

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F410182 & F500545

WILLIE LEE EVERETT, JR., EMPLOYEE	CLAIMANT
SUPERIOR MARBLE & GLASS COMPANY, EMPLOYER	RESPONDENT NO. 1
FAIRFIELD INSURANCE CO.; CANNON COCHRAN MANAGEMENT SERVICES, INC., INSURANCE CARRIER	RESPONDENT NO. 2
FIRST COMP INS. CO., INSURANCE CARRIER	RESPONDENT NO. 3

OPINION FILED DECEMBER 7, 2006

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

Claimant represented by the HONORABLE DONALD C. PULLEN,
Attorney at Law, Hot Springs, Arkansas.

Respondents No. 1 & 2 represented by the HONORABLE MICHAEL
E. RYBURN, Attorney at Law, Little Rock, Arkansas.

Respondents No. 1 & 3 represented by the HONORABLE WILLIAM
C. FRYE, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondents No. 1 & 3 appeal an opinion and order
of the Administrative Law Judge filed March 15, 2006. In

said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the parties and subject matter of this claim.
2. Pursuant to the stipulations of the parties and the record, the employment relationship existed at all pertinent times; the claimant suffered a compensable low back injury August 21, 2002, when Fairfield Insurance Company provided coverage; FirstComp Insurance Company provided coverage from February 22, 2004, through February 22, 2005; the claimant's average weekly wage was \$522.00; and temporary total disability benefits were paid by FirstComp Insurance Company from September 24, 2004, through November 4, 2004.
3. The preponderance of the evidence shows that the claimant suffered an additional compensable injury on or about September 23, 2004, for which FirstComp Insurance Company is responsible.
4. As a result of the injury of September 24, 2004, the claimant remained in a healing period and was totally incapacitated to earn wages, so that he is entitled to temporary total disability benefits from the date of injury until March 14, 2005, although FirstComp is entitled to credit for benefits previously voluntarily paid.
5. The compensable injury of September 24, 2004, is the major cause of additional permanent anatomical impairment in the amount of 3% to the body as a whole.
6. Respondents No. 1 and 3 have controverted the payment of benefits hereinafter awarded and the claimant's attorney is entitled to

the maximum statutory attorney's fee thereon, payable one-half by the claimant and one-half by Respondents No. 1 and 3.

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 made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the March 15, 2006 decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion 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)

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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.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

Commissioner McKinney dissents.