

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO.: H208823

JOHN BAKER, EMPLOYEE

CLAIMANT

RIGID INDUSTRIAL SERVICES, LLC,
EMPLOYER

RESPONDENT

SIRIUSPOINT AMERICA INSURANCE/
SIRIUSPOINT AMERICA INSURANCE CO.,
CARRIER/TPA

RESPONDENT

OPINION FILED NOVEMBER 18, 2025

Hearing held before Administrative Law Judge Chandra L. Black, in Texarkana, Miller County, Arkansas.

Claimant represented by the Honorable Gregory R. Giles, Attorney at Law, Texarkana, Arkansas.

Respondents represented by the Honorable Lee J. Muldrow, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On August 20, 2025, the above-captioned claim came on for a hearing in Texarkana, Arkansas. Previously, a pre-hearing telephone conference was held in this matter on June 18, 2025. A Pre-hearing Order was entered that same day pursuant to the telephone conference. Said order was admitted into evidence along with the parties' pre-hearing information filings without objection as Commission's Exhibit 1.

Stipulations

During the pre-hearing telephone conference, and/or at the hearing, the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.

2. That Rigid had a company policy that if the job was over 40 miles from the Alanta shop, employees would be paid for one hour of drive time per round trip in a day. Employees would still clock in upon commencing their work at the jobsite and clock out when they left the jobsite at the end of the day. Drive time would then be added by the payroll department at the end of the week based on the job locations. All employees were paid the same policy whether they drove or did not drive to get to the jobsite.
3. That travel pay was not based on computation of actual travel time or actual expenses incurred.
4. That Mr. Baker's [the claimant] hourly rate of pay on October 7, 2022, was \$26.00 an hour.
5. Therefore, all other issues not litigated are reserved under the Arkansas Workers' Compensation Act.

Issue(s)

The parties agreed to litigate the following issue: Jurisdiction: Whether the “going and coming rule” precludes the claimant from being a covered employee, thereby making an action under workers' compensation law the exclusive remedy. In other words, whether the claimant was within the course and scope of his employment.

Contentions

The claimants' contentions and respondents' contentions are set out in their respective response to the Pre-hearing Questionnaire. Said contentions are as follows:

Claimant: Jurisdiction: The Claimant contends in this case that his injuries occurred when he was not within the course and scope of his employment when he was off the clock and asleep in the passenger seat at the time the accident occurred. The “coming and going rule” in Arkansas

precludes workers' compensation for injuries sustained while an employee is traveling to and from work. In this case, Mr. Baker contends he was not paid to travel to the job site, and Mr. Baker was not doing anything directly or indirectly to advance his employer's at the time of his accident.

Claimant contends that he was not within the course and scope of his employment when he suffered his injuries on October 7, 2022, and given the circumstances the claimant contends the Workers' Compensation Commission is not the proper jurisdiction for him to pursue remedy for the injuries sustained.

Respondents: Respondents contend that at the time of his accident, the claimant was "in the course of his employment" and by virtue of traveling from one work site to another, he was furthering the interest of his employer.

At the beginning of the hearing, the respondents further contend that the issue is whether or not this accident falls within the ruling in Ambetter v. Arkansas Workers' Compensation Act.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, including the medical reports, the documentary evidence, and other matters properly before the Commission, and after having had an opportunity to listen to the testimony of the witnesses and observe their demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The proposed stipulations set forth above are reasonable and hereby accepted.
3. The claimant was performing employment services at the time of his motor vehicle accident of October 7, 2022, because he was required by Rigid to travel from one work site to another.

4. All issues not litigated herein or addressed in this Opinion are reserved under the Act.

Summary of Evidence

The witnesses were the claimant, Rodney Ammons, Laurie Walker, Josh Turner, and Mike Hanner.

The record consists of the hearing transcript of August 20, 2025, and the exhibits held therein. In addition to the Pre-hearing Order discussed above, the exhibits admitted into evidence in this case were Claimant's Exhibit 1 include the claimant's wage records consisting of nine pages; Joint Exhibit 1 consists of one page of Additional Proposed Stipulations; Respondents' Exhibit 1 consists of two pages entitled Texas Workers' Compensation Work Status Report; Respondents' Exhibit No. 2 includes the Form AR-C; Respondents' Exhibit No. 3 encompasses three pages of paystubs; Respondents' Exhibit No. 4 includes one page, a medical record; and the parties filed Post-Hearing Trial Briefs, these have been blue-backed and made a part of the record as Commission's Exhibit 2.

Testimony

The claimant, aged 61, worked for the respondent employer on October 7, 2022. He lives in Queen City, Cass County, Texas. The claimant has his GED and some college. He confirmed that the rest of his training has basically been by on-the-job-training. The claimant has obtained, on his own, the skills and training on how to perform the employment duties of a millwright. He is also self-taught on how to do maintenance work on equipment through working various jobs. As of the date of the hearing, the claimant worked for Dusty Reeves, pouring concrete, and doing the forming and finishing.

On October 7, 2022, the claimant was employed by Rigid Industrial Services, LLC. The company's office is in Atlanta, Cass County, Texas. He confirmed that he worked out of the site

located in Atlanta, Texas. According to the claimant, he had worked for the company, this most recent time for a year or two. The claimant confirmed that Randy Ammons was his contact at Rigid, and he was his supervisor on October 7, 2022. At that time, the claimant agreed that his hourly rate of pay was \$26.00.

The following exchange took place:

- Q. What type of business is Rigid? Give us just an idea so that the Judge understands what Rigid does.
- A. Well, they're a fabrication company, slash, kind of multi-craft company, also. Do other jobs like sandblasting, painting, alignment, leveling and stuff like that on machinery.
- Q. That particular week, what was the purpose of the job? Where was the job that you had been working or assigned for Rigid that week?
- A. I was assigned at the *Holsum*¹ Mill in Prescott, Arkansas.

According to the claimant, Rigid is based in Atlanta, Texas. The claimant testified that the best way he could describe the job site is that it is an old Ford Motor Company car lot that used to be there; but now the garage part is what Rigid uses for its central office. He further explained that they have a shop and office for the supervisors and equipment that they store at the location. The claimant testified that they had been working in Prescott, Nevada County, Arkansas during the entire week of October 7. According to the claimant, there were two (the claimant and a helper) of them assigned to work in Prescott, Arkansas. He testified that they were sent there to cut the rubber off the rolls and save as much of it as possible. However, if they could get the rubber back in the rack, they would run it through. Per the claimant, most of the rubber had to be cut down to the metal on the reel and put back on or they would dispose of the rubber.

¹ Per the Respondents' Post-Trial Brief, the correct spelling for the name of the mill in Prescott, Arkansas is *Holcim*, rather than Holsum.

In October 2022, the claimant was living in Queen City, Texas. He drove from Queen City, Texas to Prescott, Arkansas. The claimant testified that Rodney told him he had the choice to catch a ride from the shop with one of the guys and that would save him on the cost of fuel. Per the claimant, Rodney further informed him that he was going to be paid for his time, after he signed in at the building that he was going to be working at each day. The claimant confirmed that upon arrival at the job site in Prescott, he had to sign in on a timesheet. According to the claimant, he would go to the guard shack, and they had a sign-in-sheet for him. He would sign in there and get a badge before entering the mill. Typically, the claimant signed in around 7:00 a.m. for that week. The claimant testified that they put in eight hours, and would leave around 4:00 p.m., unless Holcim wanted them to stay over and finish something.

He confirmed that he also had the option of going from his home to the job site, in his personal vehicle. However, that week, the claimant went to the Rigid plant in Atlanta, Texas first. Then, he rode with a coworker from the Rigid plant, in Atlanta, Texas to Prescott, Arkansas. The claimant's helper, Wes George was assigned a company truck for the commute to the Prescott mill. Once the claimant arrived at the plant in Atlanta, Texas, everything was loaded on the truck and ready for them to take off. As best the claimant could recall, they would leave the job site from Atlanta, Texas to go to Prescott, Arkansas around 5:30 a.m. The claimant testified that they were given travel pay for one hour, even though it was two hours roundtrip. He confirmed that he was paid \$26.00 for each day he traveled to Prescott. The claimant agreed that they had a company policy wherein they would pay him an hour if he had to travel more than 40 miles from Rigid's central office in Atlanta, Texas. He agreed that the company policy reads that upon commencing to drive to the mill in Prescott is when the time would start for the one hour of travel pay.

The claimant agreed that the driver was Wes George. He admitted that he was not on the approved drive list at that time because he had an accident one time prior to that in a company truck. The claimant denied that upon his arrival at the plant, he had to do anything, other than get in the truck and ride with Mr. George to Prescott, Arkansas. He denied he had any assigned job tasks to perform while riding in the truck on the way from Atlanta to Prescott. Once the claimant got in the truck on the morning of October 7, 2022, to travel from Atlanta to Prescott, he slept.

Under further questioning, the claimant explained:

Q. What happened as you were sleeping?

A. We were, I guess As far as the accident is concerned? I'm going to say about the 41 or 42 mile marker, I woke up to spinning and crashing and rolling, and Mr. George I don't know. I'm just assuming but, I guess, he dozed off and had rear-ended a eighteen wheeler, and we wound up in a ditch.

Q. So, we're here today because you have a legal action for negligence against Rigid that you're attempting to pursue, is that right?

A. Yes, sir.

Q. And the insurance carrier for Rigod is objecting to that. You're contending that the, what's called the coming and going law would preclude you from being characterized as an employee even though you were in the company truck at that time, is that what we're saying here today?

A. Yes, sir.

On cross-examination, the claimant confirmed that the respondents took his deposition in January. He agreed that on the morning of October 7, 2022, he drove from his home in Queen City, Texas to Atlanta, Texas, where the Rigid shop is found. He met Mr. George at the shop. There was a piece of equipment that they had to carry in the truck with them to the plant to do the job they were doing, which included stripping the mandrels. The claimant traveled in the company truck with Mr. George that morning with the equipment needed to do the job. He confirmed that

in his deposition, he testified that he had his personal tools that he had to take with him to do the job because he was sort of the lead person on the job and Mr. George was kind of his helper. The claimant confirmed that when he arrived at the Prescott facility each day, he signed in, and when he left the mill, he signed out. He confirmed that he began getting his hourly pay until he signed out at the end of the day.

The claimant confirmed that during his deposition, he testified that he did not get anything for his travel time, but he subsequently found out when they gave him his pay records, he was mistaken about the travel pay. He confirmed that he did get some travel pay, but not the hourly pay that he would get if he were working on the site, but he got some travel pay. In other words. The claimant received one hour travel pay as opposed to pay for two hours to travel to the location. He confirmed that this was the travel policy as he now understands it. The claimant confirmed that he was just mistaken when he said he did not get any travel pay. He admitted that the purpose of their trip from the Atlanta, Texas to Prescott, Arkansas was to fulfill a contract that Rigid had with the mill at Prescott. He confirmed that it was necessary for him to travel to the mill at Prescott in order for him to do what needed to be done.

The following exchange took place:

Q. So, your job, although you weren't compensated fully for it, your job really has two elements to it. One, you've got to get there, travel from either home or from the mill to Prescott and, two, you've got to do your job stripping the mandrels or the rubber using the equipment you brought from the mill, is that right?

A. Yes, sir.

The claimant confirmed that after the accident, he initially thought he could go to the mill and he would be okay, but when he got there, he realized that he needed to get checked out. The claimant confirmed that he went back to Texarkana, Texas and got checked out at HealthCare

Express. There, the claimant was evaluated because he was complaining of a right wrist, left shoulder and a headache. He was given a follow-up appointment for October 31. The claimant confirmed that he returned for the follow-up appointment. He was off work the next day and the weekend and returned to work the following Monday. The claimant confirmed he continued to work at the Prescott mill from that date until the job was done in December of that year (2022).

He specifically confirmed that he filed a workers' compensation claim on December 19, 2022. The claimant confirmed that he contacted the Rainwater Law Firm because he just wanted his wrist and neck fixed. Although in the Form AR-C it is alleged that the claimant was in the scope and course of employment and sustained injuries to both shoulders, his neck, right wrist and whole body, the claimant denied his injuries involved the whole body.

The claimant returned to work for Rigid in March 2023. The claimant confirmed that the claim filed by the Rainwater Firm was withdrawn. He basically testified that he received a letter from the firm stating that they were withdrawing as counsel, and that claim was no longer being pursued. The claimant admitted that he continued to work for Rigid until the job played out on March 24, 2023. He confirmed that once the Rainwater Firm withdrew, his current attorney filed another workers' compensation claim in October of last year in Arkansas. The claimant agreed that the current claim said he was not in the course and scope of employment, and it was filed for the purpose of establishing that this accident did not happen in a compensable way. He agreed that he filed a civil lawsuit in Hempstead County against his employer, and the driver, Mr. George. The claimant agreed that he filed a civil action and the reason that the workers' compensation claim needs to be established as not being compensable is to allow him to pursue the civil action. He agreed that if it is a workers' compensation matter, the exclusive remedy doctrine would

prevent him from filing a claim against his employer, but he would still be entitled to appropriate workers' compensation benefits.

On redirect examination, the claimant confirmed that whether he drove from his home in Queen City, Texas or he drove in the company vehicle from the plant in Atlanta, he was not doing anything as a passenger in the vehicle to benefit his company until he got to the job site and clocked in and started getting paid. He denied he had any specific instructions or directions to do anything while riding in the company truck.

However, the claimant confirmed on recross examination that he had a job to do at the Prescott mill, which was a contract between Rigid and the Prescott mill to get a certain job done upon his arrival at the mill. He admitted that he could not have done that job had he not driven there (to Prescott, Arkansas). The claimant confirmed that doing the job that day involved two things. First, it involved traveling to the mill and then working at the mill. He agreed that if he failed to do either one of these two things, then he could not have done his job.

He confirmed on further cross-examination, when he was driving from his home to the shop in Atlanta, he was not paid anything for that commute.

Rodney Ammons

Mr. Ammons was called as a witness to testify on behalf of the claimant. He testified that he is employed through 3D Industrial Services as a mechanical manager. His job title on October 7, 2022, when he was employed with Rigid, and was VP of Operations. Mr. Ammons worked for Rigid for seven years. He confirmed that he was the claimant's supervisor. He testified that the nature of Rigid's business was contractor for fabrication and mechanical services. According to Mr. Ammons, Rigid typically had in their Atlanta office anywhere from five to 25 employees. He

confirmed that hourly employees had to sign a time sheet. Mr. Ammons explained that process in detail. (Tr. at 42-43)

He confirmed that it was company policy to pay employees an hour for their travel time that day. Mr. Ammons confirmed that it was not company policy for them to have to check in at the shop before they went to the job site. He testified that they were allowed to come to the shop if they wanted a ride to the job site in a company vehicle or they could just go to the assigned site in their own vehicle and punch in there when they started working. He confirmed that as far as travel pay, whether a person decided to drive his or her own vehicle or whether the employee rode as a passenger, however the employee got to the job site at Prescott, he or she received travel pay of one hour, which was at the employee's hourly rate.

He denied that during the week of October 7, 2022, the claimant was assigned any responsibilities that he had to perform other than the job he was assigned to work in Prescott, Arkansas. Mr. Ammons denied that the claimant had any duties or responsibilities as an employee of the company while in the vehicle traveling from the head office in Atlanta, Texas to the job site in Prescott, Arkansas.

On cross-examination, Mr. Ammons confirmed that he would bid contracts and things of that nature for Rigid. He confirmed that he negotiated the contract that the claimant and Mr. George were doing at the mill in Prescott. Mr. Ammons confirmed that he assigned them to do this job.

He confirmed that there are two things that had to be done to get the job done. They had to get there by driving from Atlanta, Texas to Prescott, Arkansas; and then they had to do the for work for job at the Prescott mill.

Laurie Walker

The respondents called Ms. Walker as a witness. In October of 2022, Ms. Walker was the assistant to the controller for Rigid. She confirmed that she had access to the pay records for all of Rigid employees. Ms. Walker admitted that she brought the pay records of another employee just to have examples. She confirmed that employees who had to travel more than 40 miles from the shop in order to do the job, are paid travel time. Ms. Walker confirmed that it is company policy for an employee to be paid travel time in the above instance. She testified that they are paid while traveling from one work site to another. Ms. Walker was shown the pay sheet for the claimant for the week of the accident, October 3 through October 9. She testified that the claimant worked 36 ½ hours regular time and had four days of driving/traveling time, for which he would have been paid one hour for each day. Ms. Walker confirmed that this was the company's travel policy which was issued on January 9, 2018. It is Respondents' Exhibit 4. She confirmed that the claimant rode in the company truck from the shop in Atlanta, Texas to the work site in Prescott, Arkansas. Ms. Walker confirmed that she made out the pay slips and arranged for the pay of the hourly employees for this and followed the rules in doing so. She agreed that the prior testimony is correct, that the claimant was paid his full pay when he arrived at the Prescott mill, and he got the lesser rate of pay while he was traveling more than 40 miles from the home office, which is consistent with their company policy. She admitted that when an employee is traveling to the assigned work site, they are traveling advancing the employer's interests.

Josh Turner

Mr. Turner testified on behalf of the respondents. He works for Rigid Industrial Services, LLC. He confirmed that he travels in connection with his work. Mr. Turner confirms that he does

similar work that the claimant handled for the company. He confirmed that if the claimant was required to travel from the facility at Atlanta, Texas to a job that was more than 40 miles away, he was paid for his travel time. Mr. Turner confirmed that the claimant was paid one hour of travel pay, at his hourly rate for travel time, which is consistent with the pay policy. Per Mr. Turner, the claimant received one hour of pay per day for his travel time. He denied that the claimant was compensated for driving his private vehicle from his home, in Queen City, Texas, to the shop in Atlanta, Texas.

Mike Hanner

Mr. Hanner was called as a witness on behalf of the respondents. He is the owner of the company Rigid Industrial Services LLC. Mr. Hanner testified that he has both hourly and salaried employees. According to Mr. Hanner, the claimant was an hourly employee, and Ms. Walker is a salaried employee. Mr. Hanner confirmed that he was aware of the accident that the claimant was involved in on October 7, 2022. He was told about the two workers' compensation claims being filed, with one of them being withdrawn.

He confirmed that when employees commute from their home, to or from the shop, in Atlanta, Texas, they are not paid. Per Mr. Hanner, travel pay is consistent with the company policy for a commute of more than 40 miles from his shop in Atlanta, Texas. He confirmed that this would be the case for all hourly workers.

On cross-examination, Mr. Hanner agreed that it is essential for the operation of his business that his employees travel from their home to his business every day and report for work on time. He testified that they do not pay employees when they travel from their home to the Rigid shop, in Atlanta, Texas.

Adjudication

Here, the facts are undisputed. On October 7, 2022, the claimant was employed as a millwright for Rigid Industrial Services, LLC. The evidence shows that it is Rigid's written company policy that employees are paid travel pay of one hour roundtrip if he or she must travel more than 40 miles from his or her home or Rigid's head shop, which is located in Atlanta, Texas. At the time of his accident, the claimant was assigned to work at the mill in Prescott, Nevada County, Arkansas, which is more than 40 miles from Atlanta, Cass County, Texas. The claimant lived in Queen City, Cass County, Texas on October 7, 2022, and continues to live there. According to company policy, the claimant had the option of driving from his home to Rigid's home office in Atlanta, Texas, and riding in the company truck to Prescott, Arkansas. Employees were given this choice to save on the cost of fuel. Whether the employee drove his or her own vehicle or rode in the company truck to the assigned job location, employees received one hour of pay for his or her travel time. In this instance, on the morning of his accidental injury, the claimant drove from his home to Rigid's shop in Atlanta, Texas and rode as a passenger in the company truck to Prescott, Arkansas. The claimant was paid for his time traveling of one hour for his drive from the head office in Atlanta, Texas to the mill in Prescott, Arkansas because he had to travel more than 40 miles from the shop. He was paid for one hour of travel at his hourly rate of \$26.00.

On the morning of the motor vehicle incident, the claimant was riding as a passenger in the company truck, with his helper, Wes George. The claimant was asleep in the truck and had no assigned tasks to perform for Rigid, except to arrive at the mill in Prescott. It is unclear what caused the accident; but the claimant surmised that Mr. George fell asleep and rear-ended an 18-wheeler, causing the truck to land in a ditch. The claimant sought medical attention that day for his injuries.

In *Hudak-Lee v. Baxter County Reg. Hosp.*, 2011 Ark. 31, 378 S.W.3d 77, the Arkansas

Supreme Court stated:

In order for an accidental injury to be compensable, it must arise out of and in the course of employment. Ark. Code Ann. § 11-9-102(4)(A)(i) (Supp. 2009). A compensable injury does not include an injury that is inflicted upon the employee at a time when employment services are not being performed. Ark. Code Ann. § 11-9-102(4)(B)(iii) (Supp. 2009). The phrase “in the course of employment” and the term “employment services” are not defined in the Workers' Compensation Act. *Texarkana Sch. Dist. v. Conner*, 373 Ark. 372, 284 S.W.3d 57 (2008). Thus, it falls to the court to define these terms in a manner that neither broadens nor narrows the scope of the Act. *Id.*

An employee is performing employment services when he or she is doing something that is generally required by his or her employer. *Id.*; *Pifer v. Single Source Transp.*, 347 Ark. 851, 69 S.W.3d 1 (2002). We use the same test to determine whether an employee is performing employment services as we do when determining whether an employee is acting within the course and scope of employment. *Jivan v. Econ. Inn & Suites*, 370 Ark. 414, 260 S.W.3d 281 (2007). The test is whether the injury occurred within the time and space boundaries of the employment, when the employee was carrying out the employer's purpose or advancing the employer's interest, directly or indirectly. *Id.* In *Conner*, 373 Ark. 372, 284 S.W.3d 57, we stated that where it was clear that the injury occurred outside the time and space boundaries of employment, the critical inquiry is whether the interests of the employer were being directly or indirectly advanced by the employee at the time of the injury. Moreover, the issue of whether an employee was performing employment services within the course of employment depends on the particular facts and circumstances of each case. *Id.*

I am unable to find that the “going and coming rule” applies to these facts. The claimant was not commuting between his home and work. Therefore, I am unable to find that the “going and coming rule” has any application to the facts surrounding this claim. Here, the claimant was traveling from Rigid’s home office in Atlanta, Texas, to his assigned work site, in Prescott, Arkansas, when his accidental motor vehicle injury occurred. The claimant’s work with Rigid entailed traveling to an assigned remote location, which was the mill located in Prescott, Arkansas. The evidence shows that the claimant was following the instructions he had been given by his supervisor, *which was to travel to Prescott, Arkansas, and do his assigned duties there at the mill.*

While carrying out these instructions, the claimant was injured in a motor vehicle accident while enroute from Rigid's head office in Atlanta, Texas to his assigned job site, which was located in Prescott, Arkansas.

At the time of his accident, the claimant was "in the course of his employment" by virtue of his traveling from one work site to another. Here, the claimant was carrying out the express directions of his employer at the time of the accident, even though he was not engaged in the activity for which he was primarily employed to perform at the mill in Prescott, Arkansas.

Therefore, I find that the claimant was furthering the interest of his employer by traveling from Rigid's home office in Atlanta, Texas to his assigned work site in Prescott, Arkansas, despite the fact that he might have been dozing and was not working on any assigned duties while riding as a passenger in the company truck. Hence, the evidence preponderates that claimant was acting within the course and scope of his employment with Rigid when he suffered injuries in a motor vehicle accident on October 7, 2022. Under these circumstances, I must find that the claimant's proper and exclusive remedy for any of his injuries arising out of October 7, 2022, motor vehicle accident falls under the jurisdiction of the Arkansas Workers' Compensation Act.

ORDER

Based on the foregoing findings of facts, the exclusive remedy for this claim falls under the jurisdiction of the Arkansas Workers' Compensation Act.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge

