
David REAP *v.* AUTOMATION SYSTEMS, INC., and American
National Insurance Company

CA 03-229

117 S.W.3d 642

Court of Appeals of Arkansas
Opinion delivered September 10, 2003

1. APPEAL & ERROR — MOTION TO SUPPLEMENT RECORD — MATTER REMANDED TO WORKERS' COMPENSATION COMMISSION TO SETTLE RECORD. — Where appellees alleged in their motion to supplement the record that pages were missing from the record, the appellate court remanded to the Workers' Compensation Commission so that the record could be settled.
2. APPEAL & ERROR — MOTION FOR ENLARGEMENT OF BRIEFING SCHEDULE — GRANTED. — The appellate court granted appellees' motion for an enlargement of the briefing schedule.

Remanded for Settling of the Record; Motion for an Enlargement of the Briefing Schedule granted.

Roberts Law Firm, P.A., by: *John D. Webster*, for appellees.

No response.

PER CURIAM. In this appeal of a workers' compensation case, appellees initially filed with this court motions for remand and for an enlargement of the briefing schedule. Appellees alleged that the record that they had finally received from appellant was in extremely poor physical condition with its binding separated, and with pages loose and out of order; and that it was unclear whether all pages were included. Appellant did not respond to the motion. By order of July 30, 2003, we denied appellees' motion to remand but granted their motion for an enlargement of the briefing schedule.

Appellees have now filed a motion to supplement the record with pages that they allege are unaccounted for. Appellees specifically allege:

That, when [appellees] placed the pages of the record in order, after having held it in the same condition in which it was received from [appellant], it was discovered that approximately ninety (90) pages

of the record were missing, specifically pages 1 through 48, 129, 141, 197-98, 203 through 232, 324 through 331 and 334....

Appellees further allege that although they have made repeated attempts to secure cooperation from appellant's counsel in correcting deficiencies in the record and in replacing missing pages, they have received minimal assistance from counsel. Appellant, again, has not responded to appellees' motion.

[1] Upon a party's filing in the office of the Workers' Compensation Commission a notice of appeal of the commission's order or award, "the commission under its certificate shall send to [this] court all pertinent documents and papers, together with a transcript of evidence and the findings and orders, which shall become the record of the cause." Ark. Code Ann. § 11-9-711(b)(A) (Repl. 2002). Because appellees have alleged in their motion that pages are missing from the record, we remand to the Commission so that the record can be settled. The settled record shall be filed in the clerk's office within thirty days. Expenses incurred by the Commission in settling the record shall be paid to the commission by appellant.

[2] Appellees have also moved for an enlargement of the briefing schedule, which we grant. Appellees' brief shall be due within thirty days after the settled record has been filed.

Remanded for settling of the record. Motion for an enlargement of the briefing schedule granted.