

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. F804346

ROGER D. SCOTT, EMPLOYEE	CLAIMANT
BAILEY & HOWARD, INC., EMPLOYER	RESPONDENT
HARTFORD INSURANCE COMPANY, CARRIER	RESPONDENT

OPINION FILED JANUARY 8, 2010

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

Claimant represented by HONORABLE, ERIC R. KENNEDY, Attorney at Law, Des Arc, Arkansas.

RespondentS represented by HONORABLE GENE WILLIAMS, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondent appeals from a decision of the Administrative Law Judge filed August 17, 2009.

The Administrative Law Judge entered 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 July 13, 2007, when the claimant sustained a compensable back injury.
3. The claimant earned an average weekly wage of \$700.00 per week, which would entitle him to temporary total disability benefits at the rate of \$462.00 and permanent partial

disability benefits at the rate of \$345.00, if awarded.

4. The claimant received a change of physician to Dr. Michael Calhoun on September 11, 2008.
5. After the claimant's injury in 2007, he continued his employment with the respondent employer up until October 27, 2008.
6. On October 27, 2008, the store where the claimant worked went out of business.
7. The claimant has proven by a preponderance of the evidence that his need for additional medical treatment recommended by Dr. Calhoun, including the L4-5 fusion surgery, is reasonable and necessary and causally related to his compensable work-related injury on July 13, 2007.
8. The claimant has proven by a preponderance of the evidence that he is entitled to temporary partial disability benefits from December 30, 2007, until October 27, 2008.
9. The claimant has proven by a preponderance of the evidence that he is entitled to temporary total disability benefits from October 27, 2008, until a date yet to be determined. The temporary total disability benefits awarded herein shall be payable to the claimant with respect to any week for which he received unemployment benefits, but only to the extent that the temporary total disability benefits otherwise payable exceed the unemployment benefits. Ark. Code Ann. § 11-9-506(b).
10. The respondents have controverted the claimant's entitlement to additional medical benefits, and 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.

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 of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

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).

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

A. WATSON BELL, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.