

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F405429

JOHN MARBERRY,  
EMPLOYEE

CLAIMANT

TERRY YEAGER AUTO SALVAGE,  
EMPLOYER

RESPONDENT

UNIVERSAL UNDERWRITERS INSURANCE CO.,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED FEBRUARY 27, 2006

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

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

Respondents represented by the HONORABLE CAROL L.  
WORLEY, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and  
Adopted.

## OPINION AND ORDER

Respondents appeal an opinion and order of the  
Administrative Law Judge filed August 30, 2005. In said  
order, the Administrative Law Judge made the following  
findings of fact and conclusions of law:

1. The claimant's average weekly wage was \$240, entitling him to compensation rates of \$160 per week for total disability and \$120 per week for permanent partial disability.
2. The respondents have controverted this claim in its entirety.

3. The claimant proved by a preponderance of the evidence that he sustained a compensable back injury on May 10, 2004.

4. The claimant proved by a preponderance of the evidence that he is entitled to temporary total disability compensation beginning May 11, 2004, and continuing through the date of the hearing to a date yet to be determined.

5. The claimant has established by a preponderance of the evidence that all of the medical treatment documented in the hearing record to date has been appropriate for and related to the need to diagnose the extent of Mr. Marberry's injury and to treat that injury.

6. I also find that a neurosurgical evaluation is reasonably necessary to treat Mr. Marberry's injury.

7. Because I have awarded the claimant all compensation that he has requested, I find that the claimant's constitutional argument is moot.

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 August 30, 2005 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) 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.

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OLAN W. REEVES, Chairman

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SHELBY W. TURNER, Commissioner

Commissioner McKinney dissents.