

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F707970

RICKY GASKINS,  
EMPLOYEE

CLAIMANT

JEFF MINNER TRUCKING,  
EMPLOYER

RESPONDENT

GREAT AMERICAN INSURANCE CO OF NY,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED JANUARY 4, 2010

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

Claimant represented by the HONORABLE JEREMY M. THOMAS,  
Attorney at Law, Blytheville, Arkansas.

Respondents No. 1 represented by the HONORABLE GUY A. WADE,  
Attorney at Law, Little Rock, Arkansas.

OPINION AND ORDER

This matter is presently before the Commission on remand from the Court of Appeals to settle the record. Claimant filed a motion with the Court of Appeals for Writ of Certiorari to Complete the Record and Motion to Stay Brief Time claiming that the Clerk of the Commission failed to include in the record the parties' briefs filed to the Full Commission.

Pursuant to Ark. Code Ann. §11-9-704(b)(6)(a) the Full Commission is authorized to review the evidence and hear the parties on appeal. Accordingly, we conduct a de novo review of the record. The parties' briefs are not evidence on the

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arguments. Such records have never been considered part of the record. Moreover Ark. Code Ann. §11-9-711(b)(1)(a) specifically states:

The appeal to the court may be taken by filing in the office of the commission, within thirty (30) days from the date of the receipt of the order or award of the commission, a notice of appeal, whereupon the commission under its certificate shall send to the court all pertinent documents and papers, together with a transcript of the evidence and findings and orders, which shall become the record of the cause.

This Commission does not permit a party to pick and choose which documents to "designate" for the record. This is a decision for the Commission to make. The Clerk of the Commission complied with the requirements of Ark. Code Ann. §11-9-711(b)(1)(a) and provided the claimant with a complete and accurate transcript for this claim. The briefs are outside the record, they are not evidence and they do not fall within pertinent documents, papers, transcript, findings, or orders. Claimant had ample opportunity to introduce exhibits at the hearing level. Accordingly, we find that the record is settled as it currently exists.

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IT IS SO ORDERED.

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A. WATSON BELL, Chairman

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KAREN H. McKINNEY, Commissioner

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PHILIP A. HOOD, Commissioner