

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E811739

ROBERT MURPHY, EMPLOYEE	CLAIMANT
FORSGREN, INC., EMPLOYER	RESPONDENT
GENERAL ACCIDENT INSURANCE, CARRIER	RESPONDENT

**OPINION FILED JULY 31, 2006**

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

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

Respondent represented by HONORABLE MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

**OPINION AND ORDER**

The claimant appeals from a decision of the Administrative Law Judge filed March 7, 2006.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. The relationship of employee-employer-carrier existed among the parties on September 24, 1998.

3. The claimant suffered a compensable injury to his right lower extremity on September 24, 1998.

4. The claimant was rated with a 27% rating to the right foot which has been accepted and paid by the respondent.

5. The parties' stipulation that claimant earned an average weekly wage of \$484.97 which would entitle claimant to a compensation rate of \$323.00 for temporary total disability benefits and \$242.00 for permanent partial disability benefits is hereby accepted as fact.

6. The parties' stipulation that respondent has controverted compensability of claimant's neck, back, and depression is also hereby accepted as fact.

7. Claimant has failed to prove by a preponderance of the evidence that the Arkansas workers' compensation law or the Commission's procedures for conducting hearings is a violation of either the Arkansas or United States Constitutions.

8. Claimant has failed to prove by a preponderance of the evidence that he suffered a compensable injury to his neck and back on September 24, 1998.

9. Claimant has failed to prove by a preponderance of the evidence that his depression is causally related to his compensable injury of September 24, 1998.

10. Claimant has failed to prove by a preponderance of the evidence that respondent is liable for payment of insertion of a pain pump.

11. Claimant has failed to prove by a preponderance of the evidence that he is entitled to temporary total disability benefits beginning January 28, 2002 and continuing through a date yet to be determined.

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

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Turner concurs and dissents without opinion.

**CONCURRING AND DISSENTING OPINION**

I respectfully concur in part and dissent without opinion in part from the Majority's decision affirming and adopting the Administrative Law Judge's March 7, 2006 opinion.

\_\_\_\_\_ I concur with that portion of the Majority's decision finding that claimant has failed to prove by a preponderance of the evidence that the Arkansas Workers' Compensation law or the Commission's procedures for conducting hearing is a violation of either the Arkansas or United States Constitutions.

I respectfully dissent from the Majority's decision finding that the claimant has failed to prove by a preponderance of the evidence that he sustained a compensable injury to his neck and back on September 24, 1998, and that respondents are not liable for payment of the insertion of a pain pump. I also dissent from the finding that claimant has failed to prove by a preponderance of the evidence that his depression is causally related to his compensable injury of September 24, 1998. Finally, I dissent from the Majority's decision that claimant has failed to prove by a preponderance of the evidence that he is entitled to temporary total disability benefits beginning January 28, 2002 and continuing through a date yet to be determined.

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SHELBY W. TURNER, Commissioner