

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H501849

ANTHONY STEEN,
EMPLOYEE

CLAIMANT

GARLAND COUNTY SHERIFF'S OFFICE,
EMPLOYER

RESPONDENT

ASSN. OF ARKANSAS COUNTIES WCT/
AAC RISK MGMT. SERVICES, INC.,
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED JULY 14, 2026

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

Claimant represented by the HONORABLE GREGORY R. GILES, Attorney at Law, Texarkana, Arkansas.

Respondents represented by the HONORABLE CAROL LOCKARD WORLEY and the HONORABLE JARROD S. PARRISH, Attorneys at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed.

OPINION AND ORDER

The respondents appeal an administrative law judge's opinion filed March 20, 2026. The administrative law judge found that the claimant proved the respondents controverted the claim. The administrative law judge found that the claimant's attorney was entitled to fees for legal services. After reviewing the entire record *de novo*, the Full Commission affirms the administrative law judge's findings that the respondents controverted the claim and are liable for attorney's fees.

I. HISTORY

The record indicates that Anthony Lee Steen, now age 55, became employed with the respondents, Garland County Sheriff's Office, on or about March 16, 2025. The parties have stipulated that the claimant was "sprayed in the face with pepper spray" on March 21, 2025 and suffered a stroke. According to the record, the claimant was treated at CHI St. Vincent Hospital Hot Springs on March 21, 2025. The diagnosis was "Basal ganglia hemorrhage (CMS/HCC)."

An HR Coordinator prepared a "WORKERS COMPENSATION – FIRST REPORT OF INJURY OR ILLNESS" on March 24, 2025. The DATE OF INJURY/ILLNESS was identified as March 21, 2025, and the DATE EMPLOYER NOTIFIED was March 21, 2025. The TYPE OF INJURY/ILLNESS was "POSSIBLE ISCHEMIC," "AFTER COMPLETING THE OC COURSE, DEPUTY COMPLAINED OF HEAD ACHE AND NECK PAIN. ELEVATED BP. EMS CONTACTED."

The record contains a Progress Note from CHI St. Vincent Neurology Clinic dated March 25, 2025: "Patient is a 54 y.o. Caucasian male PMHx of insomnia who presented initially on 03/21 with sudden left sided paralysis of the upper extremity, left sided facial droop and tongue deviation to the left with dysarthria. He was undergoing training as a police officer at that time....Was at work, sprayed with pepper spray during a training, developed left sided wewakness (sic), ct with basal ganglia bleed[.]"

A Licensed Social Worker noted on March 31, 2025, "CM called & spoke to Sherri at Encompass who states that they have not received any decision from Pt's workman's comp on him being able to admit there or not. CM called 501-503-9595 & spoke to Amanda with Paradigm. Amanda states that workman's comp is still reviewing Pt's case for compensability & they have told her they will have a decision tomorrow (Tuesday) at the latest. Amanda states that she does not feel that this pending decision should prevent Pt from going ahead and seeking treatment as he will be covered either way, either by workman's comp or his private insurance." The discharge plan was "Encompass, pending workman's comp approving Pt to admit there."

A Claims Adjuster filed a Form AR-2, "EMPLOYER'S INTENT TO ACCEPT OR CONTROVERT CLAIM" on April 1, 2025. The respondents' STATEMENT OF POSITION was "DENIED. NOT A RESULT OF A WORK INCIDENT."

The claimant was discharged from CHI St. Vincent on April 5, 2025.

Chief Deputy Jeff Michau, Garland County Detention Center, corresponded with the claimant on April 28, 2025:

On 03-21-25, you were involved in a medical emergency while working at the Garland County Detention Center, which left you unable to perform the physical requirements of a detention Deputy. Subsequently, on April 1, 2025, your Workers' Compensation claim was denied based on Workers' Compensation laws.

You are not eligible for FMLA due to not having worked at least 12 months in your current assignment. At this time, the County is unable to make reasonable accommodations for you in your current position with restrictions, nor do we have any available positions in the department for which you qualify. For these reasons, effective May 1, 2025, your employment with Garland County, Arkansas, is being terminated. You are eligible to reapply with Garland County for any open positions for which you are qualified....

The claimant's attorney corresponded with Dr. Ross Brown on June 6, 2025:

I'm currently representing Mr. Anthony Steen with an Arkansas workers' Compensation claim associated with the events of March 21, 2025. Mr. Steen was undergoing the final steps of his training program to become a correctional officer with the Garland County Sheriff's Department on that day. To complete the training he was required to go through certification with pepper spray training. I am forwarding to you this letter by e-mail and attaching for you a copy of the video that actually displays his pepper spray training that day.... Mr. Steen describes having very little memory of any of the events that followed immediately after the pepper spray struck him. He does not recall going through the exercises, and only has a vague memory of someone telling him to put his face in some water at some point afterward. Immediately following the trainings conclusion he began exhibiting stroke like symptoms and he subsequently was carried by ambulance to CHI St. Vincent Hospital where it appears he initially came under your care there in the Emergency Room at the Hospital. The medical records appear to reflect that Mr. Steen's blood pressure had spiked and upon further testing he was found to have suffered an, "acute 3.6 x 2 x 2.9 cm interaparenchymal hemorrhage centered in the right basal ganglia'. I would greatly appreciate a LETTER REPORT from you outlining what Mr. Steen's final diagnosis was upon discharge, and given the factual history outlined above concerning Mr. Steen's pre-existing medical history and the pepper sprayed training exercise of March 21, 2025 observed, would appreciate you addressing whether in your opinion within a

reasonable degree of medical certainty whether the work related events of that day were the cause of his required medical treatment there in your Emergency Room at CHI St. Vincent Hospital on March 21, 2025....

Meanwhile, the record contains a note dated June 10, 2025 from

Jonathan Rodgers, Physical Therapist/Owner, Ouachita Physical Therapy:

Anthony Steen has started Physical Therapy due to deficits associated in the L arm and leg after suffering a stroke recently. He is starting to gain back mobility and motor control of the L arm and leg but is still significantly limited at this time with reaching overhead, arm/grip strength, and control of the L lower extremity to where his balance and stability with gait and balance is severely limited affecting his performance with ADLs and walking even with the help of his assist device. He is currently suffering from neural deficits associated with the stroke that causes him to have severe neural pain intermittently throughout the day as well as with increases in activity or touch. At this time with his current deficits he is unable to work due to his limited performance as well as even perform his activities of daily living without assistance. Please understand his current limitations that affect his performance as he is trying his best to further return back to his previous level of functioning. If you have any questions or concerns please don't hesitate to contact me.

Dr. Brown replied to the claimant's attorney on or about August 9,

2025:

My name is Dr. Ross Brown. I was the initial treating physician for Mr. Steen the date he suffered a large and debilitating brain hemorrhage on 03/21/2025. The patient was undergoing officer training and as part of that training he was sprayed with pepper spray. The patient stated that during the event he experienced severe pain to the face and eyes. He stated that shortly afterward he developed a headache and then sudden loss of strength on the left side. On my initial examination the patient had significant left sided facial droop, left arm flaccid paralysis and left leg weakness $\frac{4}{5}$

strength. These findings on exam are concerning for an acute ischemic stroke or an intracranial hemorrhage.

The patient was activated as a "stroke alert" per our ED protocols. This helps facilitate rapid acquisition of CT imaging to the head. Mr. Steen's imaging was consistent with an intracranial hemorrhage....

Mr. Steen suffered a very serious injury resulting in a long hospitalization, and is likely to have prolonged disability from it.

I think it is reasonable and more likely than not caused by the incident where he was pepper sprayed in the face. The pain likely caused his blood pressure to significantly elevate suddenly and then result in this type of hemorrhage.

The claimant's attorney corresponded with the Clerk of the

Commission on August 11, 2025: "I would appreciate you referring this matter to an Administrative Law Judge for a hearing."

Dallas M. Bondhus, MPAS, PA-C provided an Interval History from

CHI St. Vincent Neurology Clinic dated August 21, 2025:

Patient 54-year-old male with a history of sustaining basal ganglia hemorrhagic stroke here for follow-up. Patient sustained a stroke during a hypertensive crisis following an exercise while at the police academy, was sprayed with pepper spray. He began to have severe left-sided weakness numbness and was transported by EMS with a systolic pressure around 200. Evaluated with neurology on-call Dr. Surendrath, found to have large basal ganglia stroke with no prior history of TIA or stroke. Since this event he has had severe numbness weakness on his left side and problems with memory confusion and hallucinations. He is still having problems with his balance and walking having to use a walker. Is also complaining of severe fatigue problems with overall endurance strength mainly on the left side. Patient had [an] EEG which did not show any seizure activity but did show some slowing during his hospital stay on 3/26/2025. He was evaluated by speech and recommended soft liquid diet. Patient is applying for security disability unable to return back

to work due to his severe deficits. Patient is currently being cared by his estranged wife. She helps with his medications ADLs and his appointments....He completed inpatient therapy and is receiving home health PT OT....

In summary, Anthony L. Steen is a 54 y.o. year old male, here for hospital follow-up appointment. Patient continues to have severe deficits on his left side, generalized weakness fatigue and problems with his memory balance and continues to have some hallucinations.

It is more likely than not that the pepper spray activity at the police academy caused patient to suffer a hypertensive crisis that resulted in a hemorrhagic stroke in his basal ganglia resulting in his current disability....

He is to continue exercise OT PT until reaches a maximum medical improvement. Do not feel that he will gain a lot of strength due to the fact that he had a very large hemorrhagic stroke very poor prognosis at this time.

Also recommend patient have an MRI of the cervical spine.

He has a positive for meats on exam concern he could have a cervical disc causing his symptoms.

See him Back in the next few months[.]

A Program Coordinator with the Commission's Adjudication Division informed the parties on August 25, 2025, "Pursuant to the claimant's request for a hearing, I have enclosed a Prehearing Questionnaire and Preliminary Notice to be filed in this claim. Once the filings have been received, a telephone prehearing conference will be scheduled."

The claimant filed RESPONSES TO PREHEARING QUESTIONNAIRE on September 9, 2025. The claimant contended, "a. Claimant contends that he suffered compensable injuries, specifically stroke/brain bleed during training exercise which included pepper spray to the face in his efforts to qualify as a deputy sheriff; b. Claimant contends

that the medical treatment he has received to date has been reasonable, necessary and related and contends entitlement to additional medical treatment which Respondents should be ordered to pay for; c. Claimant contends entitlement to temporary total disability benefits from March 22, 2025 to a date yet to be determined; d. Claimant contends Respondents should be ordered to pay attorney's fees as provided by law."

The respondents informed the claimant's attorney on October 1, 2025, "After receiving your causation report earlier this month, we had an independent record evaluation done. We talked with the doctor about that last week. Based upon this, Respondents are accepting compensability in this matter. Will you please send us whatever outstanding medical bills you have so that we can get those paid per the fee schedule?"

The respondents filed RESPONDENT'S RESPONSE TO PREHEARING QUESTIONNAIRE on October 1, 2025. The respondents stipulated, "Respondents will stipulate to the Employer-Employee relationship on 3/21/25. Respondents will also stipulate to an average weekly wage of \$1,037.34 with respective TTD/PPD rates of \$692/\$519. Lastly, Respondents will stipulate to a compensable injury on that date." The respondents contended, "Respondents contend that subsequent to Claimant's counsel providing documentation supporting causation, Respondents are accepting compensability in this matter and will pay

appropriate medical and indemnity benefits. It is Respondents' position that this claim was not controverted, as there was no medical documentation connecting up the claimant's need for treatment with his work-related incident until recently. Once this report was provided by Claimant's counsel, Respondents initiated an independent record review and are now in a position to accept compensability in this matter."

The respondents informed the claimant's attorney on October 2, 2025, "Respondents are taking the position the claim was not controverted. We accepted compensability timely after receiving medical documentation causally relating claimant's injury with his need for treatment. In light of this, we will pay TTD until MMI along with medical bills once we receive those. Please sent me any you have on that."

On October 6, 2025, an administrative law judge scheduled a pre-hearing conference for October 21, 2025. A Claims Adjuster filed another Form AR-2, "EMPLOYER'S INTENT TO ACCEPT OR CONTROVERT A CLAIM" on October 8, 2025. The COMPENSATION section of the Form AR-2 indicated that the "Date of First Comp Check" was October 7, 2025, and that the "First Day of Disability" was March 22, 2025. The STATEMENT OF POSITION on October 8, 2025 was now "ACCEPTED AS COMPENSABLE."

A pre-hearing order was filed on October 23, 2025. At that time, the parties stipulated, "The employer/employee/carrier-TPA relationship existed at all relevant times including March 21, 2025, when the claimant sustained an admittedly compensable injury in the form of a stroke/brain bleed for which the respondents paid medical and indemnity benefits." The parties agreed to litigate the following issues:

1. Whether the respondents controverted this claim.
2. If the respondents are deemed to have controverted this claim, whether and to what extent, if any, the claimant's attorney is entitled to a controverted fee based on these facts.

An administrative law judge filed an opinion on March 20, 2026. The administrative law judge found, among other things, that the claimant proved the respondents controverted compensability of the claim. The administrative law judge found that the claimant's attorney was entitled to fees for legal services. The administrative law judge directed the respondents to pay fees for legal services in accordance with the findings of fact and conclusions of law. The respondents appeal to the Full Commission.

II. ADJUDICATION

Ark. Code Ann. §11-9-715(Repl. 2012) provides, in pertinent part:

- (a)(1)(A) Fees for legal services rendered in respect of a claim shall not be valid unless approved by the Workers' Compensation Commission.

- (B) Attorney's fees shall be twenty-five percent (25%) of compensation for indemnity benefits payable to the injured employee or dependents of a deceased employee....
- (ii) The fees shall be allowed only on the amount of compensation for indemnity benefits controverted and awarded.

An administrative law judge found in the present matter, "2. The claimant has met his burden of proof in demonstrating the respondents controverted the compensability of this claim for the purpose of being deemed liable for the payment of an attorney's fee from the stipulated date of injury of March 21, 2025, through the date they finally accepted the injury as compensable, October 8, 2025."

The Full Commission finds that the respondents controverted the claim and shall be liable for attorney's fees in accordance with Ark. Code Ann. §11-9-715(Repl. 2012). As we have discussed, the claimant became employed with the respondents, Garland County Sheriff's Office, on or about March 16, 2025. The parties have now stipulated that the claimant suffered a stroke following a work-related incident involving pepper spray on March 21, 2025. However, the evidence plainly demonstrates that the respondents initially controverted the claim. The claimant treated at CHI St. Vincent Hospital on March 21, 2025, following the work-related incident, where he was diagnosed with "Basal ganglia hemorrhage." A Claims Adjuster filed a form AR-2, "EMPLOYER'S INTENT TO ACCEPT OR CONTROVERT CLAIM" on April 1, 2025. The respondents' STATEMENT

OF POSITION was “DENIED. NOT A RESULT OF WORK INCIDENT.”

The record before the Commission shows that the respondents controverted the claim beginning April 1, 2025. A Chief Deputy for the respondent-employer informed the claimant on April 28, 2025 that the claim “was denied based on Workers’ Compensation laws....For these reasons, effective May 1, 2025, your employment with Garland County, Arkansas is being terminated.”

The claimant’s attorney began corresponding with a treating physician, Dr. Ross Brown, on June 6, 2025. Dr. Brown informed the claimant’s attorney on August 9, 2025 that the claimant’s stroke was causally related to the workplace incident of March 21, 2025. The claimant’s attorney corresponded with the Clerk of the Commission on August 11, 2025 and requested a hearing before an administrative law judge. The claimant contended on September 9, 2025 that he had sustained a compensable injury. The claimant contended that he was entitled to reasonably necessary medical treatment and temporary total disability benefits. After the claimant hired an attorney and requested a hearing before an administrative law judge, the respondents stated on October 1, 2025 that they were “accepting compensability in this matter.”

It has long been recognized that making an employer liable for attorney’s fees serves legitimate social purposes such as discouraging

oppressive delay in recognition of liability, deterring arbitrary or capricious denial of claims, and insuring the ability of necessitous claimants to obtain adequate and competent legal representation. *Wal-Mart Stores, Inc. v. Brown*, 73 Ark. App. 174, 40 S.W.3d 835 (2001), citing *Cleek v. Great S. Metals*, 335 Ark. 342, 981 S.W.2d 529 (1998). One of the purposes of the statute and case law is to put the economic burden of litigation on the party that makes litigation necessary by controverting the claim. *Prier Brass v. Weller*, 23 Ark. App. 193, 745 S.W.2d 647 (1988). See also *Little Rock Ambulance Auth. v. Binkley*, 2022 Ark. App. 229, 646 S.W.3d 193. A fee is payable from the employer or carrier only if benefits are controverted and awarded. *Burton v. Chartis Claims, Inc.* 2014 Ark. App. 47.

In the present matter, the evidence demonstrates that the respondents controverted the claim as shown in the Form AR-2 filed April 1, 2025. The respondents did not “accept compensability” of the claim until approximately October 1, 2025, after the claimant hired an attorney and requested a hearing before an administrative law judge. The record shows in the present matter that the respondents made litigation necessary by controverting the claim. The Full Commission therefore finds that the respondents are liable for attorney’s fees in accordance with Ark. Code Ann. §11-9-715(Repl. 2012).

The Full Commission finds that the claimant proved by a preponderance of the evidence that he sustained a compensable injury on March 21, 2025. The claimant proved that the medical treatment of record provided on and after March 21, 2025 was reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Repl. 2012). There is no medical evidence in the record demonstrating that the claimant has yet reached the end of a healing period for his compensable injury. A physician's assistant opined on August 21, 2025 that the claimant had not reached maximum medical improvement. The Full Commission therefore finds that the claimant proved he was entitled to temporary total disability benefits beginning March 22, 2025 until a date yet to be determined. See *Ark. State Hwy. Dept. v. Breshears*, 272 Ark. 244, 613 S.W.2d 392 (1981).

The Full Commission finds that the respondents controverted the claim and shall be liable for attorney's fees in accordance with Ark. Code Ann. §11-9-715(a)(Repl. 2012). The Full Commission has awarded temporary total disability benefits beginning March 22, 2025 until a date yet to be determined. The fees shall be allowed for the indemnity benefits controverted by the respondents and awarded by the Full Commission in accordance with Ark. Code Ann. §11-9-715(a)(B)(ii)(Repl. 2012). For prevailing on appeal to the Full Commission, 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.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I respectfully dissent from the majority's opinion. The claimant in this matter suffered a stroke on March 21, 2025, after he participated in a law enforcement training exercise involving pepper spray. Subsequently, claimant's attorney obtained an opinion from Dr. Ross Brown as to whether claimant's injury was causally related to being sprayed with pepper spray, and Dr. Brown opined:

In my experience, this type of hemorrhage is often seen related to sudden increases in blood pressure. This is very unlikely to have been the result of direct trauma I think it is reasonable and more likely than not caused by the incident where he was pepper sprayed in the face. The pain likely caused his blood pressure to significantly elevate suddenly and then result in this type of hemorrhage.

Respondents then sought an independent medical review from Dr. Michael Counce, who, On September 24, 2025, concluded the claimant's condition was causally related to his employment. Respondents notified the claimant's attorney the claim was being accepted on September 30, 2025.

The administrative law judge was notified the claim had been accepted on October 2, 2025, and an amended Form AR-2 was filed on October 8, 2025.

Claimant's counsel subsequently demanded a fee on accrued and future indemnity benefits. A conference was held, and the parties agreed to submit the matter on a stipulated record. After a review of the stipulated facts, the ALJ ruled the respondents had controverted this claim and awarded attorney's fees.

Our Rules provide that "fees shall be allowed only on the amount of compensation for indemnity benefits **controverted and awarded.**" Ark. Code Ann. § 11-9-715(a)(2)(B)(ii) (emphasis added). "[T]he mere failure of the employer to pay certain benefits does not, in and of itself, amount to controversion, especially when the carrier accepts the injury as compensable and is attempting to determine the extent of the disability." *Osborne v. Bekaert Corp.*, 97 Ark. App. 147, 245 S.W.3d 185 (2006).

One of the purposes of the attorney's fee statute is to put the economic burden of litigation on the party who makes litigation necessary. *Brass v. Weller*, 23 Ark. App. 193, 745 S.W.2d 647 (1988).

Whether or not a particular claim is controverted is a question of fact for the Commission. *Aluminum Co. of America v. Henning*, 260 Ark. 699, 543 S.W.2d 480 (1976).

The mere fact a party investigates a claim prior to admitting liability does not require a finding of controversion. *Lee v. Alcoa*, 89 Ark. App. 228, 201 S.W.3d 449 (2005).

Here, although the respondents initially controverted this claim, they later accepted compensability after receiving Dr. Counce's opinion the claimant's condition was related to his on-the-job activities.

While Dr. Brown provided an opinion on August 13, 2025, it is well within the respondents' rights to investigate the veracity of Dr. Brown's claims before blindly accepting a high-risk claim as compensable. It took just over one month between Dr. Brown's opinion and Dr. Counce's opinion for the respondents to accept compensability.

More importantly, there was no award issued in this matter for which attorney's fees would be allowed. The statutory language provides for attorney's fees when indemnity benefits are "controverted and awarded,"

not when a claim is controverted, and an attorney is hired or when it inconveniences one party.

Our Rules do not provide for the payment of attorney's fees simply based on a claim being controverted at its outset. Because there was no award issued or any litigation on the issue of compensability at all, an award of attorney's fees is improper.

The respondents' timely acceptance of this claim as compensable did not render litigation necessary, nor did it put any burden on the claimant during the pendency of their investigation. For these reasons, the controversion requirements set out in Ark. Code Ann. § 11-9-715 have not been met.

Accordingly, for the reasons set forth above, I must dissent.

MICHAEL R. MAYTON, Commissioner