

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F001568

JERRELL YANCEY, EMPLOYEE	CLAIMANT
BARNES BROTHERS, INC., EMPLOYER	RESPONDENT
FEDERATED MUTUAL INSURANCE CO., CARRIER	RESPONDENT

**ORDER FILED NOVEMBER 28, 2005**

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

Claimant represented by HONORABLE FREDERICK SPENCER, Attorney at Law, Mountain Home, Arkansas.

Respondent represented by HONORABLE ERIC NEWKIRK, Attorney at Law, Little Rock, Arkansas.

ORDER

This matter is currently before the Full Workers' Compensation Commission on Remand from the Arkansas Court of Appeals. In an Opinion filed October 13, 2005, the Arkansas Court of Appeals reversed the decision of the Full Commission and remanded this claim to the Commission for an award of benefits.

In accordance with the mandate from the Arkansas Court of Appeals, and it having been determined by the Court of Appeals that the claimant was not made whole by the third party recovery, we hereby find that the claimant was not

made whole by the third party recovery. Therefore, the respondents are not entitled to subrogation under Ark. Code Ann. §11-9-410.

Since the claimant's injury occurred prior to July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. §11-9-715, as it existed prior to the amendments of Act 1281 of 2001.

For prevailing on this appeal before the Full Commission, the claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$250.00 in accordance with Ark. Code Ann. §11-9-715(b) (Repl. 1996).

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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SHELBY W. TURNER, Commissioner

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KAREN H. MCKINNEY, Commissioner