

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.F613876

HUONG NGUYEN, EMPLOYEE	CLAIMANT
FM CORPORATION, EMPLOYER	RESPONDENT
S.B. HOWARD & COMPANY, INC., CARRIER	RESPONDENT

ORDER FILED JANUARY 8, 2010

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

Claimant represented by the HONORABLE LAURA J. MCKINNON,
Attorney at Law, Fayetteville, Arkansas.

Respondent represented by the HONORABLE TOD BASSETT,
Attorney at Law, Fayetteville, Arkansas.

ORDER

This claim is presently before the Commission on remand from the Court of Appeals. In its decision delivered November 18, 2009, the Court of Appeals reversed the Commission's finding that the claimant failed to prove by a preponderance of the evidence that he sustained a compensable injury on November 9, 2006. Specifically, the Court held:

Here, the undisputed evidence demonstrated that appellant had long-standing degenerative conditions for which he had never before sought professional medical care, until November 9, 2006. Viewed most favorably to the employer, appellant stated

that he treated minor pain and soreness, either for the lower or upper back, with Tylenol at some points in time prior to November 9, 2006, but he missed no work. Appellant was diagnosed with a strain superimposed upon his degenerated spine, evidenced objectively by persistent spasms. Appellant was treated with conservative care until surgical intervention relieved much of appellant's suffering. There was no other conclusion to be drawn but that appellant suffered an aggravation of his pre-existing conditions at work. To find otherwise is simply not supported by substantial evidence of record. *Compare Parker v. Atlantic Research Corp.*, 87 Ark. App. 145, 189 S.W.3d 449 (2004).

The Court of Appeals, therefore, reversed the decision of the Full Commission and remanded for "...consistent proceedings before the Commission." Accordingly, we find that this matter must be remanded to the Administrative Law Judge for a determination of benefits in accordance with the Court of Appeals's decision.

IT IS SO ORDERED.

A. WATSON BELL, Chairman

KAREN H. MCKINNEY, Commissioner

PHILIP A. HOOD, Commissioner