

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F208714

DUSTIN DEWAYNE BATES, MINOR CHILD
AND DEPENDENT; CAROLYN HICKS,
MINOR CHILD AND DEPENDENT; JAMIE
HICKS, WIDOW OF JERRY W. HICKS
(DECEASED), EMPLOYEE CLAIMANT

NUCOR STEEL OF ARKANSAS,
EMPLOYER RESPONDENT NO. 1

LIBERTY MUTUAL FIRE INSURANCE CO.,
CARRIER RESPONDENT NO. 1

DEATH AND PERMANENT TOTAL DISABILITY
TRUST FUND RESPONDENT NO. 2

ORDER FILED, AUGUST 21, 2009

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

Claimant, DUSTIN DEWAYNE BATES, represented by the HONORABLE
JOHN BARTTELT, Attorney at Law, Jonesboro, Arkansas and by
the HONORABLE JAMES C. BULLARD, Attorney at Law, Kennett,
Missouri.

Claimant, CAROLYN HICKS, represented by the HONORABLE EDWARD
REEVES, Attorney at Law, Caruthersville, Missouri and the
HONORABLE W. RAY NICKLE, Attorney at Law, Jonesboro,
Arkansas.

Claimant, JAMIE HICKS, represented by the HONORABLE WILLIAM
W. CARTER, Attorney at Law, Hayti, Missouri and the
HONORABLE W. RAY NICKLE, Attorney at Law, Jonesboro,
Arkansas.

Respondent No. 1 represented by the HONORABLE DAVID C.
JONES, Attorney at Law, Little Rock, Arkansas.

Respondent No. 1 represented by the HONORABLE JUDY W. RUDD,
Attorney at Law, Little Rock, Arkansas.

ORDER

Presently before the Commission is Claimant,

Cheryl Bates's Motion for Attorney's fees. After consideration of Claimant, Cheryl Bates's motion, and all other matters presently before the Commission, we find that claimant's motion should be, and hereby is, granted in part, and denied in part.

In an opinion filed by an Administrative Law Judge March 6, 2007, claimant, as the mother and guardian of Dustin Bates, a minor, was awarded dependent benefits for Dustin Dewayne Bates growing out of the work-related death of Jerry Hicks. The Death and Permanent Total Disability Trust Fund, Jamie Hicks widow of Jerry Hicks, Caroline Hicks, minor daughter of Jerry Hicks, and Nucor Steel of Arkansas/Kvaerner U.S., Inc. and Liberty Mutual Fire Insurance Company all filed Notices of Appeal to the Full Commission. In an Opinion filed December 21, 2007, the Full Commission affirmed the award of dependency benefits for Dustin Dewayne Bates. The Death and Permanent Total Disability Trust Fund petitioned the Full Commission for reconsideration. In an opinion filed April 11, 2008, the Full Commission granted the Fund's Motion and again found that Dustin Dewayne Bates was a minor son of the deceased and entitled to benefits. The Full Commission, however, failed to include an award of attorney's fees for prevailing 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). 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 (Repl. 2002).

The award of benefits was appealed by one or more of the losing parties to the Arkansas Court of Appeals. The Court affirmed the decision of the Full Commission. Claimant, Cheryl Bates also moved for an award of attorney's fees for prevailing before the Arkansas Court of Appeals. This Commission is without jurisdiction to award attorney's fees for prevailing before the Court of Appeals. Claimant must petition the Court of Appeals

Accordingly, after consideration of claimant's motion, we find that the motion for attorney's for prevailing before the Full Commission is hereby granted. Claimant's motion for prevailing before the Arkansas Court of Appeals is hereby denied as we do not have jurisdiction to make such an award.

IT IS SO ORDERED.

A. WATSON BELL, Chairman

KAREN H. MCKINNEY, Commissioner

PHILIP A. HOOD, Commissioner