

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F403867

GLADYS LEFFLER,  
EMPLOYEE

CLAIMANT

BAXTER INTERNATIONAL, INC.,  
EMPLOYER

RESPONDENT

OLD REPUBLIC INSURANCE COMPANY,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED SEPTEMBER 12, 2005

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

Claimant represented by the HONORABLE MATT STONE, Attorney  
at Law, Mountain Home, Arkansas.

Respondents represented by the HONORABLE TOM HARPER, JR.,  
Attorney at Law, Fort Smith, Arkansas.

OPINION AND ORDER

The claimant in the above-styled matter has filed an  
Entry Of Appearance And Notice Of Appeal With Request For  
Further Evidentiary Hearing. In an opinion filed August 1,  
2005, an administrative law judge found, among other things,  
that the claimant failed to prove she sustained a  
compensable right shoulder injury. The claimant states that  
the administrative law judge erred in not according greater  
evidentiary weight to the opinion of Dr. Knox; that Dr. Knox  
was contacted and influenced by agents of the respondents;

that further evidence exists to be heard; that the findings of Dr. Knox may be inaccurate; that the administrative law judge failed to properly realize, find, and acknowledge the claimant's physical limitations; and that the claimant reserves the statutory notice issue.

Ark. Code Ann. §11-9-705(c)(1)(A) provides, "All oral evidence or documentary evidence shall be presented to the designated representative of the commission at the initial hearing on a controverted claim, which evidence shall be stenographically recorded." In order to submit new evidence, a moving party must show that the evidence is relevant; that it is not cumulative; that it would change the result of the case; and that the movant was diligent in presenting the evidence. Mason v. Lauck, 232 Ark. 891, 340 S.W.2d 575 (1980).

In the present matter, the claimant has not presented any new "evidence" which is relevant, not cumulative, or would change the result of the case. The claimant has additionally not been diligent in presenting new evidence to the Commission. The Full Commission therefore denies the claimant's request for further evidentiary hearing. We

direct the Clerk of the Commission to establish a briefing schedule for the parties pursuant to the claimant's appeal of the administrative law judge's opinion.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.