

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F601315

THOMAS PEREZ	CLAIMANT
H R FACTOR STAFFING LLC	RESPONDENT
TRAVELERS INS. CO. INSURANCE CARRIER	RESPONDENT

OPINION FILED APRIL 25, 2007

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Springdale, Washington County, Arkansas.

Claimant represented by EVELYN BROOKS, Attorney, Fayetteville, Arkansas.

Respondents represented by PHILLIP CUFFMAN, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on February 20, 2007, in Springdale, Arkansas.

A pre-hearing conference was held in this claim, and as a result a pre-hearing order was entered in the claim on June 27, 2006. This pre-hearing order set forth the stipulations offered by the parties, the issues to litigate and the contentions thereto.

The following stipulations were submitted by the parties and are hereby accepted:

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On January 25, 2006, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to his right knee and thigh on January 25, 2006.

4. Temporary total disability benefits are paid to date.

5. Medical expenses for claimant's knee and thigh are being paid.

By agreement of the parties the issues to be litigated are limited to the following:

1. Compensability of the claimant's infection resulting in treatment from February 12, 2006, to March 9, 2006, at the Hillcrest Medical Center.

2. Medical expenses.

In regard to the foregoing issues the claimant contends that he was injured on January 25, 2006, and that in addition to right knee and thigh problems, he has incurred heart problems as a result of his injury. He requests the payment of medical, possible temporary total disability benefits, and an attorney fee.

In regard to the foregoing issues the respondents contend that they have paid appropriate medical benefits for claimant's knee and thigh, but contend that the claimant has suffered medical problems which are unrelated to his original injury.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No. 1. The claimant submitted medical records marked Claimant's Exhibit No. 1. The respondents submitted the deposition of Dr. Douglas Ivins marked Respondents' Exhibit No. 1. All these exhibits were admitted without objection.

#### DISCUSSION

The claimant testified that he is forty-five years old. The claimant testified that he worked for the respondent at LATCO

building wood trusses. The claimant testified that his employer then moved him to the job of stacking the trusses. The claimant testified that on January 25, 2006, he was stacking thirty feet long wood trusses. The claimant testified that when he was stacking these trusses there were three other people helping him do the stacking. The claimant testified that while stacking these wood trusses in January 2006 the others let go of the truss and the truss hit him in the right leg. The claimant testified that he did not know how much these trusses weighed but it took four men to stack them. The claimant testified that the wood truss struck his right leg just above his right kneecap. The claimant testified that immediately after the accident he sat down for just a little while but he did finish his shift. The claimant testified that he was unable to go to work the next day and that his injury was reported to the respondent by his brother.

The claimant testified that his brother worked for LATCO as well and he reported the claimant's accident to the supervisor. The claimant testified that he first went to the hospital and was given medication to calm his pain and was directed to an orthopedic doctor. The claimant testified that he next was seen by Dr. Bizzle. The claimant testified that Dr. Bizzle gave him medication but that his pain continued to be really strong. The claimant testified that his wife called the ambulance and he was taken to the Hillcrest Medical Center in Tulsa. The claimant testified that before he went to the hospital in Tulsa he was feeling really bad and could not walk due to his right leg pain and the swelling. The

claimant testified that his leg still hurts and that his left side still hurts from the operation.

On cross examination, the claimant testified that when the wood truss hit his right leg it did not tear his clothing nor did he stop working. The claimant testified that he was limping but he did not stop working. The claimant testified that he would sit down for a little while because the pain was so bad and it was so cold it made the pain worse. The claimant testified that he did not raise up his pant leg and look at his leg because he did not feel any blood. The claimant testified that when he got home he tried to massage and rub his leg. The claimant testified that his knee was not bruised but it was swollen. The claimant testified that he has been unable to work from the date of his accident to the present but that he would like to look for work because he does not have much money. The claimant was asked if he had tried to do any work since he was hurt in this accident and the claimant responded, "No." The claimant testified that his knee has improved very little and still hurts. The claimant testified that he is to see Dr. Bizzle on Friday after this hearing but that the physical therapy has ended. The claimant testified that he is not taking any medication for his knee because it was discovered that he had diabetes.

On redirect examination, the claimant testified that Dr. Bizzle ordered more physical therapy but the respondents would not authorize it. The claimant agreed that he had a note from his treating physician authorizing or recommending physical therapy.

The medical records set forth that the claimant was seen at the emergency room in Stilwell, Oklahoma, with complaints of right knee pain. Digital imaging revealed that the claimant's right knee was unremarkable and the claimant was prescribed medications as well as to rest his knee for several days and to use ice packs. The claimant was seen by Dr. Bizzle on January 30, 2006, for his on the job injury to his right knee. Upon examination, Dr. Bizzle notes that the claimant has pain and swelling of the bursae as well as pain and tenderness to palpitation over the region where he was struck. The doctor notes that the claimant has obvious swelling of the pre-patellar and infra patellar bursae. Dr. Bizzle assessed the claimant with having a contusion strain of the quadriceps musculature and prescribed medications. The claimant was admitted to the hospital in Stilwell on February 11, 2006, with complaints of left flank pain, severe for the last three days. After examination and various tests, the claimant was admitted for left sided pneumonia with effusion and new onset of diabetes. The next day the claimant's medications were adjusted. It was also noted that the claimant's right knee was swollen. It is noted that around 2:00 in the afternoon, the claimant suddenly developed respiratory distress and was highly febrile as well as his heart rate was very tachycardic. Tests were ordered and the results indicated that the claimant had an abscess that has more or less ruptured into the subcutaneous area. It was recommended that the claimant be transferred to the Hillcrest Medical Center to Dr. McCollum.

On February 12, 2006, the claimant was admitted to the Hillcrest Medical Center in Tulsa, Oklahoma. Dr. Joel Nunley did an extensive admission report indicating that the claimant reports left sided thoracic back pain and was admitted for treatment of a moderate sized left sided pleural effusion and pneumonia. This report also indicates that the claimant was diagnosed with diabetes, a urinary track infection, and it was noted that he had a right knee injury. Dr. John Carabello writes on February 13 that after examination and review of the claimant's diagnostic tests, he assesses the claimant with having extensive left empyema, multiple para spinal abscesses and new onset of diabetes. The claimant underwent ultra sound guided thoracentesis on February 13, 2006, performed by Dr. James Webb. Dr. Webb placed a catheter over the claimant's left rib area into the pleural space and 10 cc of fluid was obtained. Dr. Webb had a CT of the claimant's chest made on February 13, 2006, which revealed a large loculated and hydropneumothorax with extensive microlobulation involving the para spinal musculature on the left. On February 14, 2006, Dr. David Scheck was called in to evaluate the claimant for infectious disease management. After evaluation, Dr. Scheck recommended various medications and notes that the claimant has swelling in his right knee. On February 14, 2006, the claimant had two views of his right knee which showed extensive soft tissue swelling involving primarily the distal portion of the claimant's quadriceps muscle region. The report sets forth that this is more consistent with a hematoma at the myotendinous junctional area of the

quadriceps muscle. On February 15, 2006, the claimant had an MRI of his right knee and after review of this study, Dr. Scheck withdrew fluid from the claimant's right knee abscess and sent the material to the lab for analysis. The medical records set forth that the claimant continued to be seen by a variety of doctors and tested for his right side complaints as well as right knee complaints. Dr. Victor Palomino operated on the claimant's right knee on February 22, 2006. Dr. Palomino irrigated and debrided the claimant's right knee pre-patellar abscess and removed what appeared to be an infected hematoma followed by deep sutures, aggressive debridement in the supra patella pouch and insertion of two deep drains. The claimant was discharged from the hospital on March 9, 2006, after being treated for his various infections. Medications were prescribed and it was recommended that the claimant remain off work and to do no heavy lifting.

Dr. Douglas Ivins testified by way of deposition stating that he was one of the physicians which treated the claimant when he was in the hospital. Dr. Ivins testified that he first began treating the claimant on February 16, 2006, after he had been admitted to Hillcrest Health System on February 12, 2006. Dr. Ivins testified that when he first examined the claimant he had a swollen right knee and was complaining of right knee pain. Dr. Ivins agreed that his principle diagnosis of the claimant was a staphylococcus aureus infection that resulted from a work related right knee injury. The doctor testified that this is a bacterial infection. Dr. Ivins agreed that this diagnosis also included that this bacterial

infection caused a suprapatellar/prepatellar infected hematoma, left sided empyema and left sided paraspinous abscesses involving the musculature extending from the cervical to the lumbar spine. Dr. Ivins agreed that the presence of this bacterial infection was confirmed by aspirating fluid from the affected knee and culturing it. Dr. Ivins testified that the type of infection the claimant had could be introduced into his body in a variety of ways such as through a cut or abrasion, through the eyes, mouth, or nose. The doctor testified that this type of strep aureus may also live on some people's bodies normally. Dr. Ivins testified that not all people would develop infections as a result of this bacteria entering their body. Dr. Ivins agreed that in the claimant's discharge summary he concluded that the infection arose out of or resulted from the claimant's right knee injury. The doctor testified that it is sometimes actually a little bit mysterious how the bacteria can enter a patient's body and result in infection. Dr. Ivins testified that at the time the claimant was admitted to the Hillcrest Medical Center as well as at the emergency room in Stilwell that he had a swollen right knee. Dr. Ivins testified that the various procedures which the claimant underwent while at the Hillcrest Medical Center were as a result of the claimant's infection. The doctor testified that the claimant's case was particularly challenging and required the work of many specialist to help figure out exactly what treatment the claimant needed. Dr. Ivins testified that the claimant had just been diagnosed with diabetes and agreed that diabetes is not the sort of thing that

normally results from an injury or an infection. Dr. Ivins testified that it is not uncommon when an individual has an infection they will develop anemia and thrombocytopenia. The doctor testified that in a severe infection these two conditions will sometimes be related.

On cross examination, by the claimant's attorney Dr. Ivins testified that an abscess is a collection of fluid usually associated with an infection. Dr. Ivins testified that a hematoma is a general term that refers to bruising and is usually underneath the skin although some can be superficial and some can be deep. The doctor testified that in order to get a hematoma someone has to sustain a blow or an injury of some kind. The doctor explained that a hematoma is a collection of blood where there has been an injury to the vessels that would cause the blood to pool in a certain area. The doctor testified that a hematoma would have to have been seeded or had bacteria placed in it in order for it to become infected. Dr. Ivins testified that based on the results of the various cultures taken in the hospital, everything seemed to point to the claimant's various infections coming from one source. Dr. Ivins testified that it is his opinion that it was more likely than not that the claimant's problems were due to the trauma to his knee.

On redirect examination by the respondent, Dr. Ivins testified that the opinion from the infectious disease consultant talked about potential seeding and they related this seeding to the claimant's knee infecting or creating the claimant's abscesses.

On recross examination, the doctor was asked, if a person received a fairly significant blunt trauma to a muscle, would it be possible that the skin would be abraded without it being visible to the eye? Dr. Ivins responded, "Yes." Dr. Ivins was asked if a blunt trauma was likely to cause a collection of fluid and the doctor testified that depending on the force of the blow if the blow was sufficiently forceful one could expect a hematoma to develop.

On redirect examination, Dr. Ivins testified that bacteria of the sort that the claimant had experienced was generally introduced externally either through an opening or sometimes it can be through micro trauma, trauma that is not immediately visible. Dr. Ivins testified that typically, bacteria will come in through a break in the skin's surface, either microscopic or very small or sometimes larger and more obviously visible to the eye.

After a complete review of this entire matter, I find that the claimant has proven by a preponderance of the evidence that his treatment at the Hillcrest Medical Center for his various infections were a compensable consequence of his compensable knee injury. The respondents have not controverted any medical treatment for this claimant's knee injury. The claimant's treating physicians have indicated that, in their opinions, the source of the claimant's infections resulted from his right knee injury, thus necessitating the extensive treatment which he needed for the infections in his spinal area and his right knee area. Therefore, the respondents should pay for all the medical expenses incurred

for the claimant's treatment at the Hillcrest Medical Center from February 12, 2006, to March 9, 2006.

#### FINDINGS & CONCLUSIONS

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On January 25, 2006, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to his right knee and thigh on January 25, 2006.

4. Temporary total disability benefits are paid to date.

5. Medical expenses for claimant's knee and thigh are being paid.

6. The claimant has proven by a preponderance of the evidence that the infections which he was treated for at the Hillcrest Medical Center were a compensable consequence of his compensable right knee injury.

7. The respondents should pay for the medical treatment this claimant received at the Hillcrest Medical Center from February 12, 2006, to March 9, 2006.

#### ORDER

The claimant has proven by a preponderance of the evidence that the infections for which he was treated at the Hillcrest Medical Center were a compensable consequence of his compensable right knee injury.

The respondents should pay for all medical treatment received by this claimant at the Hillcrest Medical Center from February 12, 2006, to March 9, 2006.

IT IS SO ORDERED.

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ELIZABETH DANIELSON  
ADMINISTRATIVE LAW JUDGE