

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F001850

ROBERT POWELL,  
EMPLOYEE

CLAIMANT

DAYMARK GROUP, INC.,  
EMPLOYER

RESPONDENT

AMERICAN PROTECTION INS. CO.,  
INSURANCE CARRIER

RESPONDENT

ORDER FILED JULY 15, 2003

Upon review before the FULL COMMISSION in Little Rock,  
Pulaski County, Arkansas.

Claimant represented by the HONORABLE SILAS BREWER, Attorney  
at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE ERIC NEWKIRK,  
Attorney at Law, Little Rock, Arkansas.

ORDER

This case comes on for review before the Full  
Commission on claimant's motion for an extension to file  
belated reply brief.

After our consideration of claimant's motion,  
respondents' agreement thereto, and all other matters  
properly before the Commission, we find that claimant's  
motion should be denied.

Accordingly, we find that claimant's motion for  
extension to file his belated reply brief should be, and

hereby is, denied. Additionally, the Clerk of the Commission is directed to set another submission date.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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JOE E. YATES, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

\_\_\_\_\_ I must respectfully dissent from the Order denying claimant's motion for an extension of the briefing schedule with regard to his reply brief.

Claimant filed a timely appeal of the opinion of the Administrative Law Judge. Claimant was granted, without an objection by respondent, an extension of time to file his original brief. Thereafter, respondent likewise obtained an extension to file its brief. Claimant agreed with respondent's request. As a result of the extension granted respondent, claimant's reply brief became due June 9, 2003. On June 9, 2003, claimant filed a timely motion to extend the briefing schedule for his reply brief. However, claimant filed the motion with the Clerk of the Commission, instead of directly with the Full Commission. After the Clerk of the Commission informed claimant's attorney that

only the Full Commission could consider the motion, claimant filed another motion directed specifically to the Full Commission. Respondent informed the Commission that it has no objections to claimant's motions.

"The humanitarian objects of such laws (workers' compensation) should not, in the administration thereof, be defeated by over-emphasis on technicalities - by putting form over substance." Guffy v. Arkansas Secretary of State, 18 Ark. App. 54, 710 S.W.2d 836 (1986) quoting Williams Mfg. Co. v. Walker, 206 Ark. 392, 175 S.W.2d 380 (1943). In my opinion, claimant's first motion filed with the Clerk of the Commission on June 9, 2003 should be considered timely. To hold otherwise is to place form over substance. Accordingly, I would grant claimant's motion for an extension to file his reply brief.

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SHELBY W. TURNER, Commissioner