

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. G101427

WILLIAM CURTIS, EMPLOYEE	CLAIMANT
MICHAEL LEMNA, EMPLOYER	RESPONDENT No. 1
NEW CHAMPIONS GOLF & COUNTRY CLUB, CARRIER/TPA	RESPONDENT No. 2

OPINION FILED NOVEMBER 21, 2011

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

Claimant represented by the HONORABLE DAVID BLAIR, Attorney at Law, Batesville, Arkansas.

Respondents represented by the HONORABLE CHARLES CROCKER, JR., Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals from a decision of the Administrative Law Judge filed August 8, 2011.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1. As of August 8, 2007, William Curtis and Michael Lemna were employees of Henkel of America d/b/a Dial Corporation.
2. William Curtis sustained an injury while a passenger in a golf cart operated by Michael Lemna which was being operated incidental to a game of golf that they were playing on the New Champions Golf Course in or near Rogers, Arkansas.

3. As of August 8, 2007, the place of employment of William Curtis and Michael Lemna was the Dial Corporation offices in Scottsdale, Arizona.
4. Dial Corporation and its workers' compensation insurance carrier, Zurich American Insurance Company, deemed the injuries sustained by William Curtis on August 8, 2007 to be compensable under the Arizona Workers' Compensation Act, and workers' compensation benefits have been paid under the Arizona Workers' Compensation Act.
5. William Curtis has not made and is not making any claim for workers' compensation benefits under the Arkansas Workers' Compensation Act.
6. All benefits presently due William Curtis under the Arizona Workers' Compensation Act have been paid. William Curtis seeks no relief herein against Dial Corporation of Zurich American Insurance Company.
7. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim and the Arkansas Workers' Compensation Act is applicable.
8. Curtis and Lemna were acting in the course and scope of their employment at the time of the accident on August 8, 2007.
9. At the time of the accident on August 8, 2007, Lemna was performing his employer's duty to provide a safe place to work for Curtis.
10. By performing his employer's duty to provide a safe place to work for Curtis, Lemna is entitled to immunity from action in tort pursuant to A.C.A. §11-9-105.
11. The Commission is bound by the doctrine of stare decisis and the decisions in *Brown v. Finney*, 326 Ark. 691, 932 S.W.2d 769 (1996) and *Rea v. Fletcher*, 39 Ark. App. 9, 832 S.W.2d 513 (1992).
12. Immunity from action in tort to non-supervisory coemployees who are fulfilling the employer's duty to provide a safe place to work does not violate

Article 5, Section 32, Amendment 26, of the
Arkansas Constitution.

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.

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

KAREN H. MCKINNEY, Commissioner

PHILIP A. HOOD, Commissioner