

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H500305**

**WENDY JAMILETH CARBANTES,
ALLEGED EMPLOYEE**

CLAIMANT

**BELL PLANTING CO.,
ALLEGED EMPLOYER**

RESPONDENT NO. 1

**STONETRUST COMMERCIAL INS. CO.,
CARRIER**

RESPONDENT NO. 1

**RITO RENARDO LUCIANO
UNINSURED ALLEGED EMPLOYER**

RESPONDENT NO. 2

OPINION FILED FEBRUARY 20, 2026

Hearing before Administrative Law Judge O. Milton Fine II on December 5, 2025, in Jonesboro, Craighead County, Arkansas.

Claimant represented by Mr. Andy L. Caldwell, Attorney at Law, Little Rock, Arkansas.

Respondents No. 1 represented by Mr. Michael E. Ryburn, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2, *pro se*, failed to appear.

STATEMENT OF THE CASE

On December 5, 2025, the above-captioned claim was heard in Jonesboro, Arkansas. A prehearing conference took place on September 8, 2025. The Prehearing Order entered on that date pursuant to the conference was admitted without objection as Commission Exhibit 1. At the hearing, the parties confirmed that the stipulations, issues, and respective contentions, as amended, were properly set forth in the order.

Stipulations

At the hearing, the parties discussed the stipulations set forth in Commission Exhibit 1. After the withdrawal of Stipulation No. 3, they read as follows:

1. The Arkansas Workers' Compensation Commission (the "Commission") has preliminary jurisdiction over this claim.
2. This claim has been controverted in its entirety.

Issues

The parties discussed the issues set forth in Commission Exhibit 1. The following were litigated:

1. Whether Claimant's work for Respondent Bell Planting Company constituted "employment" under Ark. Code Ann. § 11-9-102(11)(A)(iii).
2. Whether Claimant was an employee of Respondent Bell Planting Company on January 9, 2025, and at all other relevant times.
3. Whether Claimant was an employee of Respondent Rito Renardo Luciano; and whether Respondent Luciano was an uninsured subcontractor of Respondent Bell Planting Company on January 9, 2025, and at all other relevant times.
4. Whether Claimant sustained a compensable injury to her left lower extremity by specific incident.
5. Whether Claimant is entitled to reasonable and necessary treatment of her alleged injury.

6. Whether Claimant is entitled to temporary total disability benefits from January 10, 2025, to a date yet to be determined.

7. Whether Claimant is entitled to a controverted attorney's fee.

All other issues have been reserved.

Contentions

The respective contentions of the parties, following amendments at the hearing, read as follows:

Claimant:

1. Claimant was performing agricultural farm labor for Respondent Bell Planting Company at the time of her injury on or about January 9, 2025. Therefore, she was not performing "employment" under the Arkansas Workers' Compensation Act; and the Exclusive Remedy Provision thereunder is inapplicable. The Arkansas Workers' Compensation Commission does not have jurisdiction over this matter.
2. In the event that the Commission finds that Claimant is subject to the Arkansas Workers' Compensation Act, Claimant contends that she sustained an injury to her left leg on about January 9, 2025. She was removing beans from a storage silo and her foot became caught in an auger in a grain bin, resulting in the amputation of her left leg below the knee. Respondents have controverted the claim in its entirety.
3. Claimant's average weekly wage will be determined by her contract of hire; and she will offer testimony bearing on that. She contends that she

is entitled to temporary total disability benefits from January 10, 2025, to a date yet to be determined. Upon information and belief, she is at maximum medical improvement; but the exact date is not currently known. She is entitled to 131 weeks of permanent partial disability benefits for her below-the-knee amputation, in accordance with Ark. Code Ann. § 11-9-521. Based upon Claimant's age, education, work experience, and other factors, she is permanently and totally disabled. She is also entitled to reasonable and necessary medical treatment, along with mileage reimbursement in connection with her treatment. Respondents No. 1 directed the initial medical treatment that Claimant underwent; and they should be responsible for the ambulance, air flight, and hospital stay in that they directed her medical treatment, even if the Commission finds that the claim is otherwise not compensable.

4. Respondents have controverted the claim in its entirety. Therefore, Claimant's counsel is entitled to a controverted attorney's fee on any indemnity benefits awarded herein.
5. All other issues have been reserved.

Respondents No. 1:

1. Respondent Bell Planting Company is a farming operation. There are periods of time before the H2A workers start that require contract labor. The owners of the farm call Respondent Rito Luciano, who then sends a worker to the farm on a daily basis. Luciano hires and pays the workers.

He runs a temporary worker employment service. Claimant is not an employee of Respondent Bell Planting Company. Luciano is not an uninsured contractor as he is not in the same farming business; he is in the temporary employment business.

2. Respondents No. 1 further contend that Claimant was both a temporary worker and a seasonal worker. For that reason, the valuation of her average weekly wage is controlled by *Sierra v. Griffin Gin*, 374 Ark. 320, 287 S.W.3d 556 (2008), where the Arkansas Supreme Court determined that seasonal workers have their gross wages divided by 52 weeks.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, including medical reports and other matters properly before the Commission, and having had an opportunity to hear the testimony of the hearing witnesses and to 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 Stipulations set out above are reasonable and are hereby accepted.
3. Claimant's Proffered Exhibit 3 will be admitted into evidence and given due weight.
4. Claimant's Proffered Exhibit 4 will not be admitted into evidence.
5. Claimant's Proffered Exhibit 5 will not be admitted into evidence.

6. Claimant's Proffered Exhibit 6 will be admitted into evidence and given due weight.
7. Claimant's Proffered Exhibit 7 will not be admitted into evidence.
8. Claimant's Proffered Exhibit 8 will be admitted into evidence and given due weight.
9. Claimant has not proven by a preponderance of the evidence that her alleged left lower extremity injury was compensable because regardless of whether the alleged employer on the date of injury was Respondent Bell Planting Company and/or Respondent Rito Renardo Luciano, her work for either or both on that date constituted "[a]gricultural farm labor" under Ark. Code Ann. § 11-9-102(11)(A)(iii) (Supp. 2023).
10. Because of Finding/Conclusion No. 9, *supra*, the remaining issues are moot and will not be addressed.

PRELIMINARY RULINGS

Admission of Claimant's Proffered Exhibit 3

At the hearing, Claimant sought the admission of this proffered exhibit, consisting of a summary of a recorded statement purportedly given by hearing witness Edward Becton Bell II ("Becton Bell") to Lori Marionneaux, who is an insurance adjustor with Central Adjustment Company. Respondents No 1 objected, noting that the subject of the statement was present in the courtroom and was to testify. In fact, he not only testified at the hearing, but his deposition was admitted into evidence. *See supra*.

Respondents No. 1 also pointed out that the summary was not only hearsay, but was merely a summary of a statement.

The analysis of this aspect of the issue falls within the purview of Ark. Code Ann.

§ 11-9-705(a)(1) (Repl. 2012), which states:

In making an investigation or inquiry or conducting a hearing, the Workers' Compensation Commission shall not be bound by technical or statutory rules of evidence or by technical or statutory rules of procedure, except as provided by this chapter, but may make such investigation or inquiry, or conduct the hearing, in a manner that will best ascertain the rights of the parties.

Under this provision, the Commission is not bound by the Arkansas Rules of Evidence—including the rules governing hearsay and the exceptions thereto. See *Tracor/MBA v. Artissue Flowers*, 41 Ark. App. 186, 850 S.W.2d 30 (1993).

After consideration of this matter, I find that admission of this summary would help to “best ascertain the rights of the parties.” While he was on the stand, Becton Bell was shown a copy of the summary and was given an opportunity to explain his answers thereon. This proffered exhibit will be admitted into evidence and given due weight.

Admission of Claimant's Proffered Exhibit 4

This proffered exhibit is a summary of the interview of Phillip Bickerstaff that was conducted by Marionneaux. Respondents No. 1 lodged an objection to the admission of the summary on similar grounds as they did to Becton Bell's. The key distinction in this case, however, is that while Bickerstaff was sworn in as a witness at the hearing, neither side called him to testify. Thus, even the parties decided that his testimony was not worth being placed into the evidentiary record. Admission of a summary of an unsworn interview by him would, it is reasonable to conclude, certainly not help to “best

ascertain the rights of the parties.” Therefore, Claimant’s Proffered Exhibit 4 will not be admitted into evidence.

Admission of Claimant’s Proffered Exhibit 5

This proffered exhibit is Marionneaux’s summary of the interview she conducted with Maria Ribera, the wife of Respondent Luciano. Similar objections were offered against its admission. As reflected in Claimant’s Exhibit 9, Claimant attempted—without success—to subpoena Ribera to testify at the hearing. I have no means with which to assess the credibility of Ribera or determine the truthfulness of what she purportedly conveyed to Marionneaux. Thus, Claimant’s Proffered Exhibit 5 will not be admitted into evidence.

Admission of Claimant’s Proffered Exhibit 6

This proffered exhibit is the summary by Marionneaux of the interview she conducted with Wesley Byers. Due to his unavailability on the day of the hearing, the Claimant and Respondents No. 1 arranged for him to give an evidentiary deposition after the hearing, which was admitted as Joint Exhibit 1. For the same reason as that for the admission of the Becton Bell interview summary, Claimant’s Proffered Exhibit 6 will be admitted into evidence and given due weight.

Admission of Claimant’s Proffered Exhibit 7

This proffered exhibit is Marionneaux’s summary of her interview with Respondent No. 2, Rito Luciano. Luciano failed to appear on either the prehearing telephone conference or at the hearing, despite being given reasonable notice of each. As was the case with respect to his wife, Ribera, I am not able to determine his

credibility. Therefore, admission of Claimant's Proffered Exhibit 7 will not help to "best ascertain the rights of the parties." Accordingly, it will not be admitted into evidence.

Admission of Claimant's Proffered Exhibit 8

This proffered exhibit is the summary by Marionneaux of the interview she conducted with Ross Bell. This individual testified at the hearing. For the same reason as that for the admission of the Byers and Becton Bell interview summaries, Claimant's Proffered Exhibit 8 will be admitted into evidence and given due weight.

CASE IN CHIEF

Summary of Evidence

The hearing witnesses were Claimant, Ross Haynes Bell, and Edward Becton Bell II.

In addition to the Prehearing Order discussed above, admitted into evidence in this case were the following: Commission Exhibit 2, the Prehearing Order that was sent via certified mail to Respondent No. 2, along with the enclosure letter and envelope; Commission Exhibit 3, the prehearing questionnaire responses of Claimant and Respondents No. 1, consisting of four and two numbered pages, respectively; Claimant Exhibit 1, a compilation of her medical records, consisting of one index page and 27 numbered pages thereafter; Claimant's Exhibit 2, the transcript of the deposition of Becton Bell taken on June 19, 2025, plus attachments, consisting of 80 pages; Claimant's Exhibit 3, the interview summary of Becton Bell taken January 14, 2025, consisting of four pages; Claimant's Exhibit 6, the interview summary of Wesley Allen Byers taken January 16, 2025, consisting of three pages; Claimant's Exhibit 8, the

interview summary of Ross Bell taken January 16, 2025, consisting of four pages; Claimant's Exhibit 9, the Service Return of the witness subpoena for Maria Rivera, consisting of two pages; and Joint Exhibit 1, the deposition of Wesley Allen Byers taken December 16, 2025, consisting of 31 numbered pages.

Adjudication

A. Compensability

At the outset, it must be determined whether Claimant sustained a compensable injury to her left lower extremity. In order to prove the occurrence of an injury caused by a specific incident identifiable by time and place of occurrence, a claimant must show that: (1) an injury occurred that arose out of and in the course of her employment; (2) the injury caused internal or external harm to the body that required medical services or resulted in disability or death; (3) the injury is established by medical evidence supported by objective findings, which are those findings which cannot come under the voluntary control of the patient; and (4) the injury was caused by a specific incident and is identifiable by time and place of occurrence. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

If any of the above elements are not established by a preponderance of the evidence, compensation must be denied. *Id.* This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

A claimant's testimony is never considered uncontroverted. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). The determination of a witness'

credibility and how much weight to accord to that person's testimony are solely up to the Commission. *White v. Gregg Agric. Ent.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001). The Commission must sort through conflicting evidence and determine the true facts. *Id.* In so doing, the Commission is not required to believe the testimony of the claimant or any other witness, but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *Id.*

Under Ark. Code Ann. § 11-9-102(11)(A)(iii) (Supp. 2023):

“Employment” means:

(A) Every employment in the state in which three (3) or more employees are regularly employed by the same employer in the course of business except:

. . .

(iii) Agricultural farm labor[.]

With respect to the first element of the compensability issue, if the alleged injury arose out of and in the course of alleged employment that consisted of “[a]gricultural farm labor,” the injury is not one governed by the provisions of the Arkansas Workers' Compensation Act.

In determining whether the “[a]gricultural farm labor” exemption applies in a particular case, the courts have focused more on “the nature and character of” the business of the alleged or purported employer as opposed to the “nature and character of” the task in which the claimant was engaged at the time of injury. See *Griffith v. Int'l Cattle Embryo, Inc.*, 23 Ark. App. 58, 742 S.W.2d 124 (1988)(citing *Dockery v. Thomas*, 226 Ark. 946, 295 S.W.2d 319 (1956); *Great Amer. Indemn. Co. v. Bailey*, 221 Ark. 469,

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254 S.W.2d 322 (1953); *Gwin v. J.W. Vestal and Sons*, 205 Ark. 742, 170 S.W.2d 598 (1943)). Whether the employment at issue is comprised of “[a]gricultural farm labor” is a legal question. *Griffith, supra*; *Franklin v. McCoy*, 234 Ark. 558, 353 S.W.2d 166 (1952); *Gwin, supra*. Even if the alleged injury happened while the claimant was performing a non-farm work function, it still falls within the ambit of the exemption if nature of the employer’s business is primarily agricultural. See, e.g., *Gwin, supra*.

With respect to Respondent Bell Planting Company (“Bell Planting”), Ross Bell testified that he is one (along with his brother, Becton) of its general partners. The following exchange occurred during his direct examination:

Q. And what does Bell Planting do?

A. I mean, as—I mean, we farm.

Q. So—

A. Grow crop grains.

Ross Bell identified the Audit Summary in evidence as being prepared by Respondent Stonetrust for Respondent Bell Planting. It reads in pertinent part:

The insured operates a row crop farm. The insured will grow corn, soybeans, wheat, and rice. The employees will plant, cultivate, and harvest crops and will transport them to the various mills. They will perform routine maintenance around the farm.

The summary of the statement that Becton Bell provided Marionneaux that is in evidence reflects that he informed her that Bell Planting “produce[s] soybeans, rice, corn, and wheat on 14,000 acres of farmland. Ross Bell gave a similar statement to Marionneaux.

The evidence above shows the primary function of Respondent Bell Planting was and is row crop farming. This unquestionably constitutes “[a]gricultural farm labor.” As discussed above, the primary function of the alleged employer controls over the activity in which the claimant was engaged at the time of the injury was sustained for purposes of applying the exemption. But Claimant testified that her left lower extremity was injured by an auger inside a grain bin at Bell Planting. She was sweeping out the bin. The auger pulled soybeans out of the bin and into trucks. Her work was clearly “[a]gricultural farm labor.” Consequently, insofar as Claimant’s claim relates to Respondent Bell Planting being her alleged employer on January 9, 2025, the compensability of her alleged left lower extremity injury has not been established because it has not been shown that such arose out of and in the course of her employment there because the § 11-9-102(11)(A)(iii) exemption from the definition of “employment” controls.

As for Respondent No. 2, Luciano, the evidence at bar likewise shows that he, too, falls under the above exemption. Ross Bell testified that Bell Planting would contract with Luciano to furnish the company labor. He added that the Bell Planting would issue a check for the labor to Luciano to apportion among the workers he had procured. Claimant’s testimony was that Luciano would receive the pay for Claimant’s services; and that he, in turn, gave it to his wife, Maria, to remit to Claimant.

The following exchange took place during the direct examination of Ross Bell:

Q. According to this statement, the—or at least the summary of the statement [Claimant’s Exhibit 8] . . . when the job with the grain bins was finished, the employees may go and help you or go help another farmer plant. Is that also correct?

- A. Yes. So they have worked—Rito [Luciano] and his wife, on just a handful of occasions, have worked at my house doing flower bed work and they have cleaned a couple [of] rent houses for me a few times on just a handful of occasions. And I would write the check directly to Rito just like the farm on those occasions, too.

The witness summary of Ross Bell referenced above shows that he was referencing the people that Luciano procured for Bell Planting when he informed Marionneaux that they also helped with planting. He went on to state, per the summary, that they “do a lot of seasonal work for a couple of different farmers.” The Becton Bell summary reflects that he told Marionneaux that Bell Planting had used Respondent Luciano and his crew for approximately four to ten years to clean out grain bins.

In his June 19, 2025, deposition, Becton Bell testified that Ross Bell “would always text Rito that we needed a crew to come do this or that, whatever the job may be, whether it be to put in rice fields in the summer or to pull weeds out of a field in the summer, or to clean grain bins in the winter.”

The evidence at bar thus establishes that the “the nature and character of” Luciano’s business, per *Griffith, supra*, was to procure workers to perform agricultural labor—whether it be planting, pulling weeds, or cleaning out grain bins. Notwithstanding the evidence that Luciano’s business also included some landscaping and housecleaning, it was clearly primarily agricultural under *Gwin, supra*. Thus, to the extent that the instant claim is founded on Claimant allegedly being employed by an uninsured subcontractor, Respondent Luciano, of Respondent Bell Planting on January 9, 2025, Claimant’s alleged left lower extremity injury has again not been proven to be compensable. This is because it has not been shown that the injury arose out of and in

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the course of her employment by Luciano because the “[a]gricultural farm labor” exemption applies to him as well.

B. Remaining Issues

Because of the above finding, the remaining issues are moot and will not be addressed.

CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, this claim for initial benefits is hereby denied and dismissed.

IT IS SO ORDERED.

Hon. O. Milton Fine II
Chief Administrative Law Judge