

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F900392

MATTHEW REMSING, EMPLOYEE	CLAIMANT
MURPHY HOFFMAN COMPANY, EMPLOYER	RESPONDENT
AMERICAN ZURICH INSURANCE COMPANY/ COTTINGHAM & BUTLER CLAIMS SERVICES, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED AUGUST 24, 2010

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

Claimant represented by the HONORABLE ANDY L. CALDWELL, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE MICHAEL LEE WRIGHT, 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 April 26, 2010. 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 this claim.
2. The employer/employee/carrier relationship existed on or about October 17, 2008, when the claimant contends he

sustained a compensable left shoulder injury.

3. The claimant was earning an average weekly wage sufficient to entitle him to the maximum compensation rates for both temporary total disability benefits and permanent partial disability benefits.
4. The claim was initially accepted as compensable but respondents have now controverted the claim based on Dr. Yocum's office note of October 24, 2008.
5. If this claim is found compensable, Dr. Yocum has assigned a five-percent impairment rating to the body as a whole.
6. Claimant has proven by a preponderance of the evidence that he sustained a compensable injury to his left shoulder.
7. Claimant has proven by a preponderance of the evidence that he reported the injury to his left shoulder on November 25, 2008.
8. Claimant has proven by a preponderance of the evidence that he is entitled to the ongoing medical treatment for his left shoulder injury from (sic) November 25, 2008, and continuing through the date of the hearing, including the arthroscopic surgery performed on January 14, 2009.
9. Claimant has proven by a preponderance of the evidence that the medical treatment provided by Dr. Wolverton and Yocum was reasonable and necessary treatment and causally related to his work-related injury.
10. Claimant has proven by a preponderance of the evidence that he is entitled to permanent partial disability benefits based on the 8% impairment rating assigned by Dr. Yocum.

11. The respondents have fully controverted claimant's entitlement to additional temporary total disability benefits. Claimant is entitled to a twenty-five percent (25%) statutory attorney's fee on the indemnity benefits awarded herein, one-half to be paid by the respondents and one-half to be withheld from the claimant's award of benefits.
12. Claimant has reserved all other issues, specifically wage loss and additional medical.

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 26, 2010, 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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A. WATSON BELL, Chairman

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PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.