

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F510266**

**DAVID RAY ARDREY,  
DECEASED, EMPLOYEE**

**CLAIMANT**

**ARTHUR BEECH  
TRUCKING,  
EMPLOYER**

**RESPONDENT NO. 1**

**ZURICH AMERICAN  
INSURANCE COMPANY,  
INSURANCE CARRIER**

**RESPONDENT NO. 1**

**DEATH & PERMANENT  
TOTAL DISABILITY  
TRUST FUND**

**RESPONDENT NO. 2**

**OPINION FILED JUNE 11, 2007,**

Pursuant to a hearing conducted March 14, 2007, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. Eric Newkirk, Attorney at Law, Little Rock, Arkansas, appearing for Respondents No. 1 and

Mr. Terry Pence, Attorney at Law, Little Rock, Arkansas, appearing for Respondents No. 2.

**STATEMENT OF THE CASE**

This was a hearing to consider the proper disposition of the proceeds of a workers' compensation claim arising out of the death of the employee, David Ray Ardrey, pursuant to Ark. Code Ann. §11-9-527.

The facts are generally not in dispute. David Ray Ardrey was fatally injured in a motor vehicle accident which arose out of and during the course of his employment with Arthur Beech Trucking April 13, 2005, when his average weekly wage was \$803.38. At the time of his death, April 27, 2005, this employee was survived by natural children, stepchildren, a widow, and a former wife.

Dependents eligible for benefits under the Arkansas Workers' Compensation Act were his widow, Christina Kay Ardrey, and his natural children, Jessica Ardrey and Kaitlyn Ardrey. A third child, Jennifer Ardrey, initially eligible for benefits, reached the age of 18 years June 1, 2005, shortly after the employee's death, and graduated from high school May 3, 2006, and is no longer a full-time student or otherwise entitled to benefits.

The stepchildren, Zachariah Aaron Barnes and Hunter Garon Barnes, were not the natural children of the employee but were in the custody of Christina Kay Ardrey, who was receiving child support from their natural father. The employee had not adopted the stepchildren.

Notice of this hearing was forwarded to counsel for the widow, Christina K. Ardrey, and the minor children in her custody. Notice was also given to counsel for the former wife, Rebecca Nielson, and the minor children in her custody.

Based upon the record as a whole, and without giving the benefit of the doubt to any party, as required by the Act, the following findings of fact and conclusions of law are hereby made:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Arkansas Workers' Compensation Commission has jurisdiction of the parties and subject matter of this claim.
2. Pursuant to the stipulations of the parties and the record, the employment relationship existed at all pertinent times; the employee sustained compensable injuries, arising out of and in the course of his employment April 13, 2005, and which resulted in his death April 27, 2005.
3. The preponderance of the evidence shows that dependents eligible for benefits under the Act at the time of the employee's death were his widow, and his natural children, Kaitlyn Ardrey,

Jessica Ardrey, and Jennifer Ardrey, provided, however, that Jennifer Ardrey's eligibility for benefits ended May 30, 2006.

4. The preponderance of the evidence shows that Zachariah Aaron Barnes, Hunter Garon Barnes, Rebecca Nielson, and Jeremy Ardrey, are not entitled to benefits under the Act.

### **DISCUSSION**

Under Arkansas law, at the time of this employee's death, benefits were payable to his widow and the children stated above.

The stepchildren are not entitled to benefits under the facts of this case. The preponderance of the evidence shows that the employee had not adopted the stepchildren, that the natural father was under an Order to pay child support from a court of competent jurisdiction, and that the stepchildren were not wholly and actually dependent on the employee, within the meaning of the Act.

By the time of the hearing, Jennifer Ardrey was no longer entitled to benefits, although she was entitled to benefits until May 30, 2006, when she ceased being a full-time student and had reached the age of 18 years.

Jeremy Ardrey was born June 8, 1985, and became 18 years of age in 2003. Following graduation from high school, he worked full time, although he was known to take classes on a part-time basis. Thus, he is not entitled to benefits under Arkansas law.

Thus, pursuant to Ark. Code Ann. §11-9-527, benefits should be distributed as stated above.

**IT IS SO ORDERED.**

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RICHARD B. CALAWAY  
Administrative Law Judge