

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F606927

CYNTHIA JOHNSON, EMPLOYEE	CLAIMANT
GINO MORENA ENTERPRISES, EMPLOYER	RESPONDENT
WAUSAU INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT

ORDER FILED DECEMBER 19, 2007

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

Claimant presented *pro se*.

Respondent represented by HONORABLE MICHAEL RYBURN,
Attorney at Law, Little Rock, Arkansas.

ORDER

This matter is currently before the Full
Workers' Compensation Commission on the claimant's
request to introduce additional evidence on appeal.
After considering the claimant's motion, the
respondent's response thereto, and all other matters
properly before the Commission, we find that the
claimant's motion should be denied.

In an opinion filed September 17, 2007, an
Administrative Law Judge found that the claimant failed

to prove by a preponderance of the evidence that there was a causal connection between her March 24, 2004, compensable right wrist sprain and the subsequent diagnosed rheumatoid arthritis which resulted in her incapacitation as of June 30, 2005.

On October 15, 2007, the claimant filed a Notice of Appeal with the Commission, and on November 26, 2007, the claimant filed a Motion to Introduce Additional Evidence, which is currently before us. In the claimant's motion, she requests that she be allowed to introduce into evidence a document from the University of Arkansas Medical Sciences (UAMS) Internal Medicine Clinic. This document notes that the lab tests were testing for 'RF.' The claimant maintains that this evidence should be considered in our review of the merits of the case.

Ark. Code Ann. §11-9-705(c) (1) (Repl. 2002) provides that all evidence must be submitted at the initial hearing on the claim. In order to submit new evidence, the claimant must show that the new evidence is relevant; that it is not cumulative; that it would change the result of the case; and that the claimant was diligent in presenting the evidence to the Commission.

Mason v. Lauck, 232 Ark. 891, 340 S.W.2d 575 (1960);
Haygood v. Belcher, 5 Ark. App. 127, 633 S.W.2d 391
(1982).

We find that the document revealing that the claimant was tested for "RF" on November 1, 2007 is cumulative, and it would not change the results of the case. On May 9, 2006, the claimant underwent testing at UAMS to determine if she suffered from Rheumatoid Arthritis. The test measured the claimant's RF and CCP IgG levels. A notation on the medical report stated:

Approximately 70% of
patients with RA are
positive for CCP IgG,
while only 2% of random
blood donors and disease
control are positive.

Thus, in order to test to Rheumatoid Arthritis, the laboratory was measuring the claimant's CCP IgG levels, not her RF levels. As the medical evidence determining whether or not the claimant suffered from Rheumatoid Arthritis was entered into evidence at the time of the hearing and would not change the results of the case, we find that the newly discovered evidence would be cumulative and is therefore denied.

Therefore, after considering the claimant's motion, the respondent's response thereto, and all other matters properly before the Commission, we deny the claimant's motion to submit additional evidence on appeal.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Hood dissents.