

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F706827

JERRY W. NEWCOMB, EMPLOYEE CLAIMANT

PEOPLELEASE CORPORATION, EMPLOYER
AMERICAN HOME ASSURANCE,
AIG CLAIMS, INC., INSURANCE
CARRIER/TPA RESPONDENT NO. 1

SECOND INJURY FUND RESPONDENT NO. 2

OPINION FILED FEBRUARY 27, 2009

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

Claimant represented by the HONORABLE NEAL L. HART,
Attorney at Law, Little Rock, Arkansas.

Respondents No. 1 represented by the HONORABLE CAROL L.
WORLEY, Attorney at Law, Little Rock, Arkansas.

The Second Injury Fund was excused from participating in
the hearing.

Decision of Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

Respondents No. 1 appeal an opinion and order
of the Administrative Law Judge filed October 21, 2008.

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 the
within claim.

2. The employee-employer-carrier relationship existed at all relevant times, including July 2, 2007.
3. The claimant's compensation rate for temporary total disability is \$460.00; and for permanent partial disability purposes it is \$345.00.
4. The claimant sustained a compensable right shoulder and right knee injury on July 2, 2007.
5. Some benefits have been paid.
6. The claimant has received a 2% permanent partial impairment and was deemed to be at maximum medical improvement as of March 24, 2008, with respect to his right knee injury.
7. Respondents no. 1 have accepted a 2% impairment rating and paid all permanent partial disability benefits associated with the claimant's knee injury.
8. The claimant has proved by a preponderance of the evidence that surgery as recommended by Dr. Bowen constitutes reasonably necessary medical treatment in relation with the compensable right shoulder injury he received on July 2, 2007.
9. The claimant has failed to prove by a preponderance of the evidence that the manipulation procedure is reasonable and necessary treatment for his compensable injury.
10. All other issues are expressly reserved.

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 October 21, 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

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accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

A. WATSON BELL, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.