

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CV-13-57

CLIFFORD RICH

APPELLANT

V.

QUALSERV CORPORATION and
THE HARTFORD INSURANCE CO.
APPELLEES

Opinion Delivered May 29, 2013

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. F903764]

REBRIEFING ORDERED

RITA W. GRUBER, Judge

Clifford Rich appeals a decision of the Arkansas Workers' Compensation Commission (Commission) that denied his claim for benefits related to his compensable injury. We cannot entertain the appeal at this time because of briefing deficiencies.

In a previous opinion, *Qualserv Corp. v. Rich*, 2011 Ark. App. 548, we affirmed a 2011 decision of the Commission and its finding that Mr. Rich's preexisting chronic obstructive pulmonary disease (COPD) was temporarily aggravated by exposure to cobalt dust in the workplace. Mr. Rich now appeals a second decision of the Commission in this case, entered on May 8, 2012. He contends that no substantial evidence supports the Commission's finding that the aggravation of his COPD ended March 3, 2010, foreclosing entitlement to additional medical treatment or temporary disability benefits beyond that date.

Both parties refer in the argument portions of their briefs to pertinent deposition



testimony by a medical doctor and a nurse. In contravention of our rules, their testimony merely appears in the addendum as transcripts and has not been abstracted. Ark. Sup. Ct. R. 4-2(a)(5) (2012). The rule directs that “material parts of all hearing transcripts, trial transcripts, and *deposition transcripts* must be abstracted, even if they are an exhibit to a motion or other paper.” Ark. Sup. Ct. R. 4-2(a)(5)(A) (emphasis added). We also remind counsel that an abstract and addendum can be deficient for containing too much material, as well as too little. *Am. Transp. Corp. v. Exch. Capital Corp.*, 84 Ark. App. 28, 129 S.W.3d 312 (2003). In the present appeal, the addendum unnecessarily includes transcripts of the two depositions and of the 2012 hearing before the administrative law judge.

We order counsel for Mr. Rich to file a substituted brief curing deficiencies in the abstract and addendum, and revising his argument with proper reference to pages of the abstracted testimony. His brief shall be filed within fifteen days from the date of entry of this order. Ark. Sup. Ct. R. 4-2(b)(3) (2012). Counsel for Qualserv will be allowed fifteen days after the substituted brief is filed to revise its brief with proper citation to abstracted deposition testimony. We advise both counsel to examine our rules to ensure that no other briefing deficiencies exist.

Rebriefing ordered.

GLOVER and VAUGHT, JJ., agree.

Walker, Shock & Harp, PLLC, by: *Eddie H. Walker, Jr.*, for appellant.

Smith, Williams, & Meeks L.L.P., by: *Charles H. Crocker, Jr.*, and *Gene Williams*, for appellees Qualserv Corporation and Twin City Fire Insurance Company.