
IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

CASE NO. 2009-WC-00444-COA

JOSHUA LOWELL ODOM

APPELLANT

VERSUS

FEDEX GROUND PACKAGE SYSTEMS, INC.

APPELLEE

BRIEF OF THE APPELLANT

ORAL ARGUMENT NOT REQUESTED

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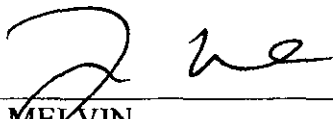
FEDEX GROUND PACKAGE SYSTEMS, INC.

APPELLEE

CERTIFICATE OF INTERESTED PARTIES

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of the Mississippi Court of Appeals may evaluate possible disqualification or recusal.

1. Joshua Lowell Odom
Appellant
2. FedEx Ground Package Systems, Inc.
Appellee
3. Honorable Robert B. (Bob) Helfrich
Forrest County Circuit Court Judge
4. Honorable James Homer Best
Administrative Judge
5. Mississippi Workers' Compensation Commission
6. Honorable Ben Skipper
Attorney for Self-Insured Employer
7. Honorable Len Melvin
Attorney for Claimant



LEN MELVIN
Attorney for Appellant

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Mississippi Workers' Compensation Act

STATEMENT OF THE ISSUE

The Administrative Law Judge and the Commission erred when they determined that Joshua Lowell Odom had not suffered a compensable injury while working at FedEx. This determination was not supported by substantial evidence as the Claimant clearly met his burden of showing his back injury was work-related.

STATEMENT OF THE CASE

Joshua Lowell Odom injured his back while working for FedEx as a part-time package handler in their Hattiesburg facility in December, 2003. Odom was diagnosed by Dr. Michael Molleston with a ruptured lumbar disc and severe left sciatica, for which he underwent surgery. FedEx paid no benefits. Odom has returned to work, and is currently employed full-time, with a restriction to lifting only 40-50 pounds. Odom seeks workers' compensation benefits, including medical bills, for his injury.

COURSE OF PROCEEDINGS

Joshua Lowell Odom ("Odom") filed a Petition to Controvert on January 18, 2005, alleging that he suffered a compensable back injury while employed part-time at FedEx in Hattiesburg as a package handler, with an average weekly wage ("AWW") of \$105.00. A hearing on the merits occurred in Hattiesburg on June 6, 2006, before Administrative Judge James Homer Best, who denied the claim and dismissed it by his order of September 26, 2006. Odom timely filed his Petition for Review before the Full Commission of the Mississippi Workers Compensation Commission on October 3, 2006, and the Commission affirmed the Order of the Administrative Law Judge on February 28, 2007. Odom Timely appealed the Order of the Commission to the Circuit Court of Forrest County, Mississippi, who affirmed the Commission's decision on March 6, 2009. Finally, Odom timely appealed the decision of the Forrest County Circuit Court to this Court.

STATEMENT OF FACTS

In December of 2003, Odom worked part-time at FedEx in Hattiesburg loading cargo while he attending Jones County Community College as a full time student. He worked at FedEx in that capacity for two (2) years and was described by the FedEx

supervisor as a "good employee." Deposition of Traci Boone 1, p. 22. While working at FedEx during the second week of December, 2003, Odom suffered a back injury while lifting a box. Odom was initially treated by Dr. John Beamon for back pain the second week of December, 2003, and returned to Dr. Beamon on December 16, 2003, complaining of the same pain. Dr. Beamon recommended that Odom undergo a neurosurgical evaluation and referred him to Dr. Molleston. Exhibit 7. On December 18, 2003, Odom reported to the emergency room at Wesley Medical Center ("Wesley") in Hattiesburg complaining of back pain. Exhibit 6. He was treated and released after being scheduled for an MRI on December 22, 2003. *Id.* Odom returned to Wesley on December 20, 2003, complaining of the same back pain.

Before seeing Dr. Molleston, Odom did not report his injury as work related, because he mistakenly believed, that part-time employees were not entitled to workers' compensation benefits. Molleston, p. 25. Odom told Dr. Molleston that the injury had occurred approximately five weeks before his initial visit, January 6, 2004, at FedEx, when he was twisting and lifting a 35 pound package. Deposition of Dr. Molleston, p. 5.

On or about January 7, 2004 Dr. Molleston diagnosed Odom with a lumbar ruptured disc and severe left sciatica and performed lumbar surgery on or about January 26, 2004. Deposition of Dr. Molleston, p. 4-6. Odom was released to light duty in March, 2004 and to full duty in May, 2004. Molleston, p. 7-8. In June, 2006, Dr. Molleston permanently restricted Odom to lifting no more than 40-50 pounds. Molleston, p. 9-10. Dr. Molleston rated his permanent impairment at 16 % to the body as a whole. Molleston, p. 10.

Dr. Molleston testified that he noted that Odom had three bad discs, L3-4, L4-5,

and L5-S1, but that only L5-S1 was acutely ruptured. Molleston, pp. 15-16. Dr. Molleston testified that the nature of the L5-S1 injury being an acute rupture indicated that it was more likely traumatic rather than degenerative herniation due to desiccation, and that Odom had told Molleston that the injury was work-related. Molleston, pp. 21-3. Dr. Molleston concluded that without knowing anything about Odom's medical history, the acute rupture at L5-S1 would likely have occurred in a time frame between three weeks and three months before his initial consultation. Molleston, p. 23.

FedEx had no accident report relating to Odom's injury, although Odom signed a form prepared by his supervisor, William Thompson. The FedEx file lacked an accident report, and FedEx never directed Odom to a physician. Deposition of Traci Boone 2, pp. 17-20.

Traci Boone, the manager of the FedEx location in Hattiesburg where Odom worked, testified that Odom received a back injury at work:

A: When he hurt himself I think it was a Friday. I'm not for sure when, if it was the 13th or the 14th, but the outbound manager told me -- he had called me that night and we were talking, and he told me that he had sent Josh home early.

And I asked him why. And he said he picked up a box and he said that his back just felt funny. So he let him go to get some rest.

Boone 1, p. 26.

And again:

Q: Who was the outbound manager?

A: William Thompson at the time.

Q: William Thompson?

A: Right.

Q: Where is he now?

A: He was in Phoenix, but--well, Tempe, Arizona, but he's no longer with the company.

Q: Do you know where he's at?

A: No, I don't.

Q: Okay, But he was the outbound manager at the time?

A: Right.

Q: And he called you at home and told you--

A: Right.

Q: -- that-- okay, and told you that Josh had hurt his back picking up a package?

A: Right.

Q: Okay. And you don't remember Josh working anytime after that?

A: No.

Q: Okay. Did anybody tell you about Josh going to the emergency room?

A: When it happened?

Q: Yes, ma'am.

A: No.

Q: Or at any time?

A: He went--not to the emergency room. He went to a doctor sometime after that. I mean, I don't remember.

Q: For his back?

A: Yeah.

Q: Okay. Which doctor was it? Do you know?

A: I don't -- I don't know.

Q: How do you know he went to a doctor?

A: That's what Will told me.

Q: Okay. And he was the outbound manager?

A: Right.

Q: You're over him. Is that right?

A: Correct.

Q: So he keeps you up on those things?

A: Right.

Boone 1, pp. 27-8.

Boone explained that William Thompson supervised Odom on that shift, and that she believed that Thompson, who is no longer employed at FedEx, had not filed an accident report, despite company policy requiring an accident report in the event of injury. Boone 1, pp. 29-30. However, Thompson did report to Boone that Odom had suffered a work-related injury. Boone 1, p. 48.

Odom stopped working at FedEx on December 14, 2003; Boone entered Odom's injury into FedEx's internal claim reporting system, called SCMS. Boone 1, pp. 36-38. According to FedEx policies and regulations, the accident files should have contained both a written accident report and an SCMS report. Boone 1, p. 38. Only Odom, Thompson, and Leonard were working on the night Odom suffered his injury, and Boone had no information regarding the whereabouts of Leonard and Thompson, both having left FedEx after Odom's injury. Boone 1, p. 54.

Boone later testified that she was unable to find an accident report in the accident/injury binder. Deposition of Traci Boone 2, pp. 4-5. She had contacted William Thompson, who could not remember whether he had filled out an accident report, but confirming that he had sent Odom home due to him suffering a back injury. Boone 2, pp. 10-12. By FedEx policy, there should have been documentation in the accident/injury binder, and there was not. Boone 2, pp. 8-10. FedEx's policies mandated that in the case of any workplace injury, there would be a notation in the accident/injury binder; if the employee went to the doctor, he would turn in any paperwork reflecting work restrictions, which would be noted on his attendance sheets; and finally, Boone or another manager would file a report in the SCMS system regarding the injury. Boone 2, pp. 17-20. There was no citation of Odom's injury in the accident/injury binder; there was no notation of the reason for his failure to return to work on his attendance sheets; and finally, there was no SCMS report. *Id.* Boone stated that if there was no accident report in the accident/injury binder, it would imply that the employee never complained of the injury; however, she had previously testified that William Thompson, a FedEx employee and Odom's immediate supervisor on the night of the injury, had called her and informed her that Odom had been sent home due to suffering a back injury. Boone 2, p. 25.

Boone testified that during the time she worked at the FedEx facility in Hattiesburg with Odom, he had been a good, hard-working employee. Boone 1, pp. 22-24. After being released by his doctor to return to work with his permanent restrictions, Odom obtained employment at a Ford dealership in Hattiesburg. FedEx has never paid Odom any benefits and has never provided him with medical services for his back injury.

SUMMARY OF THE ARGUMENT

The administrative law judge ("ALJ") and the Commission erred as a matter of law when they concluded that Odom's injury was not work-related and was not compensable under the Act. The Commission is the ultimate finder of fact in a workers' compensation case; the opinions and findings of the administrative judge are considered advisory and not binding upon the Commission.

The ALJ reasoned that as Odom did not initially report to his doctors that the injuries he had suffered were work related, and because the question of the initial date of injury was not firmly established, that Odom had not suffered a compensable work-related injury. However, Odom's superior, Traci Boone, who was the manager, testified that he suffered an injury to his back at work.

Odom's inability to pinpoint the exact date of the injury is irrelevant. He saw Dr. Beamon for back problems the second week in December at just the point in time that Traci Boone, the supervisor, said he was sent home with a back injury. Odom did not report his injury as work-related to his physicians because he was under the mistaken impression that as a part-time FedEx employee he was not eligible for workers' compensation benefits, or they would not be provided.

The ALJ and the Commission ignored the statement of FedEx employee Boone that she thought Odom was injured on the job, instead focusing on the inconsistency of dates as to when the injury may have occurred. The fact and timing of Odom's injury, as well as its nature, strongly supports its compensability.

ARGUMENT

The ALJ and the Commission denied Odom's claim for failure to prove by a preponderance of the evidence that his injury was work-related and thus compensable. This Court should overturn the decision of the ALJ and the Commission because it is not supported by substantial and credible evidence. Odom's injury was work-related, compensable, and award permanent partial disability benefits, as well as payments for reasonable and necessary medical treatment.

STANDARD OF REVIEW

A decision of the Commission is subject to a limited standard of appellate review as the Commission is the ultimate fact-finder. *Ameristar Casino-Vicksburg v. Rawls*, 2 So. 3d 675, 679 (Miss. 2008) cert, denied Feb. 19, 2009 (citing *Weatherspoon v. Croft Metals, Inc.*, 853 So. 2d 776, 778 (Miss. 2003)). Its judgment will be reversed only if it lacked the support of substantial evidence, was arbitrary and capricious, or contained an error of law. *Id.* When the Commission accepts the ALJ's findings and conclusions, as here, those findings and conclusions are reviewed as though they were made by the Commission itself. *Rawls*, 2 So. 3d at 679 (citing *McDowell v. Smith*, 856 So. 2d 581, 585 (Miss. Ct. App. 2003)). Although the appeal is procedurally made from the circuit court, for all practical purposes, this Court's review is a review of the Commission's order and not that of the circuit court. *Rawls*, 2 So. 3d at 680 (citing *Delta CMI v. Speck*, 586 So. 2d 768, 772-73 (Miss. 1991)). "A finding is clearly erroneous when, although there is some slight evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made by the Commission in its findings of fact and in its application of the Act. *J.R. Logging v. Halford*, 765 So. 2d 580 (¶12) (Miss. Ct. App.

2000).

From the very date of the injury, Appellant complained of a back injury, and the Appellees admitted the injury. Clearly the ALJ and the Commission erred when finding there was no compensable injury.

THE ALJ AND THE COMMISSION'S DETERMINATION THAT ODOM HAD NOT SUFFERED A COMPENSABLE INJURY WHILE WORKING AT FEDEX IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

The administrative judge and the Commission based their findings of non-compensability largely on the disputed date of injury; the fact that Odom did not consistently claim his injury was work-related, and the absence of an accident report made to FedEx. Opinion of the Administrative Judge, pp. 11-12. However, in order to establish entitlement to workers' compensation benefits, the claimant must prove: (1) an accidental injury, (2) arising out of and in the course of employment, and (3) a causal connection between the injury and the claimed disability. *Metalloy Corp. v. Gathings*, 990 So. 2d 191, 195 (Miss. Ct. App. 2008) (citing *Harrell v. Time Warner/Capitol Cablevision*, 856 So. 2d 503 (Miss. Ct. App. 2003)). Odom has indisputably met this burden. First, Odom demonstrated through Boone's testimony that he reported his back injury to his supervisor and was even sent home on the day it occurred. Second, Odom sought treatment for this injury within days after it occurred and continued to receive treatment for the same injury. Finally, Odom's treating physician, Dr. Molleston, causally connected the back injury to Odom's employment at FedEx. The findings of the ALJ, as adopted by the Commission, that Odom failed to meet the burden of proving that he suffered a compensable injury related to his work at FedEx is without substantial evidence and should be reversed.

1. The disputed date of injury

The pleadings, both in the petition to controvert, and in discovery, identify the date of injury as December 14, 2003. The administrative judge pointed out that Odom's payroll records show that his last date worked was December 12, 2003, and that FedEx's work week at the Hattiesburg facility was Monday through Saturday, while December 14, 2003, was a Sunday, when Odom could not possibly have been working. However, Boone testified that she received a phone call either on December 11 or December 12 from William Thompson indicating that he sent Odom home after Odom reported straining his back while working as a package handler. Boone could not remember the exact date either, but she conclusively placed Odom's injury as occurring on or about the end of the second week of December 2003.

The circumstances surrounding the workplace injury are clear and undisputed; Odom testified at the hearing before the AJ that he picked up a box and felt a sharp pain in his back. This corresponds with what Thompson told Boone concerning Odom's injury. The fact that Odom's pleadings identify the date of injury as December 14, 2003, is not dispositive of anything beyond at most a clerical error.

Indeed the testimony of the supervisor, Traci Boone, confirms the existence of a work-related injury:

Q: Okay. You stated he was a good employee.

A: Yes, he was.

Q: Okay. And I think you said he's a friend in the way you've just described. Is that right?

A: Right.

Q: Okay. And he -- you heard from William Thompson that he hurt his back on December 14th of 2003 and that he was sent home early?

A: Okay. Right.

Q: Okay. And he never came back after that. Is that correct?

A: I don't think so.

Boone 1, p. 44.

Q: So a work-related injury was reported to you, though. Is that right?

A: Right.

Q: On December 14th, 2003?

A: Right.

Q: By William Thompson. He called you at home?

A: Right?

Boone 1, pp. 47-8.

There is no substantial evidence to support the conclusion made by the ALJ and the Commission that the Odom's injury was not work related when the employer's 30(b)(6) designee repeatedly declared that it was reported to her, and she passed it on as a work-related injury:

Q: When William Thompson called you on December 14th of '03 and said that Josh Odom had hurt his back, that was in the scope -- that was in the scope of his employment, wasn't it?

A: Yeah. When Will called me it wasn't to report the injury; he was calling me -- I mean, he called me every night with certain information, but it was later than normal. And I asked him what was going on, and he said he had to help Roger load -- finish unloading and load. And I asked him why, and he said, well, he let Josh go early because when he picked up a box he said he felt a -- felt a pulled muscle or something, and just -- it felt strange, so that's why he went home.

Q: Okay. Do you know whether Josh had ever gone home early before?

A: I can't remember.

Q: But I think you stated he was a very good employee?

A: I mean, he was a good employee.

Q: He never came back to work after December 14th of '03, though, did he?

A: I don't think so.

Boone 1, pp. 50-1.

Q: Just a couple more questions, Ms. Boone. I think you've stated Mr. William Thompson told you that he had sent Josh Odom home early and Josh had hurt his back. Is that right?

A: When Will called, I mean, the conversation was like, "What took you so long? You know, why you so late?"

"Well I had to help Broderick. I let Josh go. He said his back felt funny when he was loading them boxes" or something like that. It wasn't Josh hurt himself and he had to, like, leave and a dire emergency. It was just it felt funny.

Q: Okay. But you're aware that Josh -- you were aware Josh hurt his back?

A: Went home. Right.

Q: Okay. And left early?

A: Right.

Boone 1, pp. 56-7.

Q: Just a couple. Mr. Thompson did tell you that Josh was moving a box when he hurt his back, though. Is that right?

A: Right.

Q: Okay. And that was a box at FedEx, wasn't it?

A: FedEx Ground, correct.

Boone 1, p. 66

Q: Okay. But did you think it was a work-related injury and that's why you reported it to Elmer Ray?

A: It was reported to Will and Will notified me, so my -- my chain of command is to tell the next person.

Q: If he hadn't been in an accident and it hadn't been work-related you wouldn't have notified Elmer Ray, though, would you?

A: No.

Boone 1, p. 69.

Odom testified that he saw Dr. Beamon on the day of his injury or the day after, but that he could not clearly remember. Dr. Beamon's records state that Odom came to him on December 11, 2003, which was a Thursday. This coincides with Boone receiving a telephone call from Thompson on the day of Odom's injury, explaining that Thompson had sent Odom home due to back injury, which phone call, according to Boone's testimony, occurred on either the Thursday or Friday before Odom stopped working at FedEx. This would fix the date of injury as December 11, 2003.

There is no authority denying compensability because the date of the injury is disputed, when a workplace injury has occurred. Although FedEx did not follow its record keeping procedures, as discussed below, Boone admitted that Thompson sent Odom home for a workplace injury to his back on or about December 11, 2003; the other testimony adduced, whether from Dr. Beamon, Odom, or Dr. Molleston, places Odom's injury within a day or two of that injury, and there is no proof of any other intervening back injury.

2. Odom's conflicting reports regarding whether his injury was work-related

The ALJ also placed great emphasis on Odom's various descriptions to his physicians as to whether his injury was work-related. Odom explained that he believed that FedEx would not pay for his injury because he was part-time, based on rumors from other employees. Further, Odom's mother filled out the intake forms at the hospital.

Dr. Molleston opined that while Odom's back showed signs of degenerative changes elsewhere in neighboring disc spaces, the acute rupture at L5-S1 was caused by trauma, and based upon the history provided, the injury had occurred approximately five weeks previous while Odom was working. No other doctor has contradicted the etiology of Odom's injury. Traci Boone disingenuously and half-heartedly attempts to depict the Claimant's injury as related to a skateboarding accident of July, 2003, some 5 or 6 months prior to the December incident but acknowledges that this was second-hand information, and further, that he worked up until the time in December when the manager informed her that Odom had hurt his back lifting a box. There is no doubt that Odom suffered a severe trauma in the second week of December, 2003, which necessitated surgery.

Further, Odom is the only witness to his injury that was available to testify before the Commission, the testimony of Boone relating the report of Odom's immediate supervisor on the day of the injury cannot be ignored, as the administrative judge did.

3. The missing accident report

Traci Boone, the senior manager at the FedEx Hattiesburg facility, testified at her first 30(b)(6) deposition that she could not find the accident file wherein accident reports were customarily and regularly kept. Boone 1, p. 16. Subsequently, Boone was unable to locate an accident report, any attendance sheets reflecting Odom's injury, or a report in the computerized SCMS system FedEx used to track injuries. Boone 2, pp. 17-20. Odom

remembered signing an accident report at Thompson's request.

The ALJ took the absence of the accident report and supporting documentation as conclusive evidence that there was no workplace injury. The ALJ noted that Thompson had reported to Boone that Odom suffered a workplace injury, and that he had sent Odom home. The ALJ also noted that FedEx had no accident reports, either written out by Thompson or in the SCMS system.

Under FedEx's policies, Odom was not responsible for filing an accident report, or filling out an SCMS report. Boone testified that in the event of a workplace injury, there would be an accident report and an SCMS report. She also admitted that Thompson had reported a workplace injury to her. When a party is responsible for the maintenance of records, the absence or loss of those records will create a rebuttable presumption that the records contain information unfavorable to that party. *Delaughter v. Lawrence County Hospital*, 601 So. 2d 818, 821-2. In this case, the AJ inexplicably construed the absence of these records against Odom, who had no responsibility for their creation or maintenance, and who stopped working for FedEx after December 12, 2003.

Boone could offer no explanation as to why there was no accident report, other than that a workplace injury had not in fact occurred. This directly contradicts her earlier testimony, where she confirmed that Thompson had sent Odom home for a workplace injury to his back. Additionally, Boone testified that she had filled out an SCMS report on Odom's injury after he failed to return to work. However, she could not locate this either.

Workers' compensation law favors a finding of compensability. *Reichold Chemical v. Sprinkle*, 503 So. 2d 799, 802 (Miss. 1987). The ALJ found that the absence of injury reports in FedEx's records, records which, according to FedEx's 30(b)(6) designee should

have reflected a workplace injury to Odom in the second week of December, 2003, supported a finding of non-compensability. The ALJ did not explain why FedEx's failure to follow procedures in reporting a workplace injury should be a strike against compensability.

CONCLUSION

The administrative judge and the Commission erred when they found that Joshua Lowell Odom had not suffered a compensable work-related injury while employed at FedEx in Hattiesburg during the second week of December, 2003. The administrative judge examined the evidence without an appreciation of the remedial focus of the Workers' Compensation Act; in particular, he took absence of evidence to stand for evidence of absence when FedEx failed to properly follow its internal procedures in recording Odom's workplace injury.

In Mississippi, the absence of records normally kept in the due course of business creates a rebuttable presumption that those records contain information detrimental to the party responsible for their creation and care. FedEx offered no explanation for why they failed to keep proper records of Odom's workplace injury, from their failure to make a note in the accident/injury binder, to their sloth in maintaining the attendance binder, and the absence of an SCMS report designed to track all potential claims. Their sole explanation was that there was no workplace injury, even though the on-site FedEx manager, William Thompson, had called Traci Boone, the FedEx 30 (b)(6) representative, to inform her that he had sent Odom home due to him suffering a back injury while lifting a package on the loading dock, and she testified she reported the injury to her supervisor.

The purpose of the Act is remedial, and it presumes in favor of compensation, so long as the claimant meets his burden of proof. The facts are plain: Odom was working at FedEx as a part-time employee when he suffered an injury and was sent home by his supervisor. Neither his supervisor nor the Hattiesburg facility manager followed FedEx's internal protocols concerning accident reporting. Dr. Molleston treated Odom for an

acutely ruptured disc at L5-S1, which he causally connected to Odom's workplace injury. Dr. Molleston rated Odom at a 16% permanent disability to the body as a whole.

The employer produced no witnesses' testimony, documents or contradictory evidence that no work-related injury occurred. Its attempt to avoid compensability consisted entirely of trying to muddy the waters by confusing the Claimant on a date that had occurred two (2) years previous.

The administrative law judge's findings are entirely at odds with the intent and purpose of the Act, which is remedial in nature. It should be enough to demonstrate compensability by the uncontradicted testimony of treating physicians, the admission of the FedEx facility manager, and the testimony of the claimant, without holding the claimant responsible for FedEx's inability to follow its own internal procedures.

This Court should consider all of the evidence and reverse the findings of the administrative law judge and the Commission, and award all appropriate benefits to Joshua Lowell Odom, including damages for future medical treatment and permanent partial disability benefits with penalties and interest.

Respectfully submitted, this the 8th day of June, 2009.

JOSHUA LOWELL ODOM, Claimant

BY:


LEN MELVIN, of Counsel

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI
CASE NO. 2009-WC-00444-COA

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APPELLANT

VERSUS

FEDEX GROUND PACKAGE SYSTEMS, INC.

APPELLEE

CERTIFICATE OF SERVICE AS TO FILING

I, Len Melvin, attorney for Appellant, do hereby certify that I have this day mailed for filing, via United States mail, postage prepaid, the original and three (3) copies of the foregoing Brief of the Appellant to the Mississippi Supreme Court Clerk, Ms. Betty Sephton, 450 High Street, Jackson, Mississippi 39205.

THIS the 8TH day of June, A.D., 2009.



LEN MELVIN

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI
CASE NO. 2009-WC-00444-COA

JOSHUA LOWELL ODOM

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FEDEX GROUND PACKAGE SYSTEMS, INC.

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CERTIFICATE OF SERVICE

I, Len Melvin, attorney for Appellant, do hereby certify that I have this day mailed, via United States mail, postage prepaid, a true and correct copy of the foregoing Brief of the Appellant to the following:

Honorable Judge Bob Helfrich
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Administrative Judge
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Ms. Adie Thompson, Appeals Clerk
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THIS the 27th day of June, A.D., 2009.


LEN MELVIN