

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F600749 (09/21/05)**

<b>MICHAEL SERNA, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>SYSTEMS CONTRACTING, SELF-INSURED EMPLOYER</b>	<b>RESPONDENT</b>
<b>INTEGRATED CLAIMS MANAGEMENT, TPA</b>	<b>RESPONDENT</b>

**OPINION FILED NOVEMBER 5, 2007**

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on August 17, 2007, at Jonesboro, Craighead County, Arkansas.

Claimant represented by the HONORABLE RICHARD A. REID, Attorney at Law, Blytheville, Arkansas.

Respondent represented by the HONORABLE MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted in the above style claim to determine the claimant's entitlement to workers' compensation benefits. On May 1, 2007, a pre-hearing was conducted in the claim, from which a Pre-Hearing Order of the same date was filed. The Pre-hearing Order reflects stipulations entered by the parties, the issues to be addressed during the course of the hearing, and the parties' respective contentions relative to the afore. The Pre-hearing Order is herein designated a part of the record as Commission Exhibit #1.

The testimony of Michael Serna, the claimant, coupled with medical reports and other documents comprise the record in this claim.

## DISCUSSION

Michael Joseph Serna, the claimant, with a date of birth of April 27, 1976, currently resides in Nevada, Missouri, which is approximately 100 miles south of Kansas City, Missouri. Claimant is a highschool graduate who has attended a welding academy, DeVry Institute of Technology as well as several different trade schools.

In terms of his employment history, the testimony of the claimant reflects that since going through the welding school he had done work welding, pipefitting, and millwright work. Claimant is a certified structural welder and is capable of pipefitting. Claimant notes that he has a fair amount of experience and would class himself as a fourth year apprentice as a welder, pipefitter, millwright. Claimant utilized the afore experience as an employee of respondent-employer during a shut-down at a mill near Blytheville. Claimant noted that he had performed welding and millwright work in Great Falls, Montana, Alabama, Indiana and other areas.

In explaining how he received notice of a shut-down jobs at various locations, such as that performed for respondent-employer, clamant's testimony reflects:

Initially, you start off by calling people or you find a person that knows where a job is. After you've been doing this work for a little while, you get - - people call you after a while. They know what kind of workers you are, and they call you. (T. 7).

Claimant commenced his employment with respondent on September 17, 2005. Claimant testified that in September 2005, he worked a shut-down at the NuCor Yamato Plant near Blytheville, as an employee of respondent-employer., where he earned \$18.00, per hour along with a per diem.

Claimant testified that he was pipefitting on NuCor Yamato shut-down job. Regarding

the afore, claimant explained;

A pipefitter, generally you have the schematics of whatever pipes need to go into a certain area. You cut them to form, grind them out. You essentially get them ready for the welders to come in and do their job. (T. 8).

Claimant testified regarding the event which serves as the basis for the present claim:

We were down - - I was down at sublevel of the actual plant. There was a lot of us down there. Probably shouldn't have been. There was a small - - I'd say it was maybe two feet wide running the length of the floor. It was a water drainage. It was made of concrete. I had been called down there to grind down a pipe that hadn't been fitted properly, and as I was grinding the pipe down, my sparks were flying off to my left. I was tapped on the shoulder by some guys that needed to get past me. So I stopped grinding, they went past me, and at that point is when I cannot be absolutely specific. The next thing I remember is falling sort of at an angle forward into the trench. I struck the edge of it which - - I mean, imagine it comes - - here's the actual ground level, here's where it connects into almost like a - - I'm not sure how you would - - it's almost a right angle. Then it comes down and then just goes out about two feet in. I remember hitting it with my right knee. At that point, and feeling the pain shoot up my leg and into my back, and I ended up sort of leaning, sort of squatting and kind of leaning inside of it, and that's where I ended up. I can't be anymore specific. (T. 8-9).

Claimant maintains that there were six to seven other individuals standing around that witnessed the accident. The testimony of the claimant further reflects:

After that a couple of guys came over and said, "Are you all right?" I said, "No, I don't think so. Help me up." They took me out of the main area to a spot where I could sit down, and I sat there for a while and tried to see how I was feeling, tried to move around a little bit. I finally told my supervisor that was there, I said, "Listen, I need to be looked at. There's something wrong." It was incredibly painful, and the pain wasn't going away. I knew I was hurt at that point.

They took me back upstairs to the main level. I believe it was the actual main safety guy who was in charge of the safety put me in his truck. We went to the emergency room. They took an x-ray of my back. The doctor also checked me out. The doctor came back sometime after that

saying, "You're bruised, but you're okay." He gave me some pain medication, . . . (T. 9-10).

The claimant's testimony reflects that after being furnished pain medication, the next day he was off work. Claimant explained that he went to the job site but was not given any actual work to perform. Claimant's testimony reflects that the following day he returned to work. The testimony of the claimant reflects regarding his efforts at work upon his return the second day following the accident:

. . . I tried to work without the pain medication because if you've ever worked in a high industry job, a job of such a scale that - - I mean, under pain medication, it could be very dangerous. So I didn't take the pain medication, and by noon I realized I couldn't work. I went to my supervisor and told him about it, and that was - - I basically made my way home from that point. (T. 10).

Regarding the residuals of his accident, claimant testified that he did not remember if there were obvious signs of bruising on his back, however it was red. Claimant further testified:

I went home, I took a - - well, I was taking pain medication. I took it easy for about two to three weeks, I can't remember which. An employer that I worked for before, American Boiler, out of Kansas City, Missouri, called me and said, "Hey, we have some work for you." He said, "You know, can you go to work?" It had been several weeks. The pain was wearing down, I was able to move. So I said, "Sure." I went with my brother, David Serna, who was also working with me on the job, and about halfway to Kansas City, Missouri, which is about an hour and a half drive from Nevada, it was so painful by the time I actually got to Kansas City, I could barely get out of the car. I went up and told my employer, I don't remember his last name. His name is Craig. You know, what was going on. He gave me the day off. The next day I came in and just apologized to him that I couldn't work. I was fortunate that they knew what kind of worker I was, so they put me on a fire watch detail which is essentially you sit and you watch somebody else weld to insure safety and no fires catch. It's in an area of sometimes combustibles. They let me work that week. At the end of the week, contact was made with the workers' comp people, explained to them what happened. (T. 11-12).

Claimant explained that his reference to “workers’ comp people” was actually the third-party administrators for respondent-employer. Claimant testified that he actually received a telephone call from the afore on Saturday to ascertain his status. After relaying his complaints attributable to the accident and expressing a desire to have it fixed, claimant asserts that he was informed that he would be contacted again in a few days. Claimant’s testimony reflects that when he was again contacted by respondent he was informed that they were not going to do anything. It was at that juncture that the claimant contacted an attorney.

Claimant indeed pursued his claim for workers’ compensation benefits in the state of Missouri. Litigation resulted in the finding that Missouri did not have jurisdiction of the claim. The afore explained the claimant’s delay in pursuing his claim before the Arkansas Workers’ Compensation Commission. Claimant testified:

Exactly. This is almost two years. The end of September will be two years that I’ve been going through this. We felt it would be much easier to try to get things done n Missouri so I didn’t have to travel great distances every time I had to, you know, go to Court or do whatever. (T. 14).

Regarding any prior injury to either his back before September 2005, claimant’s testimony reflects:

No more than any other person that works in industry has ever experienced back pain. I mean, anybody who works in any industry is going to have pain, but never a serious direct injury like that, no. (T. 12).

Claimant did not have health insurance, and as such was unable to go see a doctor in his home town.

Following his efforts at working on the Kansas City job, claimant described the status of his back:

It was pretty severe for a while. I eventually around December of that year got a job working for Insight which is just a - - they're an internet teching support group. I was just sitting behind a computer all day. I worked there for about three months and wasn't doing too bad. I was taking lots of ibuprofen and whatever else I could just to get me through the day. One day I went to get up from bed to get ready to go to work, and I couldn't move. My back was just not allowing me to move, which was how it was after I originally injured it. It was so painful that all I could really do was lay on a couch or lay on the floor. I couldn't stand, I couldn't sit, I couldn't really do much of anything. (T. 13).

In describing the current status of his back, claimant's testimony reflects:

The best I can describe to you that as long as I don't put any kind of serious strain to it - - I don't sit or stand or do anything like that for long periods of time, say longer than an hour, just actually sitting in those chairs back there was getting to be painful. As long as I don't do anything to aggravate it, I can function. When I try to - - when I try to work or even outside say trying to rake some leaves, just try to do something just to keep myself moving, the pain come on very quickly. (T. 14).

At another point claimant described his back symptoms since September 2005.

My back is not - - I've had tics I guess is the way to explain it, little twitches, through my back and through my legs. I notice that even almost in my legs more anymore. When the pain is in my back, my legs do weird things. Sometimes in the middle of the night, one will just pop up for no reason whatsoever which did not use to happen to me. I mean, it was a really weird thing when it happened. (T. 16).

Claimant noted that because welding consist of sometimes twisting the body and getting into some very tight crevices he has not attempted same since his injury. Claimant's testimony reflects that he is unable to stand up for extended periods of time or to remain in a bent posture to perform the welding duties.

Claimant's testimony reflects that he has been employed on two occasions since September 2005, once at Insight and again at a Days Inn doing minor maintenance around the facility. The testimony of the claimant reflects that while employed at Insight he started out

making \$6.75 per hour and was making \$7.00 per hour at the time the employment ended.

Claimant earned \$8.00 per hour performing maintenance work for Days Inn.

The claimant testified that he filed his workers' compensation claim in order to obtain medical treatment so that he can return to work. Claimant added:

If the doctors would agree - - you know, obviously, any independent doctor, one that's not partial to either side, was to say, "Hey, look you're fine." Then I have to accept what the doctors say, but I at least want the opportunity to be examined properly to see what's wrong, and I know there's something wrong with my body. (T. 15-16).

During cross-examination claimant testified that after he fell and reported the accident, he completed paperwork before being taken to the emergency room. Claimant agrees, in accordance with the emergency room records, that the initial impact of his fall was on his right knee. In describing the mechanics of the work-related fall, claimant testified:

Imagine a trench, sir. Imagine this is a trench. From one end I fell into it and from that point I fell back onto the other side.

I don't remember the pain or the philosophy which I hit my back because the initial impact was enough to - - I'm sure you've been hurt or might understand when something happens like that so quickly and so fast, you just remember bits of what actually happened. (T. 17-18).

Regarding the status of the job at the time of his accident, claimant testified that the accident occurred on a Wednesday around noontime, and the job [shut-down] ended for most of the guys Saturday and Sunday. Claimant added that the job ended for him on Friday because he was not able to work beyond that. Claimant testimony reflects that he worked on the job subsequent to the date of his accident:

The day of the fall - - the next day I came in, but I didn't actually work, but they did have me there. The day after that I came in and worked till around noon when I finally said I just couldn't handle the pain anymore.

(T. 18).

Claimant testified that he worked the shut-down job from the day it started until he could no longer work due to residuals of the injury, which was approximately one week. The testimony of the claimant reflects that most shut-down jobs are about a week. The claimant testified regarding his plans for further employment had he not been injured on the job in September 2005:

Well, I was actually going to come back, I think it was the next week after, to work on another plant that's there in Blytheville, and then after that I was going to go to the next job.

That's essentially what we do that work shutdowns. We work the shutdown. When the shutdown is over, we move on to the neck job. (T. 19).

Claimant's testimony reflects that the next job that he had following the September 21, 2005, was his employment at Insight the end of December 2005. Claimant did not draw unemployment benefits, explaining:

To be honest with you, I've never actually had to try to draw unemployment. I just - - I didn't even consider that. They told me I'd be fine in a few weeks. (T. 20).

Regarding his medical treatment following his visit to the emergency room, claimant's testimony reflects:

I took the advice of the doctor. I took a few weeks off at which time I was supposed to - - according to the doctor, I would be all right. Essentially he said, "You're bruised. Take a few weeks off. You'll be okay." I did what the doctor told me to do. I didn't do anything. I stayed around the house for a few weeks. That's when the job with American Boiler came up, and that's when I realized how badly hurt I was. (T. 20).

Claimant was next seen by a doctor in April 2006. Claimant explained that he had been working for Insight for about three months, using ibuprofen to help make it through the day. It was during that employment period when the claimant woke up and was unable to get out of bed, which

prompted the doctor visit. Claimant noted that he was actually in bed for about a week before he was able to move effectively. Regarding the afore, the claimant's testimony reflects, in pertinent part:

. . . I got up to go to the restroom and take a shower and eat. My employer at Insight didn't want to let me go, so they tried to get me some kind of deferment, and in order to do that, I had to go see a doctor. The doctor advised me that I needed to have a MRI done on my back. He also advised me that I needed to see a pain specialist. At that point I told the doctor, I said - - I explained to him what was going on with the workers' comp issue, and I need to speak to my lawyer before I did anything medically. I just wanted to make sure I was covered and everything was going to be all right. At that moment the doctor essentially backed away from me, and it was kind of a bad situation. But that was the last - - I don't have any actual insurance for the money - - I mean, what doctor is going to - - there's no doctor who is really going to see me unless I have some way to pay for the treatment or whatever, and my lawyer at the time and I were both in agreement that we felt that Systems should pay to see what was wrong with me. It shouldn't be my responsibility because this injury was sustained while I was working. (T. 20-21).

The medical records reflects that the claimant was seen in the emergency room of Great River Medical Center in Blytheville, Arkansas on September 21, 2005, and by a physician in Sheldon, Missouri on April 18, 2006.

Claimant's testimony reflects, regarding the location of his injury attributable to the September 21, 2005, accident:

It's my back. It starts in the small of my back, and then it wraps around the hips as the pain progresses and I'm, you know, standing or - - or even standing in line at the grocery store, and that will progress down to my knees. That's about as far as it goes, but by that time, my legs will barely support me. I have to sit down, lay down, something. Otherwise I'm going to fall.

It's a debilitating pain. It's not simply a pain that just hurts you. It's a pain that makes it difficult to even walk. It's like my back and my legs don't want to function correctly. (T. 22-23).

Claimant testified that he has not sought medical treatment other than the two instances noted above because he does not have either insurance or money. Claimant concedes that through his employment with Insight he had insurance:

I had just gotten my insurance, but I didn't - - I had just gotten my insurance and I was thinking, "All right. At least now I can do something." My lawyer at the time advised me, "This is not something that we should have to do. This is something that Systems should do." And my lawyer did not want to get me stuck in a situation that was not my responsibility, but to try to save this little \$7.00 an hour job I had, that's when I went to the doctor at Sheldon and that's when we had a problem. You know, I wasn't there to get evidence for my workmens' comp. I was there to try to save my little \$7.00 an hour job, and the doctor said he found out about the workmens' comp issue, just jumped away from me like I had, you know, the plague or something. (T. 23-24).

Claimant acknowledged that the only tests that he has had are x-rays that were taken at the emergency room during the September 21, 2005, visit. Claimant testified that the only prescription medication he has had was furnished during the emergency room visit, probably hydrocodone and ibuprofen.

Regarding his present employment status claimant testified that he is not currently working, explaining:

The last job I had was working at Day's Inn, but, no, not currently. When I finally wasn't able to do that work, even the minor maintenance that they were asking me to do, I tried to get just working, you know, the counters, bringing people in but unfortunately it didn't happen. I wasn't able to work there anymore. (T. 24-25).

Claimant was last employed in July 2007. Claimant observed that during the two years since the September 2005, accident, he has been unemployed most of the time.

The testimony of the claimant reflects that he has sought assistance regarding his medical treatment for a state agency in Missouri:

I have. I went to Missouri State Assistance to get food assistance just to help me out. I asked if I could get medical assistance or if I could get any kind of money to assist me while this was going on. I was informed that I wasn't able to, the most that they could do for me was give me food assistance, and it was something to do with Missouri laws and the way things work. I couldn't explain it to you. (T. 25).

The testimony of the claimant reflects, regarding his employment plans beyond the job on which he suffered his September 21, 2005, accidental fall:

That was going to be through -- I was talking to my supervisor about it, and he said, you know, have you thought about what you're going to do, and I said, "Yeah, I think I'm going to go to the next job." And at the time I was going to get into more pipefitting than actual welding. I had been doing more welding and I wanted to get into pipefitting, and Systems seemed to be a good company to do that with. (T. 27).

In calculating the amount of time that he has worked since September 2005, claimant testified that he worked one week for American Boiler, three months for Insight, and approximately 1 month at Days Inn. Claimant noted that it was during his efforts to work at American Boiler that he first realized the severity of his September 21, 2005, injury.

The medical in the record reflects that the claimant was seen at the emergency room of Great River Medical Center in Blytheville on September 21, 2005, at 3:57 p.m. The emergency room report reflects that the claimant relayed complaints of constant pain in his right knee, thigh and back attributable to the accident. The claimant relayed the following history, during the September 21, 2005, emergency room visit:

States he was working at Yamato when he lost balance and fell, hit knee on concrete slab, states the pain is radiating from knee to hip and in back. (CX. #1, p. 9).

The emergency room report reflects specific findings regarding the claimant's low back, straightening of the normal lordosis in the cervical spine. The emergency report reflects an

impression of contusion to the right knee and a lumbar strain as the product of the September 21, 2005, fall by the claimant. (CX. #1, p. 12). X-rays obtained of the claimant's lumbar spine, hip, right leg, and right knee during the September 21, 2005, emergency room visit were all negative. (CX. #1, p. 8). At the time of his discharge from the emergency room claimant was provided prescriptions for Motrin (ibuprofen), Flexeril, Medrol Dosepak, and Lortab. (CX, #1, p. 6). An abstract summary form of Great River Medical Center regarding the claimant's September 21, 2005, emergency room visit reflects that the claimant was seen for back disorder from an accident on industrial premises. The document reflects a diagnosis of pain in limb and sprain lumbar region, contusion of knee and sciatica. (CX. #1, p. 4).

As noted above, the claimant was seen the Sheldon Family Medical Clinic, in Sheldon, Missouri, on April 18, 2006. The credible evidence reflects that the afore visit was the product of an effort of the claimant to obtain certification for FMLA in connection with his employment with Insight. The claimant was seen by Dr. Alan Irwin, D.O., at the time of the April 18, 2006, clinic visit. It is noteworthy that the claimant has been previously seen at the Sheldon Family Medical Clinic on April 6, 2006, relative to lower jaw pain regarding his wisdom tooth. (CX. #1, p. 3).

The April 18, 2006, clinic note relative to the claimant's evaluation at the Sheldon Family Medical Clinic reflects, in pertinent part:

- this is 29 year old male is here with complaint of back pain and asking me to fill out papers for FMLA. The history is all per patient's verbal report as I don't have any records from him on any of this. He states that in September 2005 he sustained a back injury while working as a welder in Arkansas. He was standing next to a canal and fell toward the canal striking his lower back on a ledge. Since that time he states he has been unable to work as a welder secondary to back pain. His back

pain is low lumbar bilateral pain and pain in the sacroiliac joint area bilaterally. It radiates sometimes into the buttocks and sometimes around to the anterior thighs and about halfway down to the knee bilaterally. No incontinence of bowel or bladder. When the pain is severe he feels he has true weakness in the legs and is unable to stand and support his weight. He is currently working as a computer technician in a sit down job. He has been unable to do that for the last few days. Apparently he has a history of having a number of absences from work for his back pain and states his employer has asked him to see a physician and have a FMLA form filled out "so I can keep my job". He also tells me that he has never had any imaging performed on his spine other than x-rays done acutely in the ER on Arkansas on the day of his injury. He has been taking OTC Aleve which originally helped but seems to be losing it's effectiveness. He has exacerbations during which the pain is severe. He tells me he is working with an attorney and this is a workman's comp claim or some kind of legal battle and is "a big mess". He indicates concern over what effect, if any, undergoing diagnostic work up and treatment of his back pain may have on his legal case. . . . He appears uncomfortable when transferring from standing to sitting position or when climbing up on the exam table. Basically when he gets up to ambulate his gait is somewhat antalgic. However, when he left the exam room at the end of the visit and walked to the waiting room he ambulated with no apparent difficulty. He climbed on the exam table without assistance and down from it as well. Strength is 5/5 and symmetric bilaterally in all major muscle groups of the lower extremities. DTRS are +2/4 and symmetric bilaterally at the knees and ankles. Muscle mass is well developed and symmetric in the lower extremities bilaterally and throughout the upper body as well. Exam of the back does not reveal any obvious deformity, vertebral point tenderness or muscle spasm. On forward flexion, he is limited to about 30 degrees by pain. . . . I told him from a medical standpoint the history he is giving me indicated he needs to have his chronic back pain worked up with an MRI of the lumbosacral spine. Based on the results of this, the treatment will involve nonsteroidal anti-inflammatory drugs, possible PT, as well as referral to a pain specialist who may provide injections of either nerve blocks or steroids. If the MRI results indicate surgical consultation is warranted, I will refer him to a spine surgeon for same. . . . I advised him that since the Aleve is not working any longer, we will discontinue that and try an anti-inflammatory of a different chemical class such as Piroxicam. **ASSESSMENT/PLAN:** Chronic lumbar back pain with radiculopathy. We will get MRI of the lumbosacral spine. Referral to Dr. Booth for pain management. . . . We will see him back for follow-up after the MRI results are available. (CX. #1, p. 1).

At the time of the April 18, 2006, visit to the Sheldon Family Medical Clinic, claimant was represented by a Missouri attorney and was in the process of pursuing his claimant for workers' compensation benefits relative to the September 21, 2005, accident under Missouri workers' compensation laws. The claimant was subsequently dismissed due to a lack of jurisdiction.

After a thorough consideration of all of the evidence in this record, to include the testimony of the witness, review of the medical reports and other documentary evidence, application of the appropriate statutory provisions and case law, I make the following:

### **FINDINGS**

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On September 21, 2005, the employee-employer relationship existed between the parties.
3. On September 21, 2005, the claimant earned wages sufficient to entitle him to weekly compensation benefits at the maximum applicable rate for temporary total/permanent partial disability.
4. On September 21, 2005, the claimant sustained an injury arising out of and in the course of his employment with respondent.
5. The respondent shall pay all reasonable hospital and medical expenses arising out of the injury of September 21, 2005.
6. The respondent has controverted the claimant's entitlement to the payment of workers' compensation benefits in this claim in its entirety.

### **CONCLUSIONS**

There is not a dispute regarding the existence of the employment relationship on September 21, 2005, between the claimant and respondent. Further, there it is not disputed that the claimant reported an injury to his knee and back to appropriate supervisory personnel of respondent growing out of an accidental fall while within the course and scope of his employment. Claimant asserts that as a result of the September 21, 2005, accidental fall he has continued to experience pain in his low back, hip and lower extremities, which require further medical treatment. Claimant reserves the issues of entitlement to temporary total disability and permanency. While respondent acknowledges that the claimant reported a low back and a knee injury, it contends that the claim was litigated in Missouri and dismissed for lack of jurisdiction. Further, respondent contents that there are no objective medical findings and that the claimant did not injure himself on the job.

The present claim is one governed by the provisions of Act 796 of 1993, in that the claimant asserts entitlement to workers' compensation benefits as a result of an injury having been sustained subsequent to the effective date of the afore provisions. In the instant claim, the claimant asserts entitlement to medical benefits as a result of a specific incident injury suffered in the employment of respondent-employer.

An accidental injury is caused by a specific incident, identifiable by time and place of occurrence. Ark Code Ann. §11-9-102 (4)(A) (i). In order for an accident injury to be compensable, claimant must show the he sustained and accidental injury; that the injury caused physical harm to the body; that the injury arose out of and in the course of employment; and that the injury required medical services or resulted in disability or death. Further, the claimant must establish a compensable injury by medical evidence, supported by objective findings. Ark. Code

Ann. §11-9-102 (4)(D). “Objective findings” are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. §11-9-102 (16). The requirement that a compensable injury be established by medical evidence supported by objective findings applies only to the existence and extent of the injury. *Stephens Truck Lines v. Millican*, 58 Ark. App. 275 950 S.w.2d 472 (1997).

In the instant claim, claimant presents credible evidence regarding the mechanics of his September 21, 2005, accident fall. There is no evidence in the record to reflect that the claimant experienced difficulties relative to his low back prior to the September 21, 2005, accident fall, or that he required/received medical treatment relative to his back prior to the afore date.

The September 21, 2005, accidental fall and corresponding complaints of low back and right knee/leg pain were reported to appropriate supervisory personnel of respondent-employer. Accordingly, the claimant was seen at the emergency room of Great River Medical Center in Blytheville, Arkansas on the date of the accidental fall. A consistent history of the September 21, 2005, accident has been relayed by the claimant to medical providers, to include the work-related nexus of the injury. The preponderance of the evidence reflects the occurrence of the September 21, 2005, accidental fall at work. The injury required medical treatment, in that the claimant was seen at the emergency room of Great River Medical Center on the date of the accident fall. Claimant received medical treatment in the form of medication, and diagnostic studies.

The credible evidence reflects that the September 21, 2005, accidental fall resulted in objective findings, to include bruising of those areas of the claimant’s body that made contact with the concrete surface during the fall, in addition to his right knee. The emergency room report reflects entries of “tenderness with spasm of low back and buttock”. Claimant’s injuries

were diagnosed as a contusion of the right knee and lumbar strain. At other points in the emergency room records of the September 21, 2005, visit, claimant's complaint is identified as sciatica. It is also noteworthy that at the time of his discharge for the emergency room claimant was provided Flexeril, along with Motrin, Medrol Dosepak and Lortabs. See *Estridge v. Waste Management*, 343 Ark. 276, 33 S.W.3d 167 (2000), and *Fred's, Inc. v. Jefferson*, 361 Ark. App. 258, 206 S.W.3d 238 (2005). The evidence preponderates that the claimant sustained injuries to his right knee, leg, hip and low back arising out of and in the course of his employment with respondent on September 21, 2005, which required medical treatment, and that the injuries are supported by objective findings. Respondent has controverted the claimant's entitlement to workers' compensation benefits as a result of the compensable September 21, 2005, accidental injuries.

Ark. Code Ann. §11-9-508 (a) mandates that the employer provide such medical services as may be reasonably necessary in connection with the employee's injury. *Cox v. Klipsch & Associates*, 71 Ark. App. 433, 30 S.W.3d 764 (2000). Whether a medical procedure or device is reasonable and necessary treatment is a question of fact. In the instant claim, the claimant's sanctioned medical treatment has been limited to that received at the emergency room on the date of his September 21, 2005, accidental injury. When presented with the consistent symptoms relayed by the claimant as attributable to the September 21, 2005, compensable accident, the examining physician at the Sheldon Family Medical Clinic, Dr. Alan Irvin, on April 18, 2006, recommended further diagnostic study, to include a MRI of the claimant's lumbar spine. The afore recommendation set forth the basis for same following a physical examination of the claim and is reasonable necessary in connection with the claimant's September 21, 2005, compensable

injury. Respondent has controverted the claimant's entitlement to workers' compensation benefits growing out the September 21,2005, compensable accidental injury.

**AWARD**

Respondent is herein ordered and directed to pay all reasonably necessary and related medical, hospital, nursing and other apparatus expenses growing out of the claimant's compensable September 21, 2005, injury, to include medical related travel, pursuant to Ark. Code Ann. §11-9-508 (a).

This award shall bear interest at the legal rate pursuant to Ark. Code Ann. §11-9-809, until paid.

Respondent has controverted this claim in its entirety entitling the claimant's attorney to attorney fees on future indemnity benefits, pursuant to Ark. Code Ann. §11-9-715.

Matters not addressed herein are expressly reserved.

**IT IS SO ORDERED.**

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**Andrew L. Blood, ADMINISTRATIVE LAW JUDGE**