

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F405234

JERRY PIPPINGER, EMPLOYEE	CLAIMANT
SEA ARK MARINE, EMPLOYER	RESPONDENT
AIG CLAIM SERVICES, INSURANCE CARRIER	RESPONDENT

OPINION FILED MAY 13, 2008

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

Claimant represented by the HONORABLE KEN BUCKNER, Attorney at Law, Pine Bluff, 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 February 14, 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 employment relationship existed among the parties on May 1, 2004. The claimant sustained a compensable left foot injury. After two surgeries, he was assessed 21% permanent anatomical impairment.

2. Dr. Ackerman diagnosed the claimant with complex regional pain syndrome, formerly known as reflex sympathetic dystrophy, after diagnostic testing. There is no evidence that the claimant is malingering.
3. According to Dr. Ahmad, this pain syndrome may wax and wane but it cannot be cured. The claimant will need follow-up pain management for the rest of his life. Since Dr. Ahmad did not have all of the claimant's medical records at the time of the evaluation, he needs to reevaluate the claimant before proceeding, but a stimulator implant is the preferred course of treatment. This pain management treatment is reasonable and necessary to address pain and to stop the syndrome from progressing.
4. The respondents are directed to pay Dr. Ahmad's expenses within thirty days of receipt pursuant to Rule 30.
5. The respondents are directed to pay court reporting fees and expenses to Ms. Linda Parker pursuant to Commission Rule 20.
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 February 14, 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.

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OLAN W. REEVES, Chairman

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PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.