

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F701987

JIMMY HALBROOK, EMPLOYEE

CLAIMANT

BARRY, JAMES & JOHN MOSLEY
d/b/a ARKANSAS WHOLESALE,
UNINSURED EMPLOYER

RESPONDENT

OPINION FILED OCTOBER 9, 2008

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

Claimant represented by the HONORABLE R. DAVID LEWIS,
Attorney at Law, Little Rock, Arkansas.

Respondents were pro se on appeal.

Decision of Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

Respondents appeal and claimant cross-appeals
an opinion and order of the Administrative Law Judge filed
June 10, 2008. In said order, the Administrative Law
Judge made the following findings of fact and conclusions
of law:

1. The Workers' Compensation Commission has jurisdiction of this claim in which the relationship of employer-employee-carrier existed among the parties on February 6, 2007 at which time the claimant was under a contract of hire of \$12.50 per hour for

a forty hour week entitling him to a compensation rate of \$333.00/\$250.00.

2. The respondents are directed to pay all medical expenses, currently totaling \$30,317.88, within thirty days of receipt of the bills. The respondents will also be liable for expenses associated with hardware removal if and when the surgery is performed. Medical expenses include out-of-pocket reimbursement to the claimant and mileage to and from the medical providers at 43 cents per mile.
3. The respondents are directed to pay the claimant temporary total disability benefits from the date of injury to May 9, 2007 when the healing period ended.
4. The respondents are directed to pay a 45% impairment rating totaling \$4,837.50.
5. The respondents are directed to pay the court reporter's expenses pursuant to Rule 20 within thirty days.
6. This claim has been controverted and the claimant's counsel is entitled to the maximum attorney's fees to be paid in accordance with A.C.A. §11-9-715, §11-9-801, and WCC Rule 10.

Pursuant to the Full Commission decisions of Coleman v. Holiday Inn (November 21, 1990) (D708577), and Chamness v. Superior Industries, (March 5, 1992) (E019760), the claimant's portion of the controverted attorney's fee is to be withheld from, and paid out of, indemnity benefits, and remitted by the respondent, directly to the claimant's attorney.

As a reminder, Ark. Code. Ann. §11-9-715 was amended by Act 1281 of 2001, limiting attorney's fees on medical benefits and services for injuries after July 1, 2001.

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 June 10, 2008, 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

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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.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

PHILIP A. HOOD, Commissioner