IN THE SUPREME COURT OF MISSISSIPPI

SUPERIOR MANUFACTURING GROUP, INC.	EMPLOYER/APPELLANT
AND	NO. 2010-WC-00534-COA
TWIN CITY FIRE INSURANCE COMPANY	CARRIER/APPELLANT
V.	
BILL CRABTREE	CLAIMANT/APPELLEE

On appeal from the Jones County Circuit Court

APPELLANT'S BRIEF TO THE SUPREME COURT

ORAL ARGUMENT REQUESTED

CERTIFICATE OF INTERESTED PERSONS

SUPERIOR MANUFACTURING GROUP, INC.	EMPLOYER/APPELLANT
AND	NO. 2010-WC-00534-COA
TWIN CITY FIRE INSURANCE COMPANY	CARRIER/APPELLANT
V.	
BILL CRABTREE	CLAIMANT/APPELLEE

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 Circuit Court may evaluate possible disqualification or recusal.

1. Bill Crabtree, Claimant
2. Jolly Matthews, Attorney for Claimant
3. Superior Manufacturing Group, Inc.
4. Royal Indemnity Co.
5. Administrative Judge Tammy Harthcock
6. Judge Billy Joe Landrum, Circuit County Judge
6. Amy Topik, Attorney for Employer/Carrier, Empire Fire
7. C. Paige Herring, Attorney for Employer/Carrier

Amy Lee Topik - MSB [redacted]
COUNSEL FOR EMPLOYER/CARRIER (APPELLANTS)

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STATEMENT OF THE ISSUES

1. The Commission erred in affirming the administrative judge and in granting the claimant's motion to reopen to allow for the introduction of additional medical evidence, after an Order had been entered following the final hearing on the merits.

2. The Commission erred in allowing the claimant to reopen his claim and take additional expert testimony after an Order had been entered following the final hearing on the merits.

3. The Commission erred in not making any determination as to whether the Claimant had met his burden to prove a mistake in determination of fact or a change in condition prior to reopening his workers' compensation claim.

4. The Commission's Order is contrary to the established case law and the General and Procedural Rules of the Commission.

5. The Circuit Court erred in utilizing the Substantial Evidence Standard of Review rather than the De Novo Standard of Review.

STATEMENT OF THE CASE

FACTS

Claimant, Bill Crabtree (appellee herein) was hired by Superior Manufacturing in 1997, at the age of forty-six. (T. at 14). He worked as an assembler for two to three years, putting rubber mats together. (T. at 10-11, 14). Claimant then moved to the lamination department, where he would spray glue onto the rubber tiles for the mats. (T. at 14). Lastly, Claimant moved to the position of forklift driver. (T. at 15). In the position of forklift driver, Claimant was required to deliver various materials to the operators so that they could complete their jobs. (Id.)

A. First Date of Injury: August 21, 2003.

On or about August 21, 2003, Claimant alleges he sustained a neck injury after reaching overhead. (R. at 1). This injury occurred at a time when Superior was insured through Royal Insurance Company of America. (R. at 3). This claim was assigned and litigated under Commission file number 04 09805-J-0648-D. Royal denied compensability. (Id.).

The medical records for this first injury indicate that Claimant complained of left sided neck, chest, and arm pain throughout 2003, which he believed was due to heavy lifting at work. (Gen. Ex. 18). He underwent an EMG/Nerve Conduction Study on August 29, 2003, which showed evidence of multilevel chronic radiculopathies with possible involvement of C7, C8 and T1 nerve roots. (Gen. Ex. 19). Dr. Michael Patterson diagnosed Claimant with chronic neck and back pain on September 12, 2003, which Claimant stated he had been persistent for years. (E/C's Ex. 2). X-rays revealed degenerative disc disease at L5-S1, C5-6, and C6-7. (E/C's Ex. 2). Dr. Patterson did not feel Claimant was a surgical candidate and recommended conservative

treatment, including pain medication and injections. (E/C's Ex. 2). Claimant received pain management treatment from Dr. Susie Folse. (E/C's Ex. 3). A November 5, 2003, lumbar MRI scan revealed a broad-based disc bulge at L4-5 with bilateral facet changes, osteophytes, and a slight disc bulge at L5-S1 level. (E/C's Ex. 4). There were also degenerative changes seen at T12-L1, L3-4, L4-5, and L5-S1. (Id.).

On November 13, 2003, Dr. Folse informed Claimant of his degenerative changes and facet arthropathy of the lumbar spine and recommended lumbar epidural steroid injections. (E/C's Ex. 5). The Administrative Law Judge denied this claim in its entirety. (R. at 108).

B. Second Date of Injury: March 25, 2004.

On or about March 25, 2004, the Claimant alleged he sustained a second injury, this time to his back. (T. at 4). This injury occurred at a time when Superior was insured by Twin City Fire Insurance Company, and is the injury currently in dispute. (R. at 3). The Employer/Carrier admitted that Claimant reported a work related injury; however, they dispute the causal connection of the claimed injury to any medical condition or any medical treatment therefore. (T. at 4).

Claimant was initially seen at Work Well for back pain on March 25, 2004. (Gen. Ex. 23). He then went to the Nan Family Clinic on March 26, 2004, where he reported lifting approximately 20 pounds of paper the previous day, twisting and feeling immediate back pain. (Gen. Ex. 7). He was diagnosed with lumbar strain. (Id.). Claimant returned to Dr. Susie Folse on April 2, 2004, reporting both neck and back pain. (Gen. Ex. 7). Dr. Folse's note stated, "he seems to have aggravated his back some the other day when he did a normal movement that he does at work ... (and) pretty much exacerbated something that was pre-existing for him," and

that she had seen Claimant in the past for both neck and back pain. (Id.). Claimant then continued treating for his prior 2003 cervical injury.

He was seen by Dr. Patterson on April 16, 2004, for neck and back pain. (Gen. Ex. 18 at 19). Dr. Patterson reviewed a cervical MRI which revealed a posterior osteophytic spur at C6-7 on right and very narrow neural foramen on right at C5-6. C4-5. (Id.). He recommended an anterior cervical discectomy and fusion with decompression at C5-6 and C6-7. (Id.). Dr. Patterson also reviewed a lumbar MRI, which revealed a collapsed L5-S1 disc with increased endplate signal. (Id.). Dr. Patterson believed the back condition did not require surgery. (Id.). On May 3, 2004, Claimant underwent an anterior cervical fusion and discectomy at C5-6 and C6-7. (Gen. Ex. 18 at 89). A second surgery to fuse C6-7 was performed on December 28, 2004. (Gen. Ex. 18 at 85). A few weeks later, on January 6, 2005, Claimant underwent a lumbar fusion at L4-5 and L5-S1 with Dr. Patterson. (Gen. Ex. 18 at 76).

C. ***Procedural Facts.***

Claimant filed his pre-hearing statement on March 25, 2005. (R. at 25-28). In his pre-hearing statement, Claimant stated he planned on utilizing the medical records or testimony of Dr. Michael Patterson, Dr. Susi Folse, Dr. Todd Sitzman, and Dr. Weible at Nan's Family Medical Clinic. (Id.). He then filed an Amended Pre-Hearing Statement on July 8, 2008, noting that he would call any and all people listed or called by the employer/carrier and any/all of Claimant's treating physicians as possible witnesses. (R. at 88-91).

A hearing on the merits was held on July 10, 2008, in Hattiesburg, Mississippi.[1] (T. at 1). It was stipulated and agreed that at the time of the alleged 2004 injury, Claimant earned an average weekly wage of $434.40. (R. at 105). The Employer/Carrier have admitted that on or about March 25, 2004, Claimant reported a work related injury; however, they dispute the causal connection of the claimed injury to any medical condition or any medical treatment therefore. (T. at 4). At issue during the hearing was whether Claimant sustained a work-related back injury on March 25, 2004, and if so: the existence and extent of temporary disability, the existence and extent of permanent disability, the reasonableness and necessity of his medical treatment; and the date of maximum medical improvement. (Id.).

The Claimant testified on his behalf at the hearing. (T. at 7). He also entered several medical reports into evidence. However, Claimant did not call any of Claimant's treating physicians to testify in person. Although Claimant knew the causation of his back injury was contested by the Employer/Carrier, he did not conduct any depositions of his treating physicians prior to the hearing. This was even though Dr. Patterson's September 12, 2003, record stated that Claimant reported years of chronic back pain. (E/C Ex. 2).

Upon concluding his case, the Employer/Carrier called Teri Spiers, the human resource manager and safety director for Superior. (T. at 93). Spiers testified that Claimant had a lot of medical problems and complained of back and neck pain prior to the two alleged dates of accident. (T. at 97-98). Spiers stated she questioned Claimant as to the cause of his back and neck pain, and that Claimant only responded that years of driving a forklift had taken a toll on

[1]As the present evaluation involves only the March 2004 alleged date of injury, only the procedure of that claim will be discussed herein, leaving out any mention or details of the August 2003 alleged date of injury, although both claims were heard at the same hearing.

his body. (T. at 98). The Employer/Carrier also produced medical records from Wesley Hospital, which showed that as early as August 22, 1994, Claimant sought treatment for back pain from the emergency room. (Gen. Ex. 24). An x-ray was taken at Wesley on August 22, 1994, and revealed narrowed space and degenerative disc disease at L5-S1. (E/C's Ex. 1). Claimant also sought treatment for his back pain from Dr. Enger, who noted the back pain was stable on August 16, 1996. (Gen. Ex. 20). Claimant also fell from a ladder and landed on his back on May 15, 2000. (Gen. Ex. 24).

By Order dated October 17, 2008, the Administrative Judge found that although Claimant reported a work accident on March 25, 2004, he did not meet his burden of proof in showing the accident caused his back symptoms which necessitated surgery. (R. 106). In her Order, the Judge specifically pointed out that Claimant was diagnosed with degenerative disc disease at L5-S1 as early as August 1994, ten years prior to his alleged work injury. (R. 106). Claimant was also diagnosed with mechanical back pain by Dr. Patterson in September 2003. (R. 106-07). Additionally, the Judge noted that just four months prior to his March 2004 injury, Claimant had a lumbar MRI which revealed a bulge at L4-5 and a slight bulge at L5-S1. (R. at 107). Post-accident, an April 2004 MRI was noted to have a collapsed L5-S1 disc. (Id.). The Judge found that Claimant did not provide any evidence from Dr. Patterson as to whether Claimant's work accident on March 25, 2004, aggravated or exacerbated his pre-existing degenerative disc disease in the lower back. (Id.). In fact, the only mention of a causal connection was made by Dr. Folse in her April 2, 2004 note, which stated Claimant had exacerbated his pre-existing lower back problems by doing a "normal movement" at work. (Id.).

After weighing the evidence, the Judge held that there was insufficient evidence to find that Claimant's March 25, 2004, work accident was more than a temporary aggravation of his pre-existing lumbar degenerative disc disease. (R. at 107). The Judge awarded Claimant $289.74 in TTD benefits from March 25, 2004 through March 29, 2004, as well as payment of the March 25, 2004, Work Well visit and the March 26 and 29, 2004, Nan Family Healthcare visits. (R. at 108).

On November 3, 2008, Claimant moved to reopen the case to conduct additional discovery regarding medical evidence, in the hopes of submitting other evidence which would show a causal connection into consideration. (R. at 109-10). There was no medical evidence attached to the motion. On June 25, 2009, the Judge granted the Motion to reopen the case, based on the premise that the Commission should fully develop the facts of the case and it was within the discretion to reopen a case as noted in ***Wells-Lamont Corp., v. Watkins***, 151 So. 2d 600 (Miss. 1963) ***and Short v. Wilson Meat House, LLC***, No. 2008-WC-01224-COA, (Miss. Ct. App. June 16, 2009). (R. at 118-19).

The Full Commission, after hearing arguments, simply affirmed the Order of the Administrative Judge without comment in an Order dated November 5, 2009. (R. at 125). The Circuit Court affirmed the Commission, noting that the Commission's decision was supported by substantial evidence. The Circuit Court did not perform a de novo review.

SUMMARY OF THE ARGUMENT

The Administrative Law Judge erred in granting the claimant's motion to reopen to allow for the introduction of additional medical evidence, after an Order had been entered following the final hearing on the merits. Further, the Full Commission erred in affirming the

Administrative Law Judge's Order. The Circuit Court further erred by utilizing an incorrect standard of review. The issues in the instant case are all legal issues, which must be reviewed de novo. The appellants herein are not stating that the Commission erred in its fact determination.

In allowing the claim to be reopened, the Judge acted contrary to the Procedural Rules of the Commission and against established case law regarding the same. Procedural Rule 9 provides that "[a]ll testimony and documentary evidence shall be presented at the evidentiary hearing before the Administrative Judge." The Claimant had over four years from the time he filed his Petition to Controvert until the date of the final hearing on the merits, during which to develop the facts and evidence needed to prove his disability was causally related to his March 2004 work accident. He failed to develop this crucial information and now seeks more time for discovery into such. This request should be denied and the Full Commission's Order allowing the case to be reopened should be reversed. The evidence that Claimant now seeks is likely the deposition of one of Claimant's treating physicians. Doctors' depositions were available during the discovery phase of this case, which continued for years. The facts show that Claimant had ample time to develop his case but did not. Additional evidence can only be admitted in the discretion of the Commission when a final Order is appealed to the Full Commission. This is not the case here, as Claimant filed a Motion to reopen his claim. The case was appealed to the Full Commission by the appellants herein, following the Administrative Law Judge's Order allowing the claim to be reopened. The Claimant has not ever appealed the final Order of the Administrative Law Judge. The claimant has not met his burden of showing a change of

condition or mistake in determination of fact, which must be proven in order for a case to be reopened.

ARGUMENT

A. *The Circuit Court Erred in Utilizing the Substantial Evidence Standard of Review Rather Than a De Novo Standard of Review.*

The standard of review in workers' compensation matters is well established. On appeal, the scope of review is limited to a determination of whether the decision of the Commission was supported by substantial evidence. ***Westmoreland v. Landmark Furniture, Inc.***, 752 So. 2d 444, 447 (Miss. Ct. App. 1999). In fact, a decision of the Commission will only be reversed if it is not supported by substantial evidence, is arbitrary or capricious, or is based on an erroneous application of the law. ***Weatherspoon v. Croft Metals, Inc.,*** 853 So. 2d 776, 778 (Miss. 2003)(citing ***Smith v. Jackson Constr. Co.***, 607 So. 2d 1119, 1124 (Miss. 1992)).

In the instant case, we are talking about an erroneous application of the law, not a factual scenario. In these cases, the Court must review the case de novo. There is no question arising as to whether there is substantial evidence or not, as the issues raised in this appeal deal only with applications of the law, not with fact determinations made. In fact, the Commission made absolutely no fact determinations in the instant case. There has been no appeal of the Administrative Judge's final order; therefore, they have had no reason to make any factual determinations. The sole issue is whether the claimant's case should be reopened to allow the claimant to conduct additional discovery after a final order has been entered. The appellants contend that the Administrative Judge and the Commission erroneously applied the law in this

case. Further, upon appeal to the Circuit Court, the Court held that the Commission's decision was supported by substantial evidence, when a de novo review of the legal issues was called for, as there were absolutely no fact determinations at issue in the appeal.

B. ***The Administrative Judge Lacks Authority to Reopen a Claim to Admit Additional Evidence.***

The Claimant, having ample time to obtain the necessary medical opinions to establish causation of a known controverted claim, failed to carry his burden of proof during the Administrative Judge's hearing by producing such testimony or documentation, and now seeks for the claim to be re-opened to allow him time to gather additional evidence. The quintessential case on a motion to re-open a workers' compensation claim to admit additional medical evidence is ***Wells-Lamont Corp., v. Watkins.*** In ***Wells-Lamont***, the claimant intended to introduce the medical records and testimony of Dr. George Purvis, but did not, suddenly resting her case. ***Wells-Lamont Corp., v. Watkins***, 151 So. 2d 600, 601 (Miss. 1963). The Employer/Carrier then chose to not call Dr. Purvis as a witness. ***Id.*** The Administrative Judge dismissed the claim finding that Claimant's allegation of a work-related injury and disability was not supported by medical testimony. ***Id.*** The Claimant filed a motion requesting to set aside the Order so that she could introduce the testimony of Dr. Purvis. ***Id.*** The Commission denied what they saw as a ***motion to reopen the claim***, noting that the only way the Commission could alter or change an Administrative Law Judge's Order was on a ***motion for review*** (appeal). ***Id.*** The Claimant then filed a petition for review and appealed the case to the Full Commission. ***Id.***

In the present case, Claimant has not appealed the Administrative Judge's final order. Rather, he filed a Motion to reopen the claim. This was not allowed in ***Wells-Lamont*** and should not be allowed now. All other cases addressing Wells-Lamont or a motion to introduce additional evidence all dealt with appeals, not motions to reopen the lower claim. ***See Twine v. City of Gulfport***, 833 So. 2d 596 (Miss. Ct. App. 2002); ***Washington v. Woodland Village Nursing Home***, 2007-WC-02291-COA (Miss. Ct. App. February 24, 2009); ***Short v. Wilson Meat House***, 2008-WC-01224-COA (Miss. Ct. App. June 16, 2009). Claimant has failed to cite one case indicating an Administrative Judge has the authority to reopen a claim to admit additional medical evidence after a final order following a hearing on the merits.

C. The Commission Relied on the Court of Appeals Decision in Short v. Wilson Meat House Improperly to Affirm the Decision of the Administrative Law Judge.

Following the Circuit Court's Order in this case, the Supreme Court granted certiorari in the ***Short v. Wilson Meat House*** case. The Administrative Law Judge and the Full Commission by adopting the Administrative Law Judge's Order, relied upon the decision from the Court of Appeals in granting the claimant's motion to reopen his case. It can be inferred from the rulings that the Commission felt its hands were tied and that they had no choice but to allow the introduction of all medical evidence following hearings on the merits. The Commission did not believe that they had the discretion to consider such issues. However, now that the Supreme Court has reversed the decision of the Court of Appeals, this Court should remand the case to the Commission for further consideration.

D. The Claimant Failed to Prove a Mistake in Determination of Fact or a Change in Condition.

Although the Administrative Judge and the Commission have treated the claimant's Motion to Reopen as a Motion to Admit Additional Evidence, the Claimant truly filed a Motion to Reopen the Claim following a final Order. He did not file a Motion to Admit Additional Evidence. As stated earlier, a Motion to Admit Additional Evidence must be filed after filing a Petition for Review of the underlying decision with the Full Commission. Further, the Motion must set out the evidence the claimant seeks to introduce, the reason he feels it needs to be allowed, and the reason why it was not introduced at the hearing on the merits. The claimant has not met any of these requirements as set out in the established case law.

If the Court finds that the claimant has filed a Motion to Reopen the Claim, as his motion is titled, the Court must find that the claimant likewise did not meet those requirements as set out in established case law either. It is well settled in the law that a claimant must show a mistake in determination of fact or a change in condition. ***MISS. CODE ANN. § 71-3-53.***

In the instant case, the claimant has presented absolutely no evidence whatsoever to support his motion. There is no evidence to support that there was a mistake in determination of fact or any change in conditions which would warrant reopening the claimant's compensation case following a final order.

This Court has found that, "absent indication of change in claimant's condition or mistake in determination of fact," a claimant is not entitled to have the case reopened. ***J. R. Logging v. Halford, 765 So.2d 580, 584 (Miss. Ct. App. 2000).*** In fact, the burden is on the party making the motion, here the claimant, to "prove that change by a preponderance of the evidence." ***Id. citing Pennington v. U.S. Gypsum Co.*, 722 So.2d 162 (Miss. Ct. App. 1998).** The Court further reiterated that "it is clear that an allegation of mistake should not be allowed to

become a backdoor route to re-trying a case because one party thinks he can make a better showing on the second attempt." ***Id. citing Bailey Lumber Co. v. Mason*, 401 So.2d 696, 704 (Miss. 1981)**. The Court of Appeals noted that "Halford does not state what information is contained in these reports, nor does he show how these reports could have changed the outcome...As stated above in *Larson*, this alleged mistake "should not be used as a means to retry one's case, and we will not allow such to constitute cause to reopen Halford's case." ***Id. at 585.***

Here, the claimant is clear in his motion that he is requesting that he be allowed to retry his case, which is exactly what ***Halford*** prohibits. Further, the claimant attaches no medical evidence to his motion. He is not seeking to have a particular piece of evidence admitted; he is seeking to reopen the case to allow additional discovery time. The Court should not allow parties to retry their case once a final order has been entered by the Administrative Judge. The claimant should be required to meet all requirements of the law. This claimant clearly has not met any requirements which are outlined in the established case law and in the statute.

E. Even if Claimant's Motion is Viewed as an Appeal, the Request for More Time to Seek Additional Evidence Should Be Denied.

Procedural Rule 7 requires that "[a]ll cases shall be completed at one hearing on the merits, and all lay, expert, and documentary evidence, ***including medical depositions***, shall be introduced at such hearing." (Emphasis added) Claimant failed to conduct a medical deposition before the final hearing on the merits. Procedural Rule 9 provides that "[a]ll testimony and documentary evidence shall be presented at the evidentiary hearing before the Administrative Judge," and "[w]here additional evidence is offered on the review before the Full Commission, it shall be admitted in the discretion of the Commission."

In ***Twine***, the court found that the claimant had ample opportunity from the date of her injury, approximately two and a half years before the claimant's amended petition to controvert, to gather and present the doctor's report she sought to admit. ***Twine,*** 83 3So.2d at 602. The court also found that the claimant's motion failed to meet the requirements of Procedural Rule 9 of the Commission, noting that the motion did not "detail the need for the documents and reason why they were not introduced previously." ***Id.***

Similar to the claimant in ***Twine***, the claimant had ample opportunity to gather the evidence he now seeks to obtain. However, he failed to act with due diligence in finding the documentation needed to support his case. The facts show that with even minimal diligence, Claimant could have obtained the evidence he needed. However, he did not. To date, he still has not obtained this evidence. Rather, Claimant asks for more time to gather this supposed evidence together. His motion to the Administrative Judge did not present any medical evidence that he is seeking to admit. Further, his motion did not detail the reason why the evidence was not introduced at the hearing.

All of Claimant's medical records, including those from Dr. Patterson and Dr. Folse were introduced at the final hearing of this matter. At no time during the final hearing or during discovery phase of the claim, did the Claimant request Dr. Folse or Dr. Patterson address any questions. Claimant also did not seek to take their deposition testimony. Given the fact that Claimant filed his Petition to Controvert as early as September 2004, had his lumbar surgery in January 2005, and the hearing was not held until July 2008, he had ample opportunity to depose the treating physicians, but did not. From the date of his September 10, 2004, petition to

controvert, Claimant had over four years prior to the final hearing on the merits to gather the necessary evidence.

Additionally, the evidence the claimant now seeks to gather was not inadvertently omitted during the evidentiary hearing. It did not exist at the time of the hearing because of Claimant's lack of diligence in proving his case. This evidence still does not exist, as Claimant readily admits in his Motion to Re-Open the Case that he now seeks time to gather this information. Thus, Claimant has still not made any effort to prove his case. He simply seeks more time in addition to the four and a half years he has already been given to meet his burden of proof. The line must be drawn somewhere.

Procedural Rule 9 of the Mississippi Workers' Compensation Commission clearly states that "[a]ll testimony and documentary evidence shall be presented at the evidentiary hearing before the Administrative Judge...." It is entirely within the discretion of the Commission to allow the introduction of additional evidence at the Full Commission review, and the allowance of additional evidence must fall within the guidelines set out by the Court in both ***Wells-Lamont*** and ***Twine***. Here, the claimant fails to show that this evidence was unavailable or inadvertently omitted. Because Claimant made no effort to obtain or admit medical evidence at hearing or even following the hearing but before the issuance of the Order of the Administrative Judge, he should not be allowed to re-open the case now. If granted, any additional time will only give him more time to go on a fishing expedition, and is not guaranteed to result in the production of any further medical evidence.

Claimant is attempting to skirt the requirements of Procedural Rule 9 and to now request to take depositions after the Final Order of the Administrative Law Judge has been entered.

Depositions should have been taken in the discovery phase of this claim. The Claimant never requested any depositions, nor did he request that claimant's treating physicians even address any questions in writing. Only now after the Judge has ruled against him does he seek to gather evidence to support his claim. Again, the claimant is too late in his request.

CONCLUSION.

Claimant had ample time to fully develop his case, but failed to do so. Over four years passed from the date Claimant filed his Petition to Controvert until the hearing on the merits was held. During all that time, Claimant failed to produce any testimony or documentation to show a causal connection on this known controverted case. The facts show that Claimant still has not obtained this evidence. The granting of Claimant's Motion to Re-Open the case only allows Claimant more time to search for his needed evidence. This ruling must not stand, as it is contrary to the established law in Mississippi.

Respectfully submitted,

SUPERIOR MANUFACTURING GROUP, INC., AND
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CERTIFICATE OF SERVICE

I, Amy Lee Topik, attorney for the employer and carrier, do hereby certify that I have this day mailed, by United States mail, postage prepaid, a true and correct copy of the above and foregoing Appellant's Brief to the Circuit Court to:

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This the 14th day of July, 2010.

Amy Lee Topik