

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. H101400**

**PHILLIP L. BURKS, EMPLOYEE**

**CLAIMANT**

**VS.**

**ARKANSAS FORESTRY COMMISSION,  
EMPLOYER**

**RESPONDENT**

**PUBLIC EMPLOYEE CLAIMS DIVISION  
ARKANSAS INSURANCE DEPARTMENT**

**RESPONDENT**

**OPINION FILED FEBRUARY 14, 2023**

Hearing before Administrative Law Judge, James D. Kennedy, on the 17<sup>th</sup> day of January, 2023, in Little Rock, Pulaski County, Arkansas.

Claimant is represented by Mr. Daniel A. Webb, Attorney-at-Law, Little Rock, Arkansas.

Respondents are represented by Mr. Charles H. McLemore, Attorney-at-Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted on the 17<sup>th</sup> day of January, 2023, with the issue before the Commission being permanent partial disability or wage-loss and attorney's fees. A copy of the Prehearing Order was marked "Commission Exhibit 1" and made part of the record without objection. The Order provided that the parties stipulated that the Arkansas Workers' Compensation Commission had jurisdiction of the within claim and that an employer/employee relationship existed on January 25, 2021, when the claimant sustained a compensable work-related, low back injury. At the time of the injury, the claimant was earning an average weekly wage of \$574.29 entitling him to a temporary total disability rate of \$383.00 and a permanent partial disability rate of \$287.00.

The claimant's and respondents' contentions are set out in their respective responses to the prehearing questionnaire and made a part of the record without

objection. The sole witness was the claimant, Phillip Burks. From a review of the record as a whole, to include medical reports and other matters properly before the Commission, and having had an opportunity to observe the testimony and demeanor of the witness, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. §11-9-704.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. That an employer/employee relationship existed on January 25, 2021, when the claimant sustained a compensable work-related injury to his lower back that was accepted by the respondents.
3. That the respondents have paid medical and indemnity benefits.
4. That at the time of the injury, the claimant was earning an average weekly wage of \$574.29, entitling him to temporary total disability and permanent partial disability rates of \$383.00 / \$287.00, respectively.
5. The claimant was found to be at maximum medical improvement (MMI) on August 16, 2021, with a ten percent (10%) anatomical impairment rating to the body as a whole.
6. The claimant has satisfied the required burden of proof, by a preponderance of the evidence, that he is entitled to a ten percent (10%) wage-loss determination in addition to his anatomical impairment rating, plus attorney fees pursuant to Ark. Code Ann. §11-9-715.
7. If not already paid, the respondents are ordered to pay for the cost of the transcript forthwith.

### **REVIEW OF TESTIMONY AND EVIDENCE**

The Prehearing Order along with the prehearing questionnaires of the parties was admitted into the record without objection. The parties submitted a supplemental response to the prehearing filings which was admitted as "Commission's Exhibit 4" without objection. In addition, the parties submitted a clinic note from Dr. Roman that was

admitted as “Joint Exhibit One” and consisted of two (2) pages. The claimant submitted a packet of non-medical exhibits with an index that consisted of thirty-four (34) pages that was admitted into the record without objection. The claimant also submitted an exhibit that consisted of sixty-five (65) pages of medical records with an index that was admitted without objection. The respondents submitted an exhibit of one hundred fourteen (114) pages of medical records that was also admitted without objection. Finally, the respondents submitted an exhibit which consisted of twenty-three (23) pages of correspondence and forms that was admitted without objection.

The claimant testified he understood that the purpose for the hearing was to request permanent partial disability or, in the alternative, wage-loss. He stated he graduated from high school in California and started electrical work in 1978, prior to graduating high school, performing residential apprentice work. He worked with shovels, ladders, conduit, and electric wire along with their spools, and performed general labor. He thought he left California in 1984 or 85. He obtained a journeyman license in California which did not transfer to Arkansas when he moved. His first job in Arkansas was working for Odom Mobile Homes in Conway, performing electrical work, repairing trailers, and performing similar work to what he described in California. (Tr.pp. 8-10) His next job was at Ward Bus in Conway and he thought he started on August 3, 1988, and he worked for twenty-five (25) years as an electrician in maintenance, working all over the plant. (Tr.pp. 11-12) After Ward Bus, he went to work for Springhill Tire for a year and a half and worked as an auto mechanic, but did not work in the tire department of the business. His job involved lifting starters, transmissions, rear ends, and other heavy work. When he left there, he went to work for the Arkansas Forestry Commission in 2017 and was working

there when he was injured. He has not worked since his injury and was eventually terminated. He thought he had worked for them in the shop for five (5) plus years, where he worked on military surplus vehicles. His job involved going out and determining the cost to repair a military surplus vehicle and if the vehicle was worth the cost of repair. (Tr.pp. 15-18)

The work for the Forestry Commission involved heavy lifting, especially involving the tires that probably weighed two or three hundred (200-300) pounds, the transmissions, and the batteries that probably weighed one hundred (100) pounds. (Tr.pp. 19-20) The claimant was injured when he picked up a battery and twisted around. The respondent got him to Dr. Overley, who performed surgery. He went in on a Tuesday for outpatient surgery and three (3) days later, due to the pain, went to UAMS for another surgery on Friday. The claimant stated that after the two (2) surgeries, he was still experiencing pain. He agreed he was paid by the respondent until he reached maximum medical improvement on September 13, 2022. He then received permanent partial disability from the respondent and expected it to run out around June or July. He also testified he never had a job in his life that did not involve heavy lifting and had never worked as a clerk in an office setting. He admitted still seeing Dr. Roman who was providing injections for his lower back. He also thought they had gone in and burnt nerves in his back. He stated he currently had trouble walking, sitting, sleeping, twisting and picking stuff up. Some days were better than others. He also admitted currently taking Hydrocodone and Flexeril. (Tr.pp. 23-27) He received a little relief from Hydrocodone but that Flexeril made him want to sleep. (Tr.p. 28)

The claimant stated the Forestry Commission ultimately fired him and they provided no accommodations for a diesel mechanic. (Tr.p.29) He was absolutely willing to continue working for the State, but they just pointed him towards the public notice board. He received an email stating he was terminated because there was no light-duty and he had declined the job. He went on to state no jobs were offered and that, "I did not decline a job, period." The claimant also admitted he had received some consultation from a vocational expert. He testified he planned on returning to work but was not sure what he could do. (Tr.pp. 30-31) He planned on getting back in the work force and working until his mid 60's. He came from a long line of people that worked until like seventy-three (73) or seventy-six (76) and intended to find a job that's suitable to his physical limitations. He also admitted he was returning to Dr. Roman on April 19, for a check-up. (Tr.p. 32)

The claimant was born on September 16, 1963, making him over fifty-nine (59) years old at the time of the hearing. (Tr.p. 34) Under cross-examination, the claimant admitted performing electrical work in California and at Ward Bus, and that he had worked four (4) years in an apprenticeship in California where he obtained his journeymen's license. The claimant also admitted taking some classes at the Community College in Morrilton involving electrical matters. He also admitted obtaining some certificates while at Ward Bus which involved forklift driving, hydraulics and AC. (Tr.pp. 35-37) He also admitted he had obtained his commercial driver's license, where he had to read some books and take a written test and he still maintained the license. He also admitted he was a union steward at one point and was one of twenty (20) elected officials. As a union steward, a member would approach him with a problem and one of his duties would be

to investigate the issue which required keeping records and paperwork. The job also required keeping up with the union dues “to a point.” (Tr.pp. 38-41) He admitted holding several positions with the union and keeping records on the computer and being capable of using emails. (Tr.pp. 42-43) While working for the Forrest Service, he used a book or manual to provide part numbers for repairs. (Tr.p. 44)

The claimant received significant conservative treatment prior to the surgery on his lower back which he had tried to avoid. He had previously had surgeries on both shoulders involving his rotator cuffs. He also admitted to a previous collapsed lung which required surgery and a history of stroke, with at least six (6) strokes that he knew of. (Tr.pp. 47-48) The claimant also admitted that after the back surgeries, the sciatic nerve pain in both legs subsided, but he still had back issues and that’s the reason he’s currently seeing Dr. Roman. In regard to the injections and relief, he responded, “sometimes you feel like you’re doing all right, and then you’re right back where you started.” (Tr.pp. 49-50)

The claimant also admitted the medications and injections that he was receiving helped a little sometimes. He could sit still or stand for about five (5) minutes, before having to move and change positions. He admitted being able to pick up a gallon of milk at the grocery store and grocery shopping. He also remembered his functional capacity examination and stated he was looking for work, but had not applied for a job at the time of the hearing. He admitted driving himself to Illinois after the accident. While there, he shot a deer by himself. (Tr.pp. 53-57)

The claimant denied working anywhere since January of 2022. He also admitted being contacted by his employer after the functional capacity exam and being released

by his physician at maximum medical improvement. He admitted meeting with his employer and wanting to keep his mechanic job. He denied talking to them about a different job. (Tr.pp. 58-59) He testified they did not have any accommodations for a mechanic job and later receiving a letter that his employment was terminated. He also admitted seeing the vocational rehabilitation counselor and the possibility of exploring work outside of the Forestry Commission. (Tr.pp. 60-61) He received a follow-up report on January 10 that provided a list of jobs in and around Greenbrier and Conway and stated he planned on following up with the list. (Tr.p. 62) The claimant also admitted to applying for unemployment, but had received a letter stating that he was not apparently going to receive any, and planning to appeal the decision. (Tr.p. 64) In regard to pursuing the jobs listed, the claimant responded, "I plan on working somewhere, some way, somehow. That's my goal" (Tr.p. 65)

On redirect, the claimant testified he did not receive a response to the question of what jobs were available. He would be willing to work at a job where he did not have to pick up batteries but never received an offer. (Tr.p. 66) The claimant also admitted currently having trouble with his shoulders, with the surgery on his shoulders around 2004. He went on to state his shoulders are about the same. Besides the strokes, he was not aware of any additional health problems. (Tr.pp. 67-68)

On recross, the claimant admitted he had an in-person meeting with the respondent and that he did not get as far as asking if there were any other jobs available but did request an accommodation for light duty as a mechanic. (Tr.pp. 69-70)

In regard to exhibits, the Commission submitted six (6) pages of additional evidence admitted without objection, which included the respondent's prehearing filing in

regard to the hearing set for January 17, 2022. In addition, the parties submitted a joint exhibit which consisted of two (2) pages of a clinic note dated January 11, 2023, from Dr. Roman. The note provided the claimant was a fifty-nine (59) year old gentleman that suffered with severe low back pain with degenerative disc disease. The claimant had injured his back while lifting a heavy battery. He ultimately had surgery by Dr. Overley, with a laminectomy and discectomy at the L4-L5 level, that was complicated by an epidural abscess that had to be re-drained. A rhizotomy was performed at L2-3, L3-4, and L4-5, bilaterally. The main issue today was his work status. The FCE has him at light duty and I think that this is appropriate. As far as Social Security Disability, “he is a deserving individual.” (Jt. Ex. 1)

“Claimant’s Exhibit 1”, consisting of thirty-four (34) pages of non-medical reports, was admitted without objection. A letter from the Arkansas Insurance Department dated November 16, 2022, provided the claimant reached maximum medical improvement on September 13, 2022, and that Dr. Roman assigned a whole-body impairment of ten percent (10%) due to the claimant’s lumbar spine injuries from 01/25/2021. (Cl. Ex. 1, p. 3) The exhibit also contained a Vocational Rehabilitation Initial Evaluation dated December 15, 2022. The report referred to a report that the claimant reached maximum medical improvement on September 13, 2022, as determined by Dr. Samuel Overley. The report also indicated a reliable effort was put forth on fifty-three (53) of the fifty-three (53) consistency measures and the claimant demonstrated the ability to perform stooping, crouching, climbing stairs, push and pull a cart, and kneeling occasionally. “He exhibited limitations with the ability to perform an occasional bi-manual lift/carry of up to twenty

pounds.” (Cl.Ex.1, pp. 4-12) The exhibit also included the Functional Capacity Evaluation that was referred to in the report. (Cl.Ex.1, pp. 13-32)

The claimant also submitted forty-five (45) pages of medical records admitted into the record without objection. An Independent Medical Evaluation dated by October 17, 2022, by Dr. Carlos Roman, provided the claimant had been seen by Dr. Overley at UAMS, who, after conservative treatment by both Dr. Overley and Dr. Smith, performed a diskectomy at L4-L5. From an interventional standpoint, epidural injections would not be indicated but a facet rhizotomy which included the L2-3, L3-4, and L4-5 facets had the potential to attenuate the back pain. The claimant does not need further surgeries and Dr. Overley also stated that. (Cl. Ex. 2, pp. 1-2)

The claimant was seen by Dr. Michael Cassat on February 8, 2021, and x-rays provided the claimant had multilevel degenerative changes without evidence of instability. (Cl.Ex.2, pp. 3-4) The claimant returned to Dr. Cassat on February 25, 2021, and discussed his MRI which showed a large central/extraforaminal disc at L3-4 and also at the adjacent segment. (Cl. Ex. 2, pp. 5-6) The claimant returned to Dr. Cassat on April 7, 2021, with the complaint of bilateral leg pain. The report provided for degenerative changes of the intervertebral discs at the T11-12 and T12- L1. The L1-2 intervertebral discs demonstrated a diffuse disc bulge with an annular tear, but with no focal disc protrusion. The L2-3 intervertebral disc demonstrated a moderate bulge with a left sided annular tear and a small disc protrusion with mild spinal canal narrowing. The L3-4 intervertebral disc demonstrated a moderate bulge with a broad- based protrusion and an associated disc extrusion. The L4-5 intervertebral disc demonstrated a moderate disc bulge with a broad-based left paracentral/subarticular disc protrusion which resulted in a

mild spinal canal narrowing. The passing left L5 nerve root was focally in contact with this disc. The L5-S1 intervertebral disc demonstrated a mild bulge with a small focal central protrusion. (Cl. Ex. 2, pp. 7-10)

The claimant was seen by Dr. Samuel Overley on May 18, 2021, for low back pain that radiated bilaterally down both legs. He was wanting to exhaust all conservative measures before discussing surgery. The report provided Dr. Overley felt that a round of injections targeting the L5 nerve roots would give him some improvement of his pain symptoms. (Cl. Ex. 2, pp. 11-16) The claimant returned to Dr. Overley on September 21, 2021, reporting he thought his pain was worse and he wanted to proceed with another round of epidural steroid injections. (Cl. Ex. 2, pp. 17-18) Approximately two (2) months later, the claimant again returned to Dr. Overley on November 16, 2021, still wanting to avoid surgical intervention and had made some improvements. (Cl. Ex. 2, pp. 19-20) The claimant returned to Dr. Overley on February 8, 2022, prior to his surgery on February 15, 2022. The report provided that the conservative therapies had thus far only provided limited relief. Two (2) types of surgeries were discussed. (Cl. Ex. 2, pp. 21-22) The claimant returned to Dr. Overley, following his post L5-S1 microdiscectomy on February 15, 2022, and his postoperative wound irrigation and debridement three (3) days later. The report provided the claimant continued to have a resolution of his pre-operative radicular symptoms but was still having post-operative back pain. (Cl. Ex. 2, pp. 23-24)

On September 13, 2022, the claimant presented to Dr. Clay for his continued back pain and his occasional left lower extremity pain. He denied any new symptoms. (Cl. Ex. 2, pp. 25-26) A report of the surgery on February 15, 2022, by Dr. Overley provided that a L4-5 hemilaminotomy, foraminotomy, and microdiscectomy was

performed. (Cl. Ex. 2, pp. 27-29) The claimant presented three (3) days later to UAMS, due to a severe thecal sac compression. (Cl. Ex. 2, pp. 30-36) The MRI report of February 25, 2021, provided multilevel disc degenerative changes in the lower thoracic and lumbar spine with disc extrusions at the L2-3, L3-4, with the L3-4 intervertebral discs, resulting in severe compromise of the passing right L4 nerve root and the exiting right L3 nerve root. (Cl. Ex. 2, pp. 37-39) The CT of the lumbar spine, dated February 10, 2022, provided multilevel disc bulging at L2-3, L3-4 and L4-5 was present with no moderate or severe canal stenosis and mild to moderate bilateral foraminal stenosis at the L4-5 level. (Cl. Ex. 2, pp. 40-41) Claimant's final report was an MRI dated July 5, 2022. The report provided congenital spinal canal stenosis was most pronounced at L2-3, appearing moderate with multilevel retrolisthesis. In addition, the report provided for an interval L4 left hemilaminotomy with a granulation of tissue in the surgical bed that partially surrounded the descending left L5 nerve root. There was a possible seroma adjacent to the L4 spinous process. (Cl. Ex. 2, pp. 42-43)

The respondents also submitted one hundred fourteen (114) pages of medical records that were admitted without objections. Many of these medical records were also introduced by the claimant. The claimant originally presented to MedExpress on January 27, 2021, stating he injured his back while picking up one hundred 100 pound batteries. (Resp. Ex. 1, pp. 1-3) The claimant returned on February 2, 2021, with continued constant back pain. (Resp. Ex. 1, pp. 4-6) Progress notes dated April 19, 2021, provided for epidural steroid injections by Dr. Gregory Smith on the right side of L3-4 and L4-5. (Resp. Ex. 1, pp. 19-22) The claimant then presented to Dr. Gary Bowman on April 30, 2021, due to his history of strokes to obtain clearance for his lower back surgery. The

report recommended a further evaluation by cardiology and possibly neurology so that a safe elective surgery could be performed. (Resp. Ex. 1, pp. 25-28) The claimant received a transforaminal epidural steroid injection on June 1, 2021, and July 27, 2021, by Dr. Sheffield Kent. (Resp. Ex. 1, pp. 35, 40, 41) In addition, the claimant received bilateral L4-5 facet joint blocks on August 3, and August 21, 2021, by Dr. Kent. (Resp. Ex. 1, pp. 42-45) The claimant received an additional transforaminal epidural steroid injection on the left side of L5-S1 on October 12, 2021, again by Dr. Kent. (Resp. Ex. 1, pp. 48-49) Dr. Kent provided the claimant a bilateral sacroiliac joint corticosteroid injection on August 9, 2022. (Resp. Ex. 1, pp. 73-74) On September 2, 2022, the claimant received pain management by Desiree Herman who opined the claimant would be a good candidate for a spinal cord stimulator. (Resp. Ex. 1, pp. 75-77) The claimant was discharged from physical therapy on September 14, 2022, with the report provided by Darren Beckham, DPT, PT. (Resp. Ex. 1, pp. 80-81) The claimant then returned for a caudal epidural steroid injection by Dr. Kent on September 15, 2022. (Resp. Ex. 1, pp. 84-85)

The respondents also submitted twenty-three (23) pages of correspondence and forms without objection. A letter from the Arkansas Department of Agriculture and addressed to the claimant provided that the FCE indicated he would, “not be able to perform essential functions of your job.” The letter also provided if the claimant was requesting an accommodation to continue his employment with the Department, he should let them know within ten (10) days or they will have to terminate his employment. (Resp. Ex. 2, p.7)

The Vocational Rehabilitation Initial Evaluation provided the claimant possessed transferable skills due to his knowledge of tools, machines, and methods used in trades or craft specialties, and he could use these skills in regard to reading and reviewing drawings or blueprints, with the ability to use shop math, hand tools, or machines in constructing or making and repairing objects and adhering to specifications or standards. The report also stated the claimant possessed a “great work history.” (Resp. Ex. 2, pp. 14-15)

The Department of Agriculture mailed a termination of employment to the claimant dated December 20, 2022, which provided the claimant had reached maximum medical improvement, had met with his supervisor, and had asked if he could just perform light duty tasks associated with mechanic work. The letter went on to provide, “there is no light heavy equipment mechanic position, and one cannot be created for you.” You were offered the opportunity to review a list of other job options within the Department, and you declined. (Resp. Ex. 2, p.17) Finally, a Vocational Rehabilitation Progress Report was introduced that provided the claimant qualified for repetitive bench or line assembly operations to mass-produced products, a car wash attendant, an electrical assembler, and an inspector of motor vehicles making up to \$20.00 an hour depending on the job obtained. (Resp. 2, pp.19-21)

### **DISCUSSION AND ADJUDICATION OF ISSUES**

The claimant has the burden of proving, by a preponderance of the evidence, that he is entitled to compensation benefits under the Arkansas Workers’ Compensation Law. In determining whether the claimant has sustained the burden of proof, the Commission shall weigh the evidence impartially, without giving the benefit of the doubt to either party.

Ark. Code Ann. §11-9-704. *Wade v. Mr. Cavananugh's*, 298 Ark. 364, 768 S.W. 2d 521 (1989). Further, the Commission has the duty to translate evidence on all issues before it into findings of fact. *Weldon v. Pierce Brothers Construction Co.*, 54 Ark. App. 344, 925 S.W.2d 179 (1996).

'Permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of the disability or impairment.' Ark. Code Ann. §11-9-102(4) (F) (ii) (a). Here the claimant's back injury was accepted as compensable. Wage-loss is the extent to which a compensable injury has affected the claimant's ability to earn a livelihood. *Taggart v. Mid. Am. Packaging*, 2009 Ark. App. 335, 308 S.W.3d 647. In considering claims for permanent partial disability benefits in excess of the employee's percentage of permanent physical impairment, the Commission may take into account, in addition to the percentage of permanent physical impairment, such factors as the employee's age, education, work experience, and other matters reasonably expected to affect his or her future earning capacity. Ark. Code Ann. §11-9-522(b)(1). There are other matters to be considered as well: motivation, post injury income, credibility and demeanor, among other factors. See *Taggart supra*. Also see *Glass v. Edens*, 233 Ark. 786, 346 S.W.2d 685 (1961); *Oller v. Champion Parts Rebuilders*, 5 Ark. App. 307, 635 S.W.2d 276 (1982); *Hope School District v. Charles Wilson*, 2011 Ark. App. 219, 382 S.W.3d 782 (2011).

Wage-loss is the degree to which the compensable injury has affected the claimant's earning capacity. The extent of disability is a question of fact for the Commission. *Cross v. Crawford County Memorial Hospital*, 54 Ark. App 130, 923 S.W.2d 886 (1996). The Commission is charged with assessing wage-loss on a case by case

basis. The award of wage-loss is not a mathematical formula but a judicial determination based on the Commission's knowledge of industrial demands, limitations, and requirements. *Henson v. General Electric*, 99 Ark. App. 129, 257 S.W. 3d 908 (2008).

Pursuant to Ark. Code Ann. §11-9-522(b)(1), when a claimant has an impairment rating to the body as a whole, the Commission has the authority to increase the disability rating based upon wage-loss factors. The wage-loss factor is the extent to which a compensable injury has affected the claimant's ability to earn a livelihood. *Emerson Electric v. Gaston*, 75 Ark. App.232, 58 S.W.3d 848 (2001). Objective and measurable physical findings which are necessary to support a determination of "physical impairment" or anatomical disability are not necessary to support a determination of wage-loss. *Arkansas Methodist v. Adams*, 43 Ark. App. 1, 858 S.W.2d (1993).

In the present matter, we have a claimant who was over fifty-nine (59) years of age at the time of the hearing and a high school graduate. He had obtained a journeyman's electrician license in California but the license would not transfer to Arkansas when he moved. He obtained his CDL and had maintained it. He worked and obtained a variety of certificates from classes through his work to improve his situation. He sought conservative treatment until it became clear he was going to be required to have surgery in order to return to work. He has a history of a good work ethic that was even noted by one of his treating physicians, Dr. Roman. He has worked his entire life in occupations that required physical labor and has never worked a "desk job." He stated, "I plan on working somewhere, someway, somehow. That's my goal." His motivation to return to work is believable. He was assigned a ten percent (10%) whole-body impairment rating which was confirmed by a second physician.

It is noted that he did drive by himself to Illinois for a family matter, but he was not on a schedule like a driver who was employed to get to a destination at a set time. He currently has difficulty standing or sitting for a period of time and his testimony in regard to this is believable. The Functional Capacity Evaluation provided the claimant could return to work in the light classification of physical demands and that he demonstrated the ability to perform stooping, crouching, climbing stairs, push and pull a cart, and kneeling occasionally. “He exhibited limitations with the ability to perform an occasional bi-manual lift/carry of up to twenty pounds.”

Based upon the above findings and the claimant being placed in the category of light duty, and after reviewing the evidence impartially, it is found that the claimant has satisfied his burden of proof, by a preponderance of the evidence, that he is entitled to a ten percent (10%) wage-loss determination in addition to his anatomical impairment rating, plus attorney fees pursuant to Ark.Code Ann. §11-9-715.

If not already paid, the respondents are ordered to pay the cost of the transcript forthwith.

IT IS SO ORDERED.

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JAMES D. KENNEDY  
Administrative Law Judge