

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F303982

SHERRY G. MANKIN,  
EMPLOYEE

CLAIMANT

FEDERAL MOGUL CORPORATION,  
EMPLOYER

RESPONDENT

TRAVELERS INSURANCE COMPANY,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED AUGUST 17, 2004

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

Claimant represented by HONORABLE KENNETH A. HARPER,  
Attorney at Law, Monticello, Arkansas.

Respondents represented by HONORABLE PHILLIP CUFFMAN,  
Attorney at Law, Little Rock, Arkansas.

Decision of the Administrative Law Judge: Affirmed and  
adopted.

OPINION AND ORDER

The claimant appeals from a decision of the  
Administrative Law Judge filed December 18, 2003. The  
Administrative Law Judge entered the following findings of  
fact and conclusions of law:

1. The Workers' Compensation Commission has jurisdiction of this case in which an employee-employer-carrier existed during October, 2002, at which time the claimant was earning sufficient wages to be entitled to a compensation rate of \$397.00/\$297.00, in the event this claim is found to be compensable.

2. The claimant has failed to prove by a preponderance of the evidence of record that she developed arsenic poisoning as a result of exposure to lead dust based on the opinion of Dr. Simmons.

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.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

\_\_\_\_\_ I dissent from the opinion of the majority and find that Claimant proved by a preponderance of the evidence

that she developed arsenic poisoning as a result of exposure to lead dust.

Claimant worked in Respondent's lead coating facility for 18 years. During the eight (8) years proceeding her injury, she worked at a desk directly behind a KUX machine that applied liquid lead to battery cables. After the lead was applied to the battery cables, the excess lead was dusted off by a blower. This process took place every three (3) seconds throughout each of her shifts. She testified that lead dust regularly settled on her desk and that her desk was covered with "black smut."

Claimant's health problems began in 1997, which was one year after she began working at the desk behind the KUX machine. However, it was not until 2002 that she saw an MSDS sheet acknowledging arsenic in the plant and realized that she was experiencing each of the symptoms that the MSDS sheet described. Dr. Silas diagnosed Claimant with arsenic poisoning based on his observation of Claimant's swollen nodes, elevated levels "beyond acceptable range" of arsenic poisoning, urine test results, and mini-mental status tests. Dr. Simmons did not observe or treat Claimant, but based his opinion solely on his review of medical records.

I find that Claimant has proven by a preponderance of the evidence that she developed arsenic poisoning as a result exposure at work to lead dust. Accordingly, I dissent from the majority opinion.

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SHELBY W. TURNER, Commissioner