

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F308759

MARK L. THOMAS, EMPLOYEE

CLAIMANT

ENTERGY ARKANSAS, INC.,  
A SELF INSURED EMPLOYER

RESPONDENT

**ORDER FILED JANUARY 24, 2006**

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

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

Respondent represented by HONORABLE JIM JULIAN, Attorney at Law, Little Rock, Arkansas.

ORDER

The present claim is before the Commission on Remand from the Court of Appeals. In our opinion filed May 10, 2005, we found that the claimant failed to prove by a preponderance of the evidence that he sustained a new injury or aggravation in March of 2003 and that he failed to prove by a preponderance of the evidence that his need for a total knee replacement was causally related to the claimant's 1998 compensable injury. In their opinion rendered December 14, 2005, the Court of Appeals held that the claimant sustained some type of injury on March 23,

2003, and that this injury was at least a contributing factor in his need for a total knee replacement. Therefore, the Court of Appeals reversed our May 10, 2005, opinion and remanded this claim for an award of benefits.

Accordingly, we hereby find that the claimant has proven by a preponderance of the evidence that he sustained a compensable new injury or aggravation of his previous right knee condition which arose out of his employment on March 23, 2003. We further find that the claimant has proven by a preponderance of the evidence that the medical treatment he received after this compensable injury, including but not limited to his need for a total knee replacement, is reasonable and necessary in connection with his compensable injury of March 23 2003. Finally, we find that as a result of his compensable injury, the claimant has proven by a preponderance of the evidence that he was in his healing period and totally incapacitated from earning wages, so that he is entitled to temporary total disability benefits, from June 27, 2003, through February 11, 2004. The respondents are hereby ordered to pay benefits accordingly.

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

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KAREN H. MCKINNEY, Commissioner