

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F005412

MELANIE KELLEY,
EMPLOYEE

CLAIMANT

COOPER ENGINEERED PRODUCTS,
EMPLOYER

RESPONDENT

CROCKETT ADJUSTMENT, INC.,
INSURANCE CARRIER

RESPONDENT

OPINION FILED SEPTEMBER 23, 2008

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

Claimant represented by the HONORABLE FLOYD M. THOMAS,
JR., Attorney at Law, El Dorado, Arkansas.

Respondents represented by the HONORABLE MICHAEL J.
DENNIS, Attorney at Law, Pine Bluff, 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 4, 2008. In said
order, the Administrative Law Judge made the following
findings of fact and conclusions of law:

1. The stipulations agreed to by the parties at the
full hearing on January 8, 2008, are reasonable and
hereby accepted as fact.
2. The claimant has proven by a preponderance of
the evidence that her March 21, 2007, cervical
spine surgery was reasonable, necessary, and
related to her February 7, 1999, compensable
injury; and therefore the respondents' financial
responsibility.

3. Respondents did not correctly pay benefits pursuant to the March 7, 2007, Full Commission Opinion. As of April 24, 2007, the respondents owed \$41,729.63 in permanent partial disability plus an additional \$617.22 in interest. It was further determined that the respondents owed \$6,872.46 in temporary total disability benefits as of April 24, 2007, plus \$669.28 in interest. The total amount owed by respondents for TTD and PPD plus interest on April 24, 2007, was \$49,888.59.

4. Respondents failed to timely pay the benefits pursuant to the Full Commission award filed March 7, 2007, within fifteen days after the award became due. I find that the respondents owed \$49,888.59 as of April 24, 2007, pursuant to the Full Commission award filed March 7, 2007, and therefore the respondents shall pay an amount equal to 20% of \$49,888.59. Said 20% penalty equals \$9,977.72. Said 20% penalty was controverted and is now owed by respondents in a lump sum.

5. Claimant's attorney is entitled to maximum attorney's fees on all controverted benefits awarded herein pursuant to A.C.A. § 11-9-716(Repl. 1996) since the claimant's injury occurred prior to 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 April 4, 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 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

PHILIP A. HOOD, Commissioner

Commissioner McKinney not participating.