes, sir. Yes, sir, when you get to that final stage to where you are taking it and putting it on that deal, that machine done kicked another billet out. This other billet sitting there waiting on you.

Q Okay. So in starting, you were doing about one a minute?

A About one a minute.

Q Okay. What were you able to get your repetition down to?

A Well, they are running one every 18 seconds.

Q Were you able to get it down to 18 seconds?

A I have ran it on that.

JUDGE GREENBAUM: Let's stop there a minute, can we?

MR. McLARTY: Yes, sir.

JUDGE GREENBAUM: Because, obviously, it was easy for me to conceptualize the process, Mr. Hall, because you brought his physical evidence, which I trust you are not going to introduce, but the Commission is not going to be able to conceptualize this press. The tongs weight ten or more pounds, right?

THE CLAIMANT: Or less, yes, sir.

JUDGE GREENBAUM: Ten or less?

THE CLAIMANT: Yes, sir around eight to ten.

JUDGE GREENBAUM: Okay.

THE CLAIMANT: And we have – like if they broke, that heat got so hot that they broke.

JUDGE GREENBAUM: And the billets weigh approximately how much?

THE CLAIMANT: It depended on which one we was running.

JUDGE GREENBAUM: From the small size billet to the big size billet?

THE CLAIMANT: Yes, sir, they ran one that was longer than 40 by 40, and I'm going to say that was like 60 pounds.

JUDGE GREENBAUM: Well, you wouldn't run those as fast as you would the smaller ones, right?

THE CLAIMANT: No, no.

JUDGE GREENBAUM: A small billet would weight how much?

THE CLAIMANT: They would be 30 to 40, the smaller ones would.

JUDGE GREENBAUM: Okay, and –

THE CLAIMANT: Because after they was completed, a complete part, done went through the trim press and all and your slag and everything was taken out and you weigh a part to be shipped, they would weigh like about 30 pounds.

JUDGE GREENBAUM: Okay, and –

THE CLAIMANT: But we would do the whole big part. After it done been formed out, you would have a big slag that you throw away.

JUDGE GREENBAUM: You formed a billet and you do one in any time between 18 seconds up to a minute?

THE CLAIMANT: Yes, sir.

JUDGE GREENBAUM: Is that right?

THE CLAIMANT: Yes, sir.

JUDGE GREENBAUM: And for each billet, did I count the steps correctly, would they be three or four different maneuvers with the tongs in order to turn and pull the billets?

THE CLAIMANT: Yes, sir, it would be three.

JUDGE GREENBAUM: How many?

THE CLAIMANT: Three, been four when you come out.

JUDGE GREENBAUM: So that's four total?

THE CLAIMANT: Four total.

JUDGE GREENBAUM: Three turns, one pull. So you are basically using your upper extremities a minimum of four times, and doing one billet every 18 seconds to a minute?

THE CLAIMANT: Yes, sir. (Tr.14 – 26)

In controverting this claim, respondents primary defense is that the claimant cannot prove that his job duties involve rapid and repetitive activities as required for any injuries that are not cause by a specific incident identifiable in time and place of occurrence. The test for determining whether an injury is caused by rapid repetitive motion is two-prong: (1) the tasks must be repetitive; and (2) the repetitive motion must be rapid. *Malone vs. Texarkana Public Schools*, 333 Ark. 343, 969 S.W.2d 644 (1998). Multiple tasks involving different movements can be considered together to satisfy the “repetitive element” of rapid repetitive motion. *Malone*, citing, *Baysinger vs. Air Systems, Inc.*, 55 Ark. App. 174, 934 S.W.2d 230 (1996).

Although it may be difficult to conceptualize the different movements of the claimant's upper extremities involving his arms and shoulders, I find that the claimant has clearly satisfied the rapid repetitive motion requirement. The record reflects that the claimant produced approximately 700 to 800 units per day and that each unit involved four (4) movements with his upper extremities and shoulders. In addition to being both rapid and repetitive, the work was also extremely physically demanding and involved significant stress to the shoulder. Again, the claimant's testimony is undisputed. Jackie Cheshier, Jr., the claimant's supervisor, described the work as fast and repetitive. (Tr. 68 – 69)

Alternatively, respondents assert that no notice of an alleged injury was given until August 8, 2005, and that if compensability was overcome, that it should not be responsible for benefits prior to said date.

The notice requirements for reporting a work-related injury, Ark. Code Ann. §11-9-701 is set out in its entirety below:

(a)(1) Unless an injury either renders the employee physically or mentally unable to do so, or is made know to the employer immediately after it occurs, the employee shall report the injury to the employer on a form prescribed or approved by the Workers' Compensation Commission and to a person or at a place specified by the employer, and the employer shall not be responsible for disability, medical, or other benefits prior to receipt of the employee's report of injury.

(2) All reporting procedures specified by the employer must be reasonable and shall afford each employee reasonable notice of the reporting requirements.

(3) The foregoing shall not apply when an employee requires emergency medical treatment outside the employer's normal business hours; however, in that event, the employee shall cause a report of the injury to be made to the employer on the employer's next regular business day.

(b)(1) Failure to give the notice shall not bar any claim:

(A) If the employer had knowledge of the injury or death;

(B) If the employee had no knowledge that the condition or disease arose out of and in the course of the employment; or

(C) If the Commission excuses the failure on the grounds that for some satisfactory reason the notice could not be given.

(2) Objection to failure to give notice must be made at or before the first hearing on the claim.

The record reflects that the claimant began having physical problems involving his left shoulder in late September or early October, 2004. It is undisputed that the claimant reported his physical problems to his supervisor, Rusty Cheshier, and specifically related his physical problems to his work. Unfortunately, the supervisor did not provide the claimant with prompt medical treatment and failed to fill out an incident report. However, the record reflects that Mr. Cheshier, in turn, notified the plant manager, Mr. Yost, that the claimant was having physical problems with his shoulder related to his work activities. Again, Mr. Yost failed to provide the claimant with medical treatment. (Tr.26 – 27, 73 – 75)

Rather than provide the claimant with medical treatment, the employer provided the claimant with less physically demanding work without determining the extent of claimant's injury. The claimant's physical condition gradually deteriorated to the point that he could no longer hold down any of the jobs in respondents' plant. It is apparent from a review of the record that the claimant was extremely hardworking and motivated as reflected by his work history from October, 2003, until

voluntarily terminating his employment in February, 2005.

The claimant was initially examined by his family physician, Dr. Matthew P. Jackson, as early as January 29, 2004, with complaints of pain in his left arm and shoulder. Dr. Jackson failed to perform a work-up of the claimant's injury at that time. The claimant returned to Dr. Jackson on February 2, 2005, at which time Dr. Jackson took x-rays which revealed moderate to severe arthritis of the cervical spine and shoulders. Because Dr. Jackson failed to run sufficient diagnostic testing to diagnose the claimant's injury, he referred him to Dr. Randy Roberts, a board certified rheumatologist. (Cl. Ex. A, p.5)

Dr. Roberts initially evaluated the claimant on February 11, 2005. Dr. Roberts arranged for an arthrogram of the left shoulder which revealed a rotator cuff tear of the left shoulder. Dr. Roberts has elected to treat the claimant conservatively for the rotator cuff tear, and, to date, neither Dr. Jackson nor Dr. Roberts have referred the claimant to an orthopedic specialist. Without surgical repair, it is apparent that the claimant cannot return to gainful employment. Part of the reason that Dr. Roberts did not recommend surgery was because he did not believe the claimant would be able to return to his pre-injury activities with or without surgery. However, as previously noted, the claimant's normal work activities were extremely physically demanding. The claimant stated that if his shoulder could be fixed, he wished to undergo surgical repair. However, to date, the claimant has simply followed the instructions of his treating physicians.

In the present claim, the claimant does not contend that his injury was caused by a specific incident and identifiable by time and place of occurrence. Instead, he contends that he sustained an injury result of repetitive work activities. Accordingly, in order to receive benefits, the claimant must satisfy all of the following requirements:

- (1) Proof by a preponderance of the evidence of an injury arising out of and in the course of his employment;
- (2) Proof by a preponderance of the evidence that the injury cause external or internal physical harm to the body;
- (3) Medical evidence supported by objective findings as defined in A. C. A. §11-9-102(16);
- (4) Proof by a preponderance of the evidence that the injury was caused by rapid repetitive motion; and,
- (5) Proof by a preponderance of the evidence that the injury was the major cause of disability or need for treatment.

If a claimant fails to establish by a preponderance of the evidence any of the requirements for establishing compensability of the injury alleged, he fails to establish compensability of the claim, and compensation must be denied. *Lay vs. United Parcel Service*, 58 Ark. App. 35, 944 S.W.2d 867 (1997).

Further, medical evidence is not ordinarily required to prove causation, *Wal-mart vs. Van Wagner*, 337 Ark. 443, 990 S.W.2d 522 (1999), but, if a medical opinion is offered on causation, the opinion must be stated within a reasonable degree of medical certainty. *Crudup vs. Regal Ware, Inc.*, 341 Ark. 804, 20 S.W.3d 900 (2000).

Rather than conduct a further analysis of the record in this cause, suffice it to say that the claimant has satisfied each and every requirement necessary to establish compensability. Further, the only medical opinion of record addressing causation attributed the claimant's injury to his work. (Cl. Ex. A, p.6)

In view of the foregoing, I find that the claimant has proven compensability of his claim and is, therefore, entitled to appropriate workers' compensation benefits. The only remaining issue concerns whether or not the claimant's healing period has ended, as well as claimant's entitlement to temporary total disability.

Temporary total disability is that period within the healing period in which an employee suffers a total incapacity to earn wages. *K II Construction Company vs. Crabtree*, 78 Ark. App. 222, 79 S.W.3d 414 (2002). When an injured employee is totally incapacitated from earning wages and remains in his healing period, he is entitled to temporary total disability. *Id.* The healing period is statutorily defined as that period for healing of an injury resulting from an accident. *Dallas County Hospital vs. Daniels*, 74 Ark. App. 177, 47 S.W.3d 283 (2001). The healing period ends when the employee is as far restored as the permanent nature of his injury will permit, and if the underlying condition causing the disability has become stable, and if nothing in the way of treatment will improve that condition, the healing period has ended. *Crabtree, supra*. The question of when the healing period has ended is a factual determination for the Commission.

The healing period is defined as that period for healing of the injury that

continues until the employee is as far restored as the permanent character of the injury will permit. *Arkansas Highway & Transportation Department vs. McWilliams*, 41 Ark. App. 1, 846 S.W.2d 670 (1993). If the underlying condition causing the disability has become more stable and if nothing further in the way of treatment will improve that condition, the healing period has ended. The persistence of pain may not in and of itself prevent a finding that the healing period is over, provided that the underlying condition has stabilized. *Id.*; *Mad Butcher, Inc. vs. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982). Conversely, the healing period has not ended so long as treatment is administered for the healing and alleviation of the condition. *McWilliams, supra*; *J.A. Riggs Tractor vs. Etzkorn*, 30 Ark. App. 200, 785 S.W.2d 51 (1990). The determination of when the healing period ends is a factual determination to be made by the Commission. *McWilliams; Parker; supra*. In *Pallazollo vs. Nelms Chevrolet*, 46 Ark. App. 130, 877 S.W.2d 938 (1994), the Court of Appeals stated that in order to be entitled to temporary total disability compensation for an unscheduled injury, a claimant must prove that he remained within his healing period and that he suffered a total incapacity to earn wages. *Arkansas State Highway & Transportation Department vs. Breshears*, 272 Ark. 244, 613 S.W.2d 392 (1981).

Admittedly, an argument can be made that, in the absence of surgical intervention, the claimant's healing period has previously ended and that the claimant's condition is now permanent. However, the claimant's efforts at obtaining

medical treatment have been frustrated in part because respondents have controverted compensability of his claim. The claimant has indicated that if his shoulder can be fixed, he wishes to undergo surgery. The parties should cooperate in having the claimant evaluated by a shoulder specialist. Alternatively, the claimant can return to his primary care physician and obtain a valid referral to a shoulder specialist. Any determination concerning the extent of claimant's permanent disability is premature without further evaluations and treatment, including possible surgery. I specifically find that the claimant's healing period has not yet ended, and, accordingly, that the claimant is entitled to continued, temporary total disability. In view of the foregoing, I hereby make the following:

AWARD

Respondent, Liberty Mutual Fire Insurance Company, is hereby directed and ordered to pay, to the claimant, temporary total disability benefits at the rate of \$379.00 per week beginning February 2, 2005, and continuing through the present, and until a date yet to be determined.

All benefits having accrued, respondent is to pay same in lump sum and without discount.

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

Additionally, claimant's attorney, Mr. James A. McLarty, III, is hereby awarded the maximum statutory attorney's fee pursuant to, and limited by, Ark. Code Ann. §11-9-715.

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