

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2009-WC-01526-COA

JAMES D. ROMINE

APPELLANT

VERSUS

**ALLIED WASTE NORTH AMERICA, INC., A/K/A
BFI, AND AMERICAN HOME ASSURANCE COMPANY**

APPELLEES

**APPEAL FROM THE
CIRCUIT COURT OF JACKSON COUNTY, MISSISSIPPI**

APPELLANT'S BRIEF

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CERTIFICATE OF INTERESTED PERSONS

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 Supreme Court and/or the judges of the Court of Appeals may evaluate possible disqualifications or recusal.

- | | | |
|-----|---|--------------------------|
| 1. | James D. Romine | Appellant |
| 2. | Allied Waste North America, Inc., a/k/a
BFI | Appellee/Employer |
| 3. | American Home Assurance Company | Appellee/Carrier |
| 4. | Robert H. Tyler
Tyler Law Firm | Attorney for Appellant |
| 5. | Stephen A. Anderson
Copeland, Cook, Taylor
& Bush, P.A. | Attorney for Appellees |
| 6. | Honorable Cindy P. Wilson | Administrative Law Judge |
| 7. | Liles Williams | Commission Chairman |
| 8. | John Junkin | Commissioner |
| 9. | Augustus L. Collins | Commissioner |
| 10. | Honorable Dale Harkey | Circuit Court Judge |

SO CERTIFIED this the 18th day of March, 2010.



ROBERT H. TYLER

TABLE OF CONTENTS

Certificate of Interested Persons.....	i
Table of Contents	ii
Table of Authorities	iii
Statement of Issues.....	1
Statement of the Case.....	2
A. Nature of the Case.....	2
B. Course of Proceedings and Disposition Below.....	2
Statement of Facts.....	3-5
Summary of Argument.....	6
Argument.....	7-14
A. Standard of Review.....	7
B. Purposes of Act.....	7
C. Argument.....	8-14
Conclusion.....	14
Certificate of Service.....	15
Certificate of Filing Pursuant to Mississippi Rules of Appellate Procedure Rule 25(a).....	16

TABLE OF AUTHORITIES

<u>CASES</u>	<u>PAGE</u>
<i>ABC Mfg. Corp. V. Doyle</i> , 749 So.2d 43, 47 (Miss. 1989).....	7
<i>Big 2" Engine Rebuilders v. Freeman</i> , 379 So.2d 888 (Miss. 1980).....	7
<i>Case v. Public Employees Retirement System</i> , 973 So.2d 301 (Miss. App. 2008).....	7
<i>Harrell v. Time Warner/Capitol Cablevision</i> , 856 So.2d 503 (Miss. App. 2003)	7
<i>Hedge v. Leggett & Platt, Inc.</i> , 641 So.2d 9 (Miss. 1994).....	7
<i>Howard v. Pub. Employees' Ret. System</i> , 971 So.2d 622 (Miss. Ct. App. 2007).....	14
<i>L.B. Priester & Sons, Inc. v. Bynum's Dependents</i> , 141 So.2d 246 (Miss. 1962).....	7
<i>Marshall Durbin Co. v. Warren</i> , 633 So.2d 1006 (Miss. 1984).....	7
<i>Mueller Copper Tube Company v. Upton</i> , 930 So.2d 428 (Miss. Ct. App. 2005).....	11
<i>Pub. Employees' Ret. System v. Marquez</i> , 774 So.2d 421 (Miss. 2000).....	13
<i>Sharpe v. Choctaw Elec. Enter.</i> , 767 So.2d 1002 (Miss. 2000)	11

STATEMENT OF THE ISSUES

1. WHETHER THE ADMINISTRATIVE LAW JUDGE'S DECISION, AFFIRMED BY THE COMMISSION, REJECTING ANY CAUSAL CONNECTION BETWEEN CHEMICAL EXPOSURES AND THE CLAIMANT'S CONDITION IS SUPPORTED BY SUBSTANTIAL, CREDIBLE EVIDENCE.

2. WHETHER THE ADMINISTRATIVE LAW JUDGE'S RELIANCE ON THE EMPLOYER/CARRIER'S RETAINED EXPERT WAS PROPER IN LIGHT OF THE EXPERT'S FAULTY ASSUMPTIONS OF FACT.

STATEMENT OF THE CASE

A. NATURE OF THE CASE

This is an appeal of a Circuit Court's order affirming the Mississippi Workers' Compensation Commission order rejecting compensability under the Act of James Romine's claim that his neuromuscular condition was caused by work-related chemical exposures.

B. COURSE OF PROCEEDINGS AND DISPOSITION BELOW

James Romine filed two Petitions to Controvert alleging he was exposed to toxic and hazardous materials that resulted in his developing a severe involuntary movement disorder known as dystonia. The first Petition to Controvert alleged an exposure on May 21, 2002, an incident that the Employer and Carrier admitted. The second Petition to Controvert alleged an exposure incident on August 6, 2002, an incident that the Employer did not admit, but produced no evidence, testamentary or documentary, to contradict Romine's testimony that it occurred. After discovery, a hearing on the merits of both claims was held before Administrative Law Judge Cindy Wilson and on February 6, 2008, she entered an Order (R.E.8-29) that concluded that Romine's neuromuscular condition was not causally related to either incident. Romine petitioned the Commission for review and by Order (R.E. 7) entered on July 2, 2008, the full commission affirmed the order of the administrative judge. An appeal was perfected to the Circuit Court which affirmed (R.E.3-6) the Commission's finding. This was appeal was then timely filed.

STATEMENT OF FACTS

Romine was employed as a garbage truck operator and trash collector. This job exposed him to noxious and malodorous fumes on a consistent basis, but, on at least two occasions, his inhalation of the fumes caused him to report the incidents to his employer. One resulted in his being hospitalized on the night of the exposure. This was the incident that occurred on May 21, 2002. Later, on August 6, 2002, Romine noticed a very strong and noxious odor as he was placing garbage into the back of the truck. His immediate supervisor advised him to take the load to a landfill, approximately 10 miles from the pickup point, and during the trip Romine continued to smell the strong odor in the cab of the truck. By August 10, 2002, Romine began experiencing unusual and erratic involuntary movements of his arms and legs. He was eventually hospitalized on August 15, 2002, where numerous consultations and diagnostic tests were had.

MEDICAL EVIDENCE

In support of his contention that he suffered accidental job injuries on May 21, 2002, and August 6, 2002, Romine relied upon the testimony of his neurologist, Dr. Richard Gorman. Additionally, extensive written medical records created by Romine's treating physicians are in the record. Suffice it to state, the causal connection between the dystonic condition that Mr. Romine has suffered since August 2002 and his work was the central issue in the matter.

With respect to his testimony on causation, Dr. Gorman stated:

Q. Doctor...I want you to assume on May 21, 2002, Mr. Romine experienced a toxic inhalation incident of an unknown substance during the course of his job as a garbage truck driver that required hospitalization and that again on August 6, 2002, Mr. Romine also experienced an exposure to toxic fumes on his job that I believe he has described as smelling of strong ammonia or muriatic acid.

Now, doctor, based on those assumptions and based on the history that Mr. Romine provided to you, as well as the history you obtained from Dr. Chance, coupled with your training and experience as a neurologist, do you have an opinion based on a reasonable degree of medical probability whether those incidents caused or substantially contributed to cause Mr. Romine's dystonia.

A. I do.

Q. And that opinion is?

A. My opinion would be based on historical information, serial neurologic examinations, extensive laboratory studies, considering the differential diagnosis, the treatment and response over time, subsequent laboratory studies, based on a reasonable medical probability exposure as described would be the cause or etiology of his problem.

Depo of Dr. Richard Gorman (General Exhibit 4, p. 30, l. 22-p. 32, l. 2)

As outlined in other portions of Dr. Gorman's testimony, as a trained neurologist he has experience in the diagnosis and treatment of conditions such as Romine's. His initial assessment pointed to a toxic inhalation event as the cause. Subsequent testing, extensive in nature, including MRI's of the brain with consultations and reviews by Dr. Terry Smith, a neurosurgeon, ruled out other potential causes of the condition. When asked his final diagnosis, Dr. Gorman testified as follows:

Q. What would your final diagnosis be, Dr. Gorman?

A. Well, I can't improve upon what I told the-- I mean, my final diagnosis as of when I finally got all the lab studies, and based on my opinion with reasonable medical probability, was just what I told the spouse, that having ruled everything conceivably out structurally and metabolically, with reasonable medical probability, exposure to toxins had been a concern since the initial visit, was the etiology of the problem.

Id. at p. 29, ll. 11-21. (General Exhibit 4)

As alluded to by Dr. Gorman, his initial assessment of the cause of Mr. Romine's movement disorder was "toxic versus metabolic". This was the same assessment reached by Dr. Ricky Chance, the admitting physician, in his Personal History and Physical (p. 66 of General Exhibit 1) dictation where he noted that his impression was:

- (1) severe movement disorder and
- (2) remote exposure by way of inhalation to unknown chemicals.

Dr. Fang, who saw Mr. Romine on one occasion noted in his February 6, 2003, office dictation (General Ex. 9) that he "cannot exclude toxic exposure" when addressing causation.

Dr. Chance also noted in his Discharge Summary (p. 30-32 of General Exhibit 1) of August 23, 2002, that, among the other extensive testing done, an MRI scan (p. 58 of General Exhibit 1) that

reflected a small “circumscribed cyst” was addressed as a possible cause of the condition. Dr. Terry Smith’s, a neurosurgeon, consultation report (p. 62-63 of General Exhibit 1) concluded that the cyst was a benign lesion, *not associated* with the dystonic symptomatology. The radiologist who read the MRI also concluded that the cyst was “of no clinical significance” and stated his impression as an essentially normal MRI of the brain. Dr. Smith, also stated, “I have been to the x-ray suite and I have reviewed his two MRI scans side by side and they are not changed. He had an MRI scan in April for some headaches, and this cyst was present then and it has not changed now, *so I think that is not the cause of his problems.*” (p. 63 of General Exhibit 1)(emphasis added).

SUMMARY OF THE ARGUMENT

The record lacks substantial, credible evidence to support the Administrative Law Judge's finding, adopted without additional comment or modification by the Commission, that Romine's dystonic condition was not shown to be causally connected to the chemical incidents of May and August 2002. Thus, the Circuit Court's conclusion that the finding was so supported should be reversed. A review of the Opinion of the Administrative Law Judge shows that the evidentiary linchpin upon which she based her findings(accepted by the Commission and Circuit Court Judge) was the Employer/Carrier's retained expert's opinion that the cause of Romine's condition was a lesion(cyst) in Romine's basal ganglia area. This opinion lacks any evidentiary support in the record because Dr. Kalnas conceded that such lesions were usually congenital or the result of hypertension. He conceded that Romine's was not congenital, leaving hypertension as the cause. However, the medical records are absolutely devoid of any evidence of hypertension in Romine. The Commission and Circuit Court affirmed the findings on this issue even though it was pointed out that Dr. Kalnas admitted that he never saw any evidence of a diagnosis of or treatment for hypertension prior to August 2002. Thus, the retained expert's opinion, which differed from the treating physicians' opinions, is contrary to the medical records reviewed by him and is not a sufficient foundation for the Commission's finding.

ARGUMENT

A. STANDARD OF REVIEW

It is well settled that this Court's standard of review of an Order of the Commission is that the factual findings of the Commission are binding on the appellate courts if supported by substantial evidence. *Hedge v. Leggett & Platt, Inc.*, 641 So.2d 9, 12 (Miss. 1994). "Substantial evidence" required to support the decision is such relevant evidence as reasonable minds might accept as adequate to support a conclusion or evidence which provides an adequate basis of fact from which the fact in issue can be reasonably inferred. *See, Case v. Pub. Employees' Ret. System*, 973 So.2d 301, ¶20 (Miss. App. 2008). Stated otherwise, the findings must be based on evidence that does not rely on speculation and conjecture. *See, Harrell v. Time Warner/Capitol Cablevision*, 856 So.2d 503, ¶37 (Miss. App. 2003). It is submitted that a careful review of Dr. Kalnas' testimony reveals that he did, indeed, engage in speculation and conjecture to attribute Romine's condition to a lesion caused by hypertension; thus, his opinion cannot be substantial evidence supporting the Commission's findings.

B. PURPOSES OF THE ACT

Since its original enactment, the Mississippi Workers' Compensation law has been consistently characterized as remedial, social legislation. Thus, the Court has stated that the legislation should be liberally construed to accomplish its purposes and provide an appropriate remedy to injured employees. To accomplish the remedial purposes of the legislation, the Court engages in liberal statutory construction. *E.g., L.B. Priester & Sons, Inc. v. Bynum's Dependents*, 141 So.2d 246 (Miss. 1962) (presumption of work connection proper in death cases). Another rule that flows from the remedial purposes of the Act is that doubtful cases should be resolved in favor of the employee. *"Big 2" Engine Rebuilders v. Freeman*, 379 So.2d 888 (Miss. 1980). This rule is necessary to achieve the beneficent purposes of the Act and further the humanitarian goals. *Marshall Durbin Co. v. Warren*, 633 So.2d 1006 (Miss. 1984); *ABC Mfg. Corp. v. Doyle*, 749 So.2d 43, 47 (Miss. 1989).

C. ARGUMENT

The Commission, acting through the administrative judge, relied upon the deposition testimony of Dr. Jonas Kalnas to conclude that the Romine's current condition is not causally related to the workplace exposure incidents. At the outset, it is important to note that Dr. Kalnas has never seen or examined Romine and, perhaps more importantly, never personally reviewed the MRI brain scans of Romine. This is important because Dr. Kalnas' opinion is based on his conclusion that that a "lesion" noted on the MRI scan was the cause of the dystonic condition. (Depo of Dr. Kalnas, p. 17, ll. 1-18, General Exhibit 5). However, on cross-examination, Dr. Kalnas admitted that "[c]learly, if you don't have all the evidence in front of you -and in this case, the MRI scans are very important- it becomes very difficult to do the proper analysis." *Id.* at p. 43, ll. 14-17. Further undermining the reliability of Dr. Kalnas' opinion is his testimony that the lesion was a result of hypertension. *Id.* at l. 18. Yet, again on cross-examination, Dr. Kalnas was forced to admit that he never saw any evidence in the extensive medical records presented to him that Mr. Romine had ever taken or been advised to take any medication for high blood pressure prior to August 2002. *Id.* at p. 66, l. 25 to p. 70, l. 14.

Dr. Kalnas engaged in speculation regarding Mr. Romine's alleged hypertension in order to fit his opinion within other medical literature. Romine testified without contradiction that he had never suffered from high blood pressure, never been advised to take medication for high blood pressure or otherwise had any history of high blood pressure. A review of the records reveals what Dr. Kalnas would only hesitatingly admit, *i.e.*, no medical documentation of the hypertensive condition exists.

In short, Dr. Kalnas' opinion testimony is counter to every treating physician and/or consultant that saw Romine in August 2002 and thereafter. A review of the medical records fails to reveal any other physician suggesting that the debilitating condition that Romine has is a result of hypertension or the lesion that Dr. Kalnas so heavily relies upon.

Dr. Kalnas' opinion is also circular in nature inasmuch as he relies upon the fact that the lesion increased in size between August and October 2002, even though in August, on admission to

the hospital, Romine was suffering severe involuntary movement, could not walk, and had difficulty speaking. These are all signs consistent with an abrupt onset and Dr. Kalnas, on cross-examination, conceded that, if the event was precipitated by an abrupt hemorrhagic (hypertensive) event that there would be MRI evidence. (Depo of Dr. Kalnas, p. 55, l. 4 to p. 56, l.18, General Exhibit 5) There is no evidence in the hospital record of such; in fact, the consultations and testing ruled out such an event as a likely etiology.

Dr. Kalnas, who it must be remembered never personally reviewed any diagnostic film or MRI, put heavy emphasis on the *supposed* increase in size of the lesion from August to October 2002. His causation analysis was that since there was an increase in the size of the lesion from the MRI taking during the hospitalization in August to the one taken two months later in October, then the proper conclusion is that the lesion was the cause of the disorder. Putting aside for the moment that fact the increase was relatively small and without knowing how the two different radiologists were sizing it, the increase came **after** the dramatic onset of the neuromuscular condition. Dr. Kalnas refused to address the fact that Dr. Smith, the consulting neurosurgeon, who *personally reviewed* an MRI scan made in April 2002 and compared it with the August scan concluded that the “lesion” had not changed in size and was of no clinical significance to the condition being suffered by Romine.

Kalnas also never explained why, if the lesion was present in April and was of the same size it was in August, that it was not until August that Romine had an acute onset, if the lesion was in fact the cause of the problem. Dr. Kalnas’ analysis ignores that, despite having an acute onset in August, Romine made improvement and was discharged from the hospital during the time of the alleged increase in the size of the lesion. MRI scans conducted in May 2005 and a year later in 2006 show that the lesion had not changed in size, but that Romine’s condition had intermittently worsened after a change of medications. Finally, neither Kalnas’ nor the Commission ever addressed the uncontradicted fact the Dr. Zhu, the current treating physician attributed no significance to the presence of the lesion and was fully aware of the results of all of the MRI scans. In the end, Dr. Kalnas ignored certain facts, assumed other facts not in existence, all with the goal of reaching a

conclusion. This is the type of rank speculation that should not be allowed to support the medical finding on causation.

Dr. Kalnas' conceded that Romine's condition was not genetic in nature. (Depo of Dr. Kalnas, p. 51, l. 17-18, General Exhibit 5). He never disputed that exposure to toxic chemical fumes was a medically recognized cause of movement disorders. But, based solely on his review of medical records, portions of which he chose to ignore, he came to a conclusion that is not supported by the record. He is simply a retained expert, who is not a primary physician with the routine patient-doctor relationship, employed to provide medical expert services for employers and insurance companies. (Depo of Dr. Kalnas, p. 75, l. 15 to p. 76, l. 23, General Exhibit 5).

Finally, the Administrative Law Judge, on more than one occasion, either misunderstood or mischaracterized the facts before her. The most glaring example appears on page 11 of her Opinion (R.E.8-29) where she seeks to discredit Dr. Gorman to further credit Dr. Kalnas by making this this statement, "Later in his deposition, Dr. Gorman stated he was making a 'reasonable speculation'. (p. 70)". However, Dr. Gorman *never* stated that his opinions were based on reasonable speculation; he always couched them in terms of reasonable medical probability. His statement about reasonable speculation has to be put in the proper context which, when done, reveals the Administrative Law Judge's mischaracterization or misunderstanding of his testimony. This is shown by setting out the questions and answers:

Q. Are you saying that you have talked to Dr. Chance and Dr. Chance is of the opinion that the dystonia condition is related to a toxic or chemical exposure?

A. Well, what I've said first is Dr. Chance had mentioned that in the hall and came up and said, "Hey, this is something I just found out." The opinion was, it wasn't of the severity of the May thing and it just bypassed it. Dr. Chance and I haven't sat down over coffee and discussed absolute ideology. It is my opinion, in dealing with and consulting for Dr. Chance, that it is his opinion that this is of toxic exposure. I am of that opinion, but I haven't specifically pinned him down or asked him. It's just I am of that opinion.

Q. Alright. So you're just speculating?

A. *Well, actually reasonable speculation.*

Q. You haven't talked to him about it?

A. I didn't pin him down legally.

(General Ex. 4, p. 70).

The speculation was about Dr. Chance's opinion not his own.

The Supreme Court's decision in *Sharpe v. Choctaw Elec. Enter.*, 767 So.2d 1002 (Miss. 2000) is instructive on two points. First, in making determinations with respect to compensability under the Workers' Compensation Act, "It is well established that the provision of Mississippi's Workers' Compensation statute are to be construed liberally in favor [of] the claimant and in favor of paying benefits for a compensable injury." *Id.* at ¶18. As a result, doubtful cases are resolved in favor of compensation. *Id.* at ¶19. Such a liberal and beneficent application of the purposes of the compensation law also results in the observation that, where doubt exists regarding the sufficiency of medical evidence, the benefit of the doubt should go to the claimant. *Mueller Copper Tube Company v. Upton*, 930 So.2d 428, ¶38 (Miss. Ct. App. 2005).

Sharpe is also instructive in that it represents an application of these above mentioned principles in a chemical exposure case. In *Sharpe*, the claimant claimed that he had respiratory problems as a result of chemical exposures on the job. The ALJ awarded benefits, the full Commission reversed, the Court of Appeals affirmed the Commission, but the Supreme Court reversed and remanded. In *Sharpe*, Dr. Pinkston was the Employer/Carrier's board-certified pulmonologist that gave his opinion that the Claimant had normal lung capacity and that any complaints of shortness of breath were not related to chemical exposure at work. Dr. Arthur Hume, another retained expert of the Employer/Carrier, also offered the opinion that Sharpe's lung problems could not have resulted from his work environment. 767 So.2d at 1006, ¶15-16. In short, there was a lack of consensus amongst the experts, both treating physicians and retained, with regard to the causation of Sharpe's problems. The full Commission, as the ultimate finder of fact, elected to rely upon the retained experts. But, even with the constraints of appellate review, the Mississippi Supreme Court reversed. By applying the liberal purposes of a compensation statute, the Court

concluded that the Commission's findings were not based upon substantial evidence and that Sharpe was entitled to compensation. The same results should obtain here particularly given the suspect nature of Dr. Kalnas' testimony that a lesion, considered but discounted by all other doctors, was the causative factor, (resulting from a hypertensive event for which there was no evidence in the record) of Romine's debilitating neuromuscular disorder.

When Romine was admitted to Biloxi Regional Medical Center in August 2002, with symptoms of severe muscular disorder which caused uncontrollable movements, he had never been diagnosed with hypertension or treated with anti-hypertensive medications. His blood pressure readings during the course of his hospital stay over the course of eight (8) days were never noted to be high or otherwise outside of normal limits. During the course of this 8-day hospital stay, in searching for a causative factor in Mr. Romine's condition, no physician, primary or consultive, ever offered any suggestion that Romine's blood pressure had any connection to the condition. There is absolutely no mention of any subsequent high blood pressure readings in the voluminous medical records submitted to the Commission.

While Romine was admitted to Biloxi Regional Medical Center in August 2002, his doctors had available a previous MRI study of Romine's brain taken in April 2002 for unrelated reasons. This MRI report documented a small cyst of no clinical significance. Then, during the admission of August 2002, Romine's physicians performed another MRI scan of his brain as part of the quest to find a cause for his severe muscle disorder. Dr. Terry Smith was part of the team that was called in to consult on Romine's case. Dr. Smith, a neurosurgeon, personally reviewed the MRI scans performed in April 2002 and August 2002 and compared them. He concluded, based on personal review, that the cyst had not changed in size during the months of April to August 2002. He further concluded that the cyst was benign and not related to Romine's current condition.

After discharge in August 2002, Romine continued to follow with Dr. Rickey Chance, his primary treating physician, who documented normal blood pressure readings.(General Ex. 1) Romine also followed with Dr. Gorman, his treating neurologist at the time, and a repeat MRI of the brain was again performed. Dr. Gorman's progress note of October 30, 2002,(General Ex. 2),

documented that the MRI again reflected the cyst, but that there had been no acute change in area density.

Repeat MRI's of Romine's brain were also taken in May 2005 and March 2006 while Romine was under the care of Dr. Zhu. The reports of these MRI's reflected no significant change in the size of the cyst and described it as "benign" and "of questionable significance".(General Ex. 3).

In sum, not a single treating physician, interpreting radiologists, or consulting expert has ever attributed any clinical significance to the cyst which has consistently been characterized as benign, asymptomatic, and of no clinical significance. The medical records document that the cyst was present in April 2002 and Romine had absolutely no symptoms of the severe muscle disorder that manifested in August 2002. The only doctor that has offered any opinion that this cyst is somehow causally connected to Romine's condition is the Employer/Carrier's paid expert, an expert that has never seen Romine or even reviewed the MRI scans reflecting the cyst upon which he so heavily relies. In reaching his opinion, Dr. Kalnas failed to address the fact that none of the treating neurologists, neurosurgeons, or radiologists attributed any significance to the cyst. In conducting his causation analysis, Kalnas offered his opinion that the cyst was the result of a hypertensive event; but, he was forced to concede on cross-examination that he did not see any evidence in the extensive records presented to him that Romine had ever taken medication for high blood pressure or was diagnosed with hypertension. Instead, he focused on one reference to "elevated blood pressure", with no reading, in Dr. Chance's office records of April 2002. Dr. Kalnas also conceded that if an acute hypertensive event was the cause of the cyst/lesion, then he would have expected to see evidence of such an event in the August 2002 Biloxi Regional Medical Center medical records, but none was documented.

Romine's position throughout this case has been that Dr. Kalnas' opinions are not worthy of credit and do not provide a substantial basis upon which the decision by the administrative agency can rest. Romine is well aware that, in reviewing agency decisions, an appellate court is not allowed to substitute its judgment of the agency or reweigh the facts on appeal. *See, e.g. Pub. Employees'*

Ret. System v. Marquez, 774 So.2d 421, 425, ¶11 (Miss. 2000). However, a reviewing court *must* determine whether the agency's decision is supported by substantial evidence or is arbitrary or capricious. If substantial, credible evidence does not support the decision, the decision is arbitrary and capricious. *Id.* This Court is required to review the record to determine if the evidence presented supports the Commission's denial of Romine's claim for benefits. In doing so, this Court must determine whether the Commission's decision is supported by evidence in the record. *Howard v. Pub. Employees' Ret. System*, 971 So.2d 622, 626, ¶10 (Miss. Ct. App. 2007) . It is submitted that such a review, conducted with a goal of effectuating the purposes of the Act, results in a reversal of the finding of non-compensability.

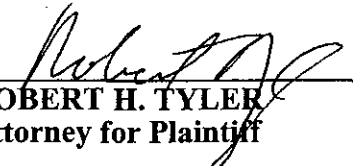
CONCLUSION

For all the above and foregoing reasons, the findings of the Commission should be reversed and this matter remanded for a proper determination of benefits owed to Romine.

This the 18th day of March, 2010.

Respectfully submitted,

By: _____


ROBERT H. TYLER
Attorney for Plaintiff

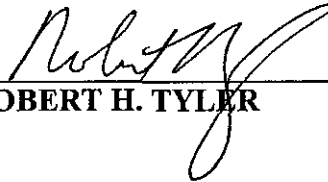
CERTIFICATE OF SERVICE

I, ROBERT H. TYLER, do hereby certify that I have this day served by United States mail, first class postage prepaid, a true and correct copy of the above and foregoing Appellant's Brief on:

Honorable Dale Harkey
Circuit Court Judge
Circuit Court of Jackson County
P.O. Box 998
Pascagoula, MS 39568

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This the 18th day of March, 2010.

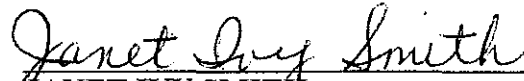


ROBERT H. TYLER

CERTIFICATE OF FILING PURSUANT TO
MISSISSIPPI RULES OF APPELLATE PROCEDURE RULE 25(a)

I, Janet Ivy Smith, do hereby certify that I have this day deposited into the United States Mail a package containing the original and three (3) copies of the above and foregoing Appellant's Brief, which was addressed to Kathy Gillis, Clerk, Supreme Court of Mississippi, P.O. Box 249, Jackson, MS, 39205-0249, and contained first class, prepaid postage.

SO CERTIFIED on this the 18th day of March, 2010.


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