

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F310640

RICHARD REDMON, EMPLOYEE	CLAIMANT
OZARK AIRCRAFT, EMPLOYER	RESPONDENT
NATIONAL UNION FIRE OF PITTSBURGH/AIG, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED NOVEMBER 30, 2007

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

Claimant represented by the HONORABLE EVELYN BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE JARROD PARRISH, 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 March 23, 2007. 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 July 20, 2003, the relationship of employee-employer-carrier existed between the parties.

3. On July 20, 2003, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$408.00 for total disability and \$306.00 for permanent partial disability.
4. On July 20, 2003, the claimant sustained a compensable injury to his right knee.
5. There is no dispute over the payment of medical expenses incurred for the claimant's compensable right knee injury, prior to July 1, 2006.
6. The medical services rendered to the claimant by and at the direction of Dr. Michael Hartsfield, on July 31, 2006, represent reasonably necessary medical services for the claimant's compensable injury. The claimant has proven by the greater weight of the credible evidence that these medical services were necessitated by or connected with his compensable right knee injury and had a reasonable expectation of accomplishing the purpose or goal for which they were intended. Pursuant to the provisions of Ark. Code Ann. §11-9-508, the respondents are liable for the expense of these services, subject to the Commission's medical fee schedule.
7. The claimant was rendered temporarily totally disabled by his compensable right knee injury for the period beginning July 21, 2003 and continuing through May 11, 2006. Specifically the claimant has proven by the greater weight of the credible evidence that during this time 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 that he is entitled to temporary total disability benefits after May 11, 2006. Specifically, he has failed to prove that he continued within his healing period from the

effects of his compensable right knee injury after that date.

8. During this period of temporary total disability, the claimant drew unemployment benefits under the laws of the State of Arkansas for a 25 week period at the weekly rate of \$345.00. Pursuant to the provisions of Ark. Code Ann. §11-9-506, the respondents would only be liable for temporary total disability benefits in the amount that his weekly temporary total disability rate would exceed his weekly unemployment benefits.
9. The respondents have controverted the claimant's entitlement to the payment of medical expenses incurred after July 1, 2006 and any temporary total disability benefits during the periods of June 15, 2005 through December 12, 2005 and from May 11, 2006 through a date yet to be determined.
10. A reasonable attorney's fee for the claimant's attorney is the maximum statutory attorney's fee on the controverted temporary total disability benefits herein awarded (i.e. June 15, 2005 through December 12, 2005).

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.

While we note that the claimant's attorney mentioned the issue of attorney fees in her Response, it is not actually an issue on appeal, and therefore, we cannot consider it.

We therefore affirm the March 23, 2007 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

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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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PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.