

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G600346

LEROY CALHOUN,  
EMPLOYEE

CLAIMANT

AREA AGENCY ON AGING,  
EMPLOYER

RESPONDENT NO. 1

RISK MANAGEMENT RESOURCES,  
INSURANCE CARRIER/TPA

RESPONDENT NO. 1

DEATH & PERMANENT TOTAL  
DISABILITY TRUST FUND

RESPONDENT NO. 2

OPINION FILED APRIL 26, 2021

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

Claimant represented by the HONORABLE WHITNEY B. JAMES, Attorney at Law, Little Rock, Arkansas.

Respondents No. 1 represented by the HONORABLE KAREN H. McKINNEY, Attorney at Law, Little Rock, Arkansas.

Respondents No. 2 represented by the HONORABLE CHRISTY L. KING, Attorney at Law, Little Rock, Arkansas.

ORDER

The Supreme Court of Arkansas has reversed the Full Commission and has remanded in the present matter. *Leroy Calhoun v. Area Agency on Aging of Southeast Arkansas*, No. CV-20-78, opinion delivered March 11, 2021. The Supreme Court has held that the respondents did not prove the claimant was offered employment at wages equal to or greater than his average weekly wage at the time of the accident.

In accordance with the Supreme Court's mandate, the Full Commission affirms and adopts the administrative law judge's opinion filed June 6, 2019. In said opinion, the administrative law judge entered the following findings of fact and conclusions of law:

1. The Workers' Compensation Commission has jurisdiction of this claim in which the employee-employer-carrier relationship existed on January 13, 2016, at which time the claimant sustained a compensable injury to the body as a whole at a compensation rate of \$127.00/\$127.00.
2. The claimant has sustained wage loss disability in the amount of sixty percent (60%) in addition to his physical impairment rating of twenty-four percent (24%) for a total of eighty-four percent (84%). The compensable injury is the major cause of his disability.
3. This claim has been controverted and the claimant's counsel is entitled to the maximum attorney's fees to be paid in accordance with Ark. Code Ann. §11-9-715, §11-9-801, and WCC Rule 099.10.

Pursuant to the Full Commission decisions of Coleman v. Holiday Inn, (November 21, 1990) (D708577), and Chamness v. Superior Industries, (March 5, 1992), (March 5, 1992) (E019760), the claimant's portion of the controverted attorney's fee is to be withheld from, and paid out of, indemnity benefits, and remitted by the respondent, directly to the claimant's attorney.

4. If they have not already done so, the respondents are directed to pay the court reporter, Andrea Sealy's, fees and expenses within thirty (30) days of receipt of the bill.

After reviewing the entire record *de novo*, and in accordance with the Supreme Court's mandate, it is our opinion that the administrative law judge's June 6, 2019 decision is supported by a preponderance of the

evidence of record, 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 are therefore adopted by the Full Commission.

We therefore affirm the decision of the administrative law judge, including all findings of fact and conclusions of law therein, and adopt the decision as the Full Commission's opinion on appeal. The claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. §11-9-715(a)(Repl. 2012). For prevailing on the respondents' appeal, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b)(Repl. 2012).

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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CHRISTOPHER L. PALMER, Commissioner

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M. SCOTT WILLHITE, Commissioner