

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F506639

FRANCISCO RODRIGUEZ, EMPLOYEE	CLAIMANT
SUPERIOR INDUSTRIES, EMPLOYER	RESPONDENT
CROCKETT ADJUSTMENT, INSURANCE CARRIER	RESPONDENT

OPINION FILED SEPTEMBER 14, 2006

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

Claimant represented by the HONORABLE BRENT STERLING, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE CURTIS L. NEBBEN, Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

## OPINION AND ORDER

Respondents appeal an opinion and order of the Administrative Law Judge filed April 7, 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 this claim.
2. On February 28, 2005, the relationship of employee-self insured employer-third party administrator existed between the parties.
3. On February 28, 2005, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$319.00 for total disability and \$239.00 for permanent partial disability.

4. On February 28, 2005, the claimant sustained a compensable injury to his right hip.

5. At present, there is no dispute over benefits to which the claimant would be entitled as a result of this admittedly compensable right hip injury.

6. On February 28, 2005, the claimant also sustained a compensable injury to his right knee. Specifically, the claimant has proven that on that date he sustained a physical injury to his right knee, which is "established" by medical evidence, supported by objective findings, arose out of and occurred in the course of his employment, was caused by a specific incident, is identifiable by time and place of occurrence, caused internal physical harm to his body, required medical services, and resulted in disability.

7. The medical services provided to the claimant for his right knee difficulties by and at the direction of the physicians at the Northwest Family Practice Clinic (Dr. William Kendrick and Dr. Robert Wilson) and by and at the direction of Dr. Christopher A. Arnold represent "reasonably necessary medical services" for the claimant's compensable right knee injury. Pursuant to Ark. Code Ann. §11-9-508, the expense of these services is the obligation of the respondents herein. The respondents' liability, in this regard, is limited to the medical fee schedule established by this Commission.

8. The claimant was rendered temporarily totally disabled by his compensable right knee injury for the period beginning April 14, 2005, and continuing through October 1, 2005. The claimant has proven by the greater weight of the credible evidence that, during the foregoing period, he continued within his healing period from the effects of his compensable right knee injury and had not "returned to work." The claimant has failed to prove by the greater weight of the

credible evidence that he had "not returned to work", after October 1, 2005.

9. The respondents have denied the occurrence of any compensable injury to the claimant's right knee and have controverted the claimant's entitlement to any and all benefits attributable to such an injury.

10. A reasonable fee for the claimant's attorney is the maximum statutory attorney's fee on the controverted temporary total disability benefits herein awarded.

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 April 7, 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) 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.