

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F312284

LONNIE COKER, EMPLOYEE	CLAIMANT
DAIRY FARMERS OF AMERICA, EMPLOYER	RESPONDENT NO. 1
LIBERTY MUTUAL INSURANCE, CARRIER	RESPONDENT NO. 1
BUD DUNCAN, UNINSURED EMPLOYER	RESPONDENT NO. 2

OPINION FILED MAY 4, 2005

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

Claimant represented by HONORABLE LAMAR PORTER, Attorney at Law, Little Rock, Arkansas.

Respondent No. 1 represented by HONORABLE DAVID JONES, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by MR. BUD DUNCAN, Pro se, Colcord, Oklahoma.

OPINION AND ORDER

This matter comes on for review before the Commission on the parties' Joint Motion to Remand to the Administrative Law Judge.

In their motion, the parties state that the Administrative Law Judge previously relied on the Full Commission's opinion in Garcia v. A&M Roofing, Full Commission opinion filed February 5, 2004 (F213331) in

deciding this case and, as such, did not rule on related issues because the Full Commission's opinion in Garcia rendered some issues in this case moot. The Arkansas Court of Appeals reversed and remanded Garcia on February 2, 2005 and the Supreme Court subsequently denied the petition for review. On April 26, 2005, the Full Commission, on remand from the Arkansas Court of Appeals, held as follows:

In accordance with the mandate from the Court of Appeals, and it having been determined by the Court of Appeals that the claimant's status as an employee of an uninsured subcontractor brings him within the protection of A.C.A § 11-9-402(a), and that A & M is liable for the workers' compensation benefits related to the injuries the claimant sustained, we hereby find the claimant has proven by a preponderance of the evidence that he sustained a compensable injury on April 12, 2002, for which his [sic] is entitled to temporary total disability benefits from April 13, 2002, through March 6, 2003. We further find that A & M is responsible or [sic] all reasonable and necessary medical expenses in connection with this injury subject to audit under Commission Rule 30.

The parties' motion states that their purpose in requesting a remand is to allow the Administrative Law Judge an opportunity to reconsider his decision based on the Court of Appeals' holding in Garcia.

After our consideration of the parties' joint

motion and all other matters properly before the Commission, we find that the motion should be granted. Accordingly, we find that the parties Joint Motion to Remand to the Administrative Law Judge should be, and hereby is, granted.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner