

IN THE SUPREME COURT OF MISSISSIPPI

CASE NO. 2011-CC-00595

SKYHAWKE TECHNOLOGIES, LLC

APPELLANT

V.

MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY
AND SHAWN GILLIS

APPELLEES

ON APPEAL FROM THE CIRCUIT COURT OF
MADISON COUNTY, MISSISSIPPI

REPLY BRIEF OF APPELLANT,
SKYHAWKE TECHNOLOGIES, LLC

ORAL ARGUMENT REQUESTED

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TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
STATEMENT REGARDING ORAL ARGUMENT	iii
ARGUMENT	1
CERTIFICATE OF SERVICE	2

TABLE OF AUTHORITIES

TABLE OF CASES

<i>Richardson v. Miss. Empl. Sec. Comm'n</i> , 593 So.2d 31 (Miss. 1992)	2
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STATEMENT REGARDING ORAL ARGUMENT

The employer-appellant requests oral argument to clarify that the denial of admissible, substantial evidence and the application of the incorrect standard of law renders the administrative decision arbitrary and capricious and error as a matter of law.

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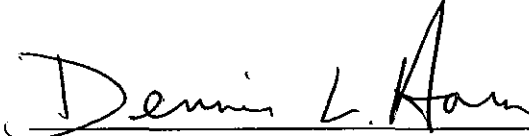
APPELLEES

**REPLY BRIEF OF APPELLANT,
SKYHAWKE TECHNOLOGIES, LLC**

The claimant Shawn Gillis repeatedly told his female co-worker to “f**k you,” “peace, love, well maybe not” and “game on.” The female employee took that last message to be a threat. Brief of MDES, p. 12. These emails followed actions at work and the evening Mr. Gillis showed up unexpectedly at her house, uninvited and unannounced. Brief of MDES, p. 11. As the brief for Appellee, Mississippi Department of Employment Security admits, Mr. Gillis had “acknowledged that he was discharged for sending a text message to a co-worker, which the co-worker found offensive. Based on this investigation, the Claims Examiner notified the Employer and Mr. Gillis that he was disqualified from receiving benefits due to sending sexually explicit text messages to a co-worker.” Brief of MDES, p.2. This was not a case of vulgar language alone, but was a case of sexual harassment. The female employee testified she was actually afraid of Shawn Gillis. Brief of MDES, p. 10. The employer followed its internal policy when it fired Shawn Gillis immediately. The company’s stated rule in its handbook established that

consequences for sexual harassment included immediate termination. R. Vol. 1, pp. 67-70; R. Vol. 2, pp. 145-149. The findings of the ALJ to the contrary were neither supported by substantial evidence nor entered in accordance with the correct standards of law, *Richardson v. Miss. Empl. Sec. Comm'n*, 593 So.2d 31 (Miss. 1992), cited at page 9 of the brief of MDES, and must therefore be reversed.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I, Dennis L. Horn, Attorney for Appellant, SkyHawke Technologies, LLC, certify that I have this day served a copy of the above and foregoing *Brief of Appellant, SkyHawke Technologies, LLC*, by U.S. Mail, postage prepaid, on the following persons at these addresses:

Hon. LeAnne F. Brady
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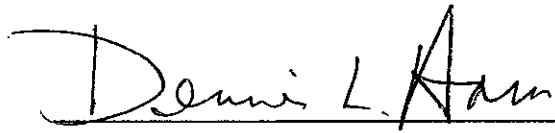
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Hon. Libby Comeaux
Administrative Law Judge
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Hon. William E. Chapman III
Circuit Court Judge
P. O. Box 1626
Canton, MS 39046

This the 22^d day of November, 2011.


Dennis L. Horn