

Arkansas
State Claims Commission

MAY 11 2017

RECEIVED

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

Mr.
Mrs.
Miss

Daniel Walker, as Ancillary Administrator of the Estate of
Janet Rae Walker, Deceased

vs.

State of Arkansas, Respondent

Arkansas State Highway and Transportation Dept.
COMPLAINT

Do Not Write in These Spaces
Claim No. 17-0711-CC
Date Filed MAY 11, 2017
(Month) (Day) (Year)
Amount of Claim \$ 3,000,000.00
Fund AHTD
Negligence, Property Damage
and Wrongful Death

Daniel Walker, as Ancillary Administrator, of 4507 Parkridge Drive Benton
(Name) (Street or R.F.D. & No.) (City)
Louisiana 71008 County of Bossier represented by Jack N. Boyd, Jr.
(State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Claim)
of 2301 Moores Lane Texarkana Texas 75503 803-838-8123 903-832-8489 says
(Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.)
State agency involved: Arkansas State Highway and Transportation Department Amount sought: \$ 3,000,000.00
Month, day, year and place of incident or service: 08/10/2015 at Log Mile 13.528 of Hwy 27 North in rural Pike County
Explanation: Please see attached.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?
No ; when? ; to whom? ; to whom? ; (Department)
(Yes or No) (Month) (Day) (Year) (Department)
; and that the following action was taken thereon:

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? No ; if so, state name and address
(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)
and that thereafter thereon is as follows: ; and was acquired on ; in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the contents and things set forth in the above complaint, and that he or she verily believes that they are true.

Jack N. Boyd, Jr.

(Print Claimant/Representative Name)

(Signature of Claimant/Representative)



SWORN TO and subscribed before me at

in this 9th day of May, 2017
(Date) (Month) (Day) (Year)

Liza B. McCubbin
(Notary Public)

My Commission Expires:

8 - 3 - 17
(Month) (Day) (Year)

BP1- R7799

BOYD PRAZAK, LLP
ATTORNEYS AT LAW
A REGISTERED LIMITED LIABILITY PARTNERSHIP

JACK N. BOYD, JR.
JONATHAN R. PRAZAK

2301 MOORES LANE
TEXARKANA, TEXAS 75503

(903) 838-6123
WWW.BOYDPRAZAK.COM

May 9, 2017

ARKANSAS STATE CLAIMS COMMISSION
101 East Capitol Avenue
Suite 410
Little Rock, Arkansas 72201-3823

Re: Daniel Walker, as Ancillary Administrator
of the Estate of Janet Rae Farrer Walker,
Deceased,

Claimant

v.

State of Arkansas

Respondent

Explanation for Arkansas Claims Commission Complaint

In support of Claimant's claims, enclosed please find: (1) a copy of the Ancillary Letters of Administration issued to Daniel Walker in Pike County, Arkansas on January 31, 2017 (Exhibit A); (2) a copy of Janet Walker's death certificate (Exhibit B); (3) a copy of the Arkansas Motor Vehicle Crash Report related to the Decedent's motor vehicle accident on September 10, 2015 (Exhibit C); (4) the Affidavit of Lawrence Walker dated May 4, 2017 (Decedent's surviving spouse and the only witness to the accident) (Exhibit D); (5) a copy of the report dated March 3, 2017 and CV of James J. Valenta, PE, MSCE, FITE (Exhibit E); (6) a copy of a response to a FOIA request from the Arkansas State Highway and Transportation Department dated November 18, 2015 (Exhibit F); (7) nine (9) photographs of HWY 27 N at approximately log mile 13.528 taken on September 26, 2016 (Exhibit G); (8) the Affidavit of Pike County Chief Deputy, David Shelby (Exhibit H), (9) the affidavit of Bradley Mayo dated May 2, 2017, Janet Walker's employer (Exhibit I), and (10) a copy of Janet Walker's 2014 Federal Income Tax Return (Exhibit J).

On September 10, 2015, Decedent Janet Rae Farrer Walker and her husband, Lawrence Walker, were traveling Northbound on State Highway 27 between Murfreesboro and Kirby on separate motorcycles. *See* Exhibit C. At that time, the weather and road conditions on Highway 27 were clear. *Id.*

At approximately mile marker 13.528, Decedent, while proceeding lawfully and cautiously within the posted speed limit, encountered excessive tar strips while negotiating a left-hand curve. *See* Exhibits C & D. As a result of those tar strips, Decedent's tires slipped off the highway, where the Decedent struck a rock embankment immediately adjacent to the roadway (approximately 10 (ten) feet. *See* Exhibits C, D, & E. Decedent was pronounced dead on the scene. *See* Exhibit C.

ARKANSAS STATE CLAIMS COMMISSION

May 9, 2017

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Pursuant to a response to a FOIA request, the Arkansas State Highway and Transportation Department (AHTD) has indicated that AHTD maintenance forces last applied crack sealant to the northbound lane of Highway 27 between Log Miles 12.94 and 14.64 between January 9, 2015 and January 26, 2015. *See* Exhibit F.

After a diligent investigation (including the retention of a professional engineer) and considering the otherwise clear conditions present on Highway 27 North on September 10, 2015, Claimant alleges that the excessive tar strips on Highway 27 N were the cause-in-fact and sole proximate cause of the motor vehicle accident that took the Decedent's life. Moreover, based on the findings of professional engineer James Valenta, Claimant also alleges that AHTD maintenance forces applied crack sealant negligently and excessively to Highway 27 North – thereby causing the Decedent's accident and death. *See* Exhibit E.

Janet Walker was 60 years old at the time of her death. According to the applicable mortality tables, she should have lived to be 81 years old. She had planned to retire when she reached 65 years old. Janet Walker's 2014 Federal income tax return confirms that Mrs. Walker earned \$48,571 in wages the year before her death (Exhibit J). Therefore, her future lost wages, without considering potential merit raises or inflation, total \$242,855.

If this action could be pursued as a private lawsuit in circuit court, its claims would sound under the Arkansas Survival of Action Statute, Ark. Code Ann. § 16-62-101, and the Arkansas Wrongful Death Action Statute, Ark. Code Ann. § 16-62-102. As to Survival and Wrongful Death claims, the persons that normally would be entitled to recovery would include: (1) the Decedent's Estate; (2) Lawrence Walker (the Decedent's surviving spouse); (3) Daniel Walker (the Decedent's son); and (4) Amie Keen (the Decedent's daughter).

As to Survival and Wrongful Death claims, the persons identified would normally be able to pursue the types of recovery enumerated below. Therefore, the Claimant respectfully requests that the Commission consider the damages normally associated with Survival and Wrongful Death claims with respect to Claimant's claim, including (but not limited to) the following types of recovery:

- a. Janet Walker's loss of life (as recoverable by Ms. Walker's Estate);
- b. Burial expenses (as recoverable by Ms. Walker's Estate);
- c. The cost of repairs to the motorcycle Janet Walker was riding at the time of her death (as recoverable by Ms. Walker's Estate);
- d. A personal wrongful death claim for the loss of Janet Walker, including but not limited to past and future mental anguish, loss of future income of Janet Walker, and loss of consortium (as recoverable by surviving spouse Lawrence Walker);
- e. A personal wrongful death claim for the loss of Janet Walker, including but not limited to past and future mental anguish (as recoverable by surviving child Daniel Walker); and

ARKANSAS STATE CLAIMS COMMISSION

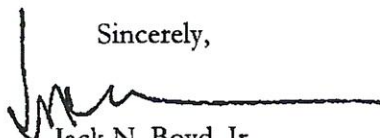
May 9, 2017

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- f. A personal wrongful death claim for the loss of Janet Walker, including, but not limited to past and future mental anguish (as recoverable by surviving child Amie Keen).

I anticipate that the exhibits included with this letter will suffice for responses to most, if not all, of any discovery that the Claims Commission may have; therefore, we are requesting the earliest possible hearing date to conclude this matter.

Sincerely,



Jack N. Boyd, Jr.

jboyd@boydprazak.com

JNB/lbm
1452.000
Enclosures

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

**DANIEL WALKER, AS ANCILLARY
ADMINISTRATOR OF THE ESTATE OF
JANET RAE WALKER, DECEASED**

CLAIMANT

V.

CLAIM NO. 17-0711-CC

**ARKANSAS STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the Full and Complete Settlement and Release (the “Settlement Agreement”) submitted by claimant Daniel Walker, as ancillary administrator of the Estate of Janet Rae Walker, deceased (the “Claimant”) and respondent Arkansas State Highway and Transportation Department (the “Respondent”).

Based upon a review of the pleadings and the Settlement Agreement, the Claims Commission hereby APPROVES the Settlement Agreement and REFERS this claim to the General Assembly for review, approval, and placement on an appropriation bill pursuant to Ark. Code Ann. § 19-10-215(b).

IT IS SO ORDERED.

Henry C. Kinslow

ARKANSAS STATE CLAIMS COMMISSION

Dexter Booth
Henry Kinslow, Co-Chair
Bill Lancaster
Sylvester Smith
Mica Strother, Co-Chair

DATE: January 12, 2018

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b)(3). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(b). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).