

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F304749

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|--------------------------------------|------------|
| WILLIAM D. BUSBY, EMPLOYEE           | CLAIMANT   |
| MONTICELLO SCHOOL DISTRICT, EMPLOYER | RESPONDENT |
| RISK MANAGEMENT RESOURCES, CARRIER   | RESPONDENT |

**OPINION FILED DECEMBER 21, 2004**

Upon review before the FULL COMMISSION, Little Rock, Pulaski County, Arkansas.

Claimant represented by HONORABLE KENNETH E. BUCKNER, Attorney at Law, Pine Bluff, Arkansas.

Respondent represented by HONORABLE BETTY J. DEMORY, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

**OPINION AND ORDER**

Respondents appeal from a decision of the Administrative Law Judge filed July 12, 2004.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1. The Workers' Compensation Commission has jurisdiction of this claim in which the relationship of the employer-employee-carrier existed among the parties on August 19, 2002, at which time the claimant sustained a compensable back injury at a compensation rate of \$425.00/\$319.00

2. Medical treatment provided by Dr. Cathey was causally related to the compensable injury, verified by objective testing and the claimant's history of injury. The treatment was reasonable and necessary for alleviation of symptoms.
3. The respondents are directed to pay all medical expenses within thirty days of receipt pursuant to Rule 30.
4. The claimant is entitled to temporary total disability benefits from June 30, 2003 to August 19, 2003, as he remained in his healing period totally incapacitated from working.
5. The claimant is entitled to permanent partial disability benefits equivalent to 12% to the body as a whole as the compensable injury is the major cause of his disability.
6. The respondents are directed to pay the court report's fees and expenses associated with transcribing this hearing within thirty days pursuant to Commission Rule 20.
7. This claim has been controverted and the claimant's counsel is entitled to the maximum attorney's fees to be paid in accordance with Ark. Code Ann. §11-9-715, §11-9-801, and WCC Rule 10.

Pursuant to the Full Commission decision of Coleman v. Holiday Inn,

(November 21, 1990) (D708577), and Chamness v. Superior Industries, (March 5, 1992) (E019760), the claimant's portion of the controverted attorney's fee is to be withheld from and paid out of, indemnity benefits and remitted by the respondent, directly to the claimant's attorney.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2002).

Since the claimant's injury occurred after July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as amended by Act 1281 of 2001. Compare Ark. Code Ann. § 11-9-715 (Repl. 1996) with Ark. Code Ann. § 11-9-715 (Repl. 2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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SHELBY W. TURNER, Commissioner

Commissioner McKinney dissents.