

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E509478

SCIPPIO JOHNSON, EMPLOYEE	CLAIMANT
BONDS FERTILIZER, INC., EMPLOYER	RESPONDENT NO. 1
AGRI GROUP-COMP SI FUND, CARRIER	RESPONDENT NO. 1
BONDS BROTHERS, INC., EMPLOYER	RESPONDENT NO. 2
CNA INSURANCE CO., CARRIER	RESPONDENT NO. 2

ORDER FILED MARCH 14, 2006

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

Claimant represented by HONORABLE TIMOTHY S. PARKER,
Attorney at Law, Eureka Springs, Arkansas.

Respondent No. 1 represented by HONORABLE MICHAEL J. DENNIS,
Attorney at Law, Pine Bluff, Arkansas.

Respondent No. 2 represented by HONORABLE D. KEITH FORTNER,
Attorney at Law, Little Rock, Arkansas.

ORDER

This claim is presently before the Commission on remand from the Arkansas Supreme Court. In its opinion delivered February 2, 2006, the court specifically stated:

"...we reverse and remand this case to the Commission to make a determination as to whether Johnson was performing employment services for Bonds Fertilizer or the Farm on the date of the accident."

The Full Commission had previously affirmed and adopted a decision of the Administrative Law Judge finding that the Commission lacked jurisdiction to make a factual determination regarding the claimant's employment status at the time of his work-related injury.

While it is undisputed that the claimant was injured while en route to pick up a tractor, the Supreme Court stated in its opinion reversing the granting of summary judgment in Johnson v. Union Pacific Railroad, 352 Ark. 534, 104 S.W.3d. 745(2003), that the evidence was not "so one-sided to demonstrate, as a matter of law, which employer Johnson was working for at the time of the accident." In the present matter before the Commission, the parties originally submitted the matter to the Administrative Law Judge on briefs. It is noted that the parties did not submit a set of stipulated facts, did not offer any sworn testimony although depositions had been taken in the Circuit Court matter (with the exception of the adjuster's deposition attached to claimant's brief), did not offer any evidence clarifying the relationship between

Bond's Brothers Trust, Bond's Brothers Inc., and Bond's Fertilizer, and did not offer any evidence corroborating the payments made by either Bond's Fertilizer or Bond's Brother's Trust to the claimant for the work he performed. Accordingly, we find that additional evidence is necessary to comply with the mandate from the Supreme Court. Therefore, this matter is hereby remanded to an Administrative Law Judge to conduct any and all necessary proceedings deemed appropriate to determine the employment relationship between the parties and to determine for whom the claimant was performing employment services at the time of his injury.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner