

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G803682

JORDAN MASON (DEC'D), CLAIMANT
EMPLOYEE

WILSON BROTHERS LUMBER COMPANY,LLC., RESPONDENT NO. 1
EMPLOYER

PRAETORIAN INSURANCE COMPANY, RESPONDENT NO. 1
INSURANCE CARRIER/TPA

FRANK & GRADY, LLLP RESPONDENT NO. 2

OPINION FILED MAY 18, 2021

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

Claimant represented by the HONORABLE CHARLES "CC" GIBSON, Attorney at Law, Monticello, Arkansas, and the HONORABLE R. VICTOR HARPER, Attorney at Law, Star City, Arkansas.

Respondents represented by the HONORABLE RANDY P. MURPHY and the HONORABLE BRANDON COLE, Attorneys at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and adopted as modified.

AMENDED OPINION AND ORDER

The claimant appeals and Respondent No. 2 cross-appeals an administrative law judge's opinion filed December 28, 2020. The administrative law judge found:

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The stipulations set forth above are reasonable and are hereby accepted.
3. Claimant's objection to the admission of the proffered hearing testimony of Lee Moore is overruled; the proffered

testimony is hereby admitted into evidence and will be given due weight.

4. The preponderance of the evidence establishes that Frank & Grady LLLP falls within the ambit of the exclusive remedy provision of Ark. Code Ann. §11-9-105(a)(Repl. 2012).
5. The evidence preponderates that Claimant's minor child, Cecilia Mason, was "wholly and actually dependent upon" him at the time of his death, that he was not married, and that she was his only child. Accordingly, per Ark. Code Ann. §11-9-527(c)(3)(A)(Repl. 2012), Cecilia Mason is entitled to fifty percent (50%) of Claimant's stipulated average weekly wage, to be paid in accordance with §11-9-527.
6. Claimant's estate has proven by a preponderance of the evidence that Respondents controverted Cecilia Mason's entitlement to the benefits awarded to her above. Accordingly, the estate's counsels are entitled to a controverted fee on those benefits, pursuant to Ark. Code Ann. §11-9-715(Repl. 2012).

The Full Commission affirmed and adopted the administrative law judge's decision in an opinion filed April 1, 2021. The claimant has subsequently filed a **MOTION FOR RULING**. The claimant contends that the Full Commission failed to rule on the claimant's constitutional argument in the present matter.

The Full Commission therefore files the herein **AMENDED OPINION AND ORDER**. The Full Commission expressly finds that the exclusive remedy provision of Ark. Code Ann. §11-9-105(a)(Repl. 2012) extends to and protects a parent company from tort liability for an on-the-job injury or

death of an employee of a subsidiary employer of the parent company. Ark. Code Ann. §11-9-105(a)(Repl. 2012) is a constitutional provision in this circumstance in accordance with *Myers v. Yamato Kogyo Co.*, 2020 Ark. 135, 597 S.W.3d 613.

The Full Commission's April 1, 2021 opinion which affirmed and adopted the administrative law judge's December 28, 2020 decision shall in all other respects remain in place.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

M. SCOTT WILLHITE, Commissioner