Case No. 114810

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

JONNIE YVONNE VASQUEZ,

Claimant/Respondent,

vs.

DILLARD'S INC.,

Respondent/Petitioner

BRIEF OF AMICUS CURIAE WORKERS' INJURY LAW & ADVOCACY GROUP

Appeal from the Workers' Compensation Commission, CM-2014-11060L

BRANDON BURTON, OBA # 16973
P.O. Box 2666
Oklahoma City, OK 73101
405-232-0555

KATHLEEN G. SUMNER
NC BAR # 17733
Box 7915
Greensboro, NC 27417

June 16, 2016

INDEX

TABLE OF AUTHORITIES…………………………………………… ii

STATEMENT OF INTEREST OF *AMICUS CURIAE* 1

ISSUE……………………………………………………………..5

ARGUMENT……………………………………………………..5

CONCLUSION…………………………………………………….17

CERTIFICATE OF SERVICE…………………………………….19

TABLE OF AUTHORITIES

Cases Cited

Contract Servs. Employee Trust v. Dovis, 55 F.3d 533 (10th Cir. 1995) 17
Ogino v. Black, 304 N.Y. 872, 109 N.E. 2d 884 (1952) 3
Riggins v. Stong, 238 A.D.2d 950, 661 N.Y.S.2d 170 (1997) 3
Sedore v. Sayre, 119 N.Y.S.2d 204 (Sup. Ct. 1953) 3
Shaw v. Delta Airlines, Inc. 463 O.S. 85 (1983) 17

Publications Cited

American Bar Association. *Important Work of Uncle Sam's Lawyers,* 17 American Bar Association Journal (1931) 15
Gerdes, D.A. *Workers' Compensation, An Overview for Physicians,* South Dakota Med J. 1990, July. 5
Guyton, G.P. *A Brief History of Workers' Compensation,* The Iowa Orthopedic Journal, 1999, Vol. 19 6
Hadler, N.M. *The Disabling Backache, an International Perspective, Spine,* 1995, Vol. 20 5
Larson's Workers' Compensation Law 3
McCluskey, Martha T. *The Illusion of Efficiency in Workers' Compensation "Reform,"* 50 Rutgers L. Rev 657 (1998) 4
Morantz, Alison. *Opting Out of Workers' Compensation in Texas: A Survey of Large, Multistate Non-subscribers* 9
New Street Group. *Workers' Compensation Opt-Out? Can Privatization Work?* November, 2012 11
Report on the National Commission on State Workers' Compensation Laws, U.S. Government Printing Office, July, 1972 4, 7-8, 10
Shields, Joseph and D.C. Campbell. *A Study of Nonsubscription to the Texas Workers' Compensation System: 2001 Estimates Texas Department of Insurance* 9
Widman, A. *Workers' Compensation A Cautionary Tale* (2006) 1

INTEREST OF THE *AMICUS CURIAE*

Amicus curiae Workers' Injury Law & Advocacy Group [WILG] is an organization dedicated to protecting and advocating the rights of injured workers throughout the United States. WILG has substantial common interests in ensuring that the rights of injured workers throughout the United States are not further diminished through the depletion of the Grand Bargain struck on behalf of employees and employers throughout the United States.

Workers' compensation is a form of insurance that provides medical care and compensation for employees who are injured in the course of employment, while abrogating the employee's right to sue their employer for the tort of negligence. While schemes differ between jurisdictions, provision can be made for weekly payments in place of wages, compensation for economic loss (past and future), reimbursement or payment of medical and like expenses, and benefits payable to the dependents of workers killed during employment. Cash benefits are established by state formulas with maximum benefit levels. The benefits are administered on a state level, primarily by the state administrative agencies. It is these benefits under each State Act that are being whittled down and most recently are being Opted Out.

Workers' Compensation Acts across the country are a heavily bureaucratic, adversarial system that generally short change injured workers. A. Widman,

WORKERS' COMPENSATION A CAUTIONARY TALE, p. 2 (2006). To the extent that workers' compensation rate reductions have occurred, such rate reductions come at the expense of the injured workers, because lawmakers slash benefits and push many of the injured workers out of the system and into other social programs, such as Social Security Disability, Medicare, Medicaid, and private health insurance, now known including the Affordable Care Act. A. Widman, WORKERS' COMPENSATION A CAUTIONARY TALE, p. 2 (2006).

"Workers' compensation is an unfortunate example of how a seemingly fair program can be manipulated by political forces into a nightmare for those it was originally meant to help. Once an area of law is removed from the civil justice system, it becomes vulnerable to money, politics, and influence-peddling. This happens either through aggressive industry lobbying of legislators, political influence on the agencies charged with implementing the system, or orchestrated media efforts. All have happened to workers' compensation." A. Widman, WORKERS' COMPENSATION A CAUTIONARY TALE, p. 3 (2006). Currently the "Opt Out" avarice is slicing and dicing benefits to employees while providing limited liability for employers and carriers.

"Once a workers' compensation act has become applicable either through compulsion or election, it affords the exclusive remedy for the injury by the employee or the employee's dependents against the employer and insurance carrier.

This is part of the *quid pro quo* in which the sacrifices and gains of employees and employers are to some extent put in balance, for, while the employer assumes a new liability without fault, it is relieved of the prospect of large damage verdicts." 6-100 LARSON'S WORKERS' COMPENSATION LAW § 100.01.

"The operative fact in establishing exclusiveness [of jurisdiction] is that of actual coverage, not of election to claim compensation in the particular case." 6-100 LARSON'S WORKERS' COMPENSATION LAW § 100.01. Even if the employee has never made an application for compensation, the employee's right to sue his or her employer at common law is barred by the existence of the compensation remedy. *Sedore v. Sayre*, 119 N.Y.S.2d 204 (Sup. Ct. 1953). If the Compensation Commission has made a valid and unappealed award for compensation, this is *res judicata* on the issue of coverage, and is binding on the court in which the employee attempts to bring his or her common-law suit. *Riggins v. Stong,* 238 A.D.2d 950, 661 N.Y.S.2d 170 (1997); *Ogino v. Black,* 304 N.Y. 872, 109 N.E.2d 884 (1952).

In 1972, the Nixon Administration appointed a bi-partisan commission that produced a unanimous Report of the National Commission on State Workers' Compensation Laws. The Commission declared that "[t]he inescapable conclusion is that State workers' compensation laws in general are inadequate and inequitable. The report listed nineteen 'essential recommendations,' all of which focused on

expanding benefits to workers: eight recommendations dealt with expanded coverage; nine with increased disability benefits; and two with improvements to medical and rehabilitation benefits." McCluskey, Martha T., THE ILLUSION OF EFFICIENCY IN WORKERS' COMPENSATION 'REFORM', 50 Rutgers L. Rev 657 (1998), n. 88, 89 (1998), citing, REPORT OF THE NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS, U. S. Government Printing Office, July 1972. The commission was made up of representatives from business, labor, insurance, the medical profession, academics, and the public. These recommendations were to further the following goals:

-Broad coverage of employees and of work-related injuries and diseases;
-Substantial protection against interruption of income;
-Provision of sufficient medical care and rehabilitation services;
-Encouragement of safety;
-An effective system for delivery of benefits and services.

REPORT OF THE NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS, U. S. Government Printing Office, July 1972.

The rights of injured employees continue to be legislatively diminished in the workers' compensation arena. Preserving the rights of injured employees requires vigilant protection. If the States allow large employers, generally the only ones capable, to opt out, of Workers' Compensation, the ramification are bleak, due to expected skyrocketing premiums and even more limited benefits, thus

shifting the burden of the employer's wreckage to state and federally funded public programs.

ISSUE

I. WHAT IS THE SIGNIFCANCE AND THE PRACTICAL IMPLICATIONS OF THE OKLAHOMA EMPLOYEE BENEFIT ACT, OTHERWISE KNOWN AS THE OPT-OUT PLAN, IF IT WITHSTANDS THE CONSTITUTIONAL CHALLENGE?

ARGUMENT

I. THE SIGNIFICANCE AND THE PRACTICAL IMPLICATIONS OF THE OKLAHOMA EMPLOYEE BENEFIT ACT, OTHERWISE KNOWN AS THE OPT-OUT PLAN, WILL DISSOLVE THE GRAND BARGAIN, SHIFT THE BURDEN OF LIABILITY TO STATE AND FEDERAL PROGRAMS, ALLOW EMPLOYERS TO AVOID THE RISK OF LIABILITY RESULTING FROM THEIR WRECKAGE WHILE SHIELDING THEM FROM THE TRADITIONAL ACCESS TO COURTS

A. Historical Perspective of the Grand Bargain

The development of modern workers' compensation law came under the Prussian leadership of Chancellor Otto Van Bismark, who established a state-administered Prussian system in 1871 that established the "exclusive remedy" in workers' compensation precluding employers under the system from being sued in the civil courts by employees. Gerdes DA, WORKERS' COMPENSATION, AN OVERVIEW FOR PHYSICIANS, South Dakota Med J. 1990, Jul, p 17–23. Others gradually followed the Prussian model, and by 1880, Britain enacted the Employer's Liability Act. Hadler NM, THE DISABLING BACKACHE, AN INTERNATIONAL PERSPECTIVE, Spine, 1995, 20:640–649. Thereafter, the Workers'

Compensation Act was proposed in Parliament in 1893, and was largely the equivalent to the 1884 Prussian law in establishing a "no-fault" doctrine of compensation. Guyton GP, A BRIEF HISTORY OF WORKERS' COMPENSATION, The Iowa Orthopaedic Journal, 1999, 19:106-110.

In the middle of the twentieth century organized workers' movements and Upton Sinclair's novel "The Jungle" incited change in safety and work conditions for the American employee. Guyton GP, A BRIEF HISTORY OF WORKERS' COMPENSATION, The Iowa Orthopaedic Journal, 1999, 19:106-110. Congress passed the Employers' Liability Acts of 1906 and 1908, softening the common-law doctrine of contributory negligence, and the first comprehensive workers' compensation law was passed in Wisconsin in 1911 followed by 36 other states before 1920. Guyton GP, A BRIEF HISTORY OF WORKERS' COMPENSATION, The Iowa Orthopaedic Journal, 1999, 19:106-110.

The central tenets of the American workers' compensation system are: 1) "No-fault" insurance—industrial accidents are accepted as a fact of life and the system exists to deal with their financial consequences in as expeditious a manner as possible; 2) Employers participating in the system have the notable benefit of tort exemption for injuries covered by workers' compensation; 3) Employees can sue third parties who may be responsible for their on-the-job injuries, but any proceeds from such suits must first go to reimburse their employer's compensation

insurance carrier; 4) Workers' compensation schemes are fully employer-funded either by the purchase of commercial insurance or setting up a self-insurance account; and 5) Claims are generally handled by legislatively created state compensation boards, although decisions can be appealed to the state court system. As time passed five primary concerns arose: 1) Broad coverage of employees and of work-related injuries and diseases; 2) Substantial protection against interruption of income; 3) Sufficient medical care and rehabilitation services; 4) Encouragement of safety; and 5) An effective system for delivery of the benefits and services.

According to REPORT OF THE NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS, U. S. Government Printing Office, July 1972, submitted to the President and the Congress by John F. Burton, Jr., Chairman of the Commission, who wrote in inspirational and directional letter of transmittal:

> Although the backgrounds of the members of the Commission varied considerably, we began with a common and profound conviction that American workers should receive adequate and fair protection if they suffer a work-related injury, disease, or death. The importance we attached to our assignment was heightened by the recognition that workmen's compensation now covers almost 85 percent of the labor force and annually provides benefits to millions of workers.
>
> As our year of hearings and meetings progressed, we reached a general agreement on the potential role and actual record of workmen's compensation. We have concluded that there is a significant role for a modern workmen's compensation program and that the States' primary responsibility for the program should be

> conserved. We also agree that the protection furnished by workmen's compensation to American workers presently is, in general, inadequate and inequitable. Significant improvements in workmen's compensation are necessary if the program is to fulfill its potential.

REPORT OF THE NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS, U. S. Government Printing Office, 1972. The Commission included a diverse group of members, representing State workers' compensation agencies, business, labor, insurance carriers, the medical profession, educators, and the general public, and included the sage counsel of Arthur Larson of Duke University.

The Commission was established after Congress, in the Occupational Safety and Health Act of 1970, declared:

> the vast majority of American workers, and their families, are dependent on workmen's compensation for their basic economic security in the event such workers suffer disabling injury or death in the course of their employment; and that the full protection of American workers from job-related in- jury or death requires an adequate, prompt, and equitable system of work- men's compensation as well as an effective program of occupational health and safety regulation. ...in recent years serious questions have been raised concerning the fairness and adequacy of present workmen's compensation laws in the light of the growth of the economy, the changing nature of the labor force, increases in medical knowledge, changes in the hazards associated with various types of employment, new technology creating new risks to health and safety, and increases in the general level of wages and the cost of living.

REPORT OF THE NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS, U. S. Government Printing Office, 1972. With this historical framework, it

is clear that the purpose of the State workers' compensation laws used to provide an adequate, prompt, and equitable system of compensation.

As a direct result of the Commission, mandatory coverage increased, in that there was an elimination of opt-out provisions and a reduction in excluded workforces. All of the states allowing opting-out ceased but for Texas and New Jersey; however, New Jersey's opt-out provision is effectively moot due to the restrictive nature of the statute. Shields, Joseph and D.C. Campbell. A STUDY OF NONSUBSCRIPTION TO THE TEXAS WORKERS' COMPENSATION SYSTEM: 2001 ESTIMATES. Texas Department of Insurance, Division of Workers Compensation, 2002; Morantz, Alison, "OPTING OUT OF WORKERS' COMPENSATION IN TEXAS: A SURVEY OF LARGE, MULTISTATE NON-SUBSCRIBERS".

The essential recommendations of the National Commission on State Workmen's Compensation Laws included 1) compulsory coverage for all employers with no waivers; 2) choice of law resulting from where injury occurred, employment located, or where contract of employment arose; 3) full coverage for work-related disease; 4) temporary total, permanent total disability, and death benefits benefits at 2/3 the average weekly wage subject to the State's maximum weekly benefit; 5) definition of permanent total disability used in most States be retained; 6) permanent total disability paid for the duration of the worker's disability, or for life, without any limitations as to dollar amount or time; 7) death

benefits paid to a widow or widower for life or until remarriage, and in the event of remarriage, two years' benefits be paid in a lump sum to the widow or widower, while benefits for a dependent child be continued at least until the child reaches 18, or beyond such age if actually dependent, or at least until age 25 if enrolled as a full-time student in any accredited educational institution; 8) no statutory limits of time or dollar amount for medical care or physical rehabilitation services for any work-related impairment; and 9) the right to medical and physical rehabilitation benefits not terminate by the mere passage of time. REPORT OF THE NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS, U. S. Government Printing Office, July 1972. Subsequent to the Commission's Report the Grand Bargain, an improvement in the quality and delivery of benefits and an increase in workplace safety occurred, but has now again begun a downward spiral.

B. The Texas Alternative

It is long established that in almost all states, employers must be a part of the traditional, state-regulated workers' compensation system. In Texas, however, employers have three alternatives for workers' compensation coverage. First, employers can participate in the traditional workers' compensation system and abide by its laws, rules and regulations, and oversight by the Texas Department of Insurance. Second, employers can "opt-out' or "unsubscribe" from the statutory workers' compensation system, creating their own workers' compensation

program, but losing the exclusive remedy protection. Third, employers can opt-out and offer no workers' compensation benefits or protection and risk catastrophic legal liability. New Street Group, WORKERS' COMPENSATION OPT-OUT: CAN PRIVATIZATION WORK? (November 2012), https://www.sedgwick.com/NewsRelease/WCOpt-OutStudy.pdf. While employers in Texas have extremely broad discretion in the manner in which they privatize benefits, generally the opt-out employers adopt or incorporate an ERISA type plan to administer the work-injury alternative. *Id.* In Texas, the opt-out program allows: 1) Total direction of medical treatment, including the denial of any medical treatment they unilaterally deem "questionable"; 2) Preclusion of physician directed medication, including opioids; 3) Unrestrained termination of wage compensation; 4) Elimination of permanent partial disability compensation; and 5) Mandatory arbitration. *Id.*[1] The most important feature in the Texas opt-out, howevere, is that the employer loses the exclusive remedy, which at least in theory, allows the injured worker the right to sue to recover for his or her injuries. Whether that right is meaningful is another question. As a practical matter, the right to sue may, in fact, not exist as a result of ERISA type plans' discretion standard of

[1] Although Sedgwick claims that its report is an "impartial study and analysis" of opt-out, Sedgwicks's financial interest in promoting opt-out is clear, in that it develops and markets alternative work injury coverage.

review and binding arbitration. It is almost inevitable that in opt-out states the right to sue would not be robust.

C. Dissolving the Grand Bargain

Under the Oklahoma Employee Injury Benefit Act ("OEIBA"), a "qualified employer" may opt-out of the state workers' compensation system when it complies with the technical requirements of (1) a written private benefit plan; (2) pay the annual $1,500 filing fee; and (3) demonstrates financial ability to pay the required compensation. 85A O.S. §§ 200 et seq. Unlike in Texas, an employer that opts-out under the Oklahoma plan does not give up its exclusive remedy protection.

The Oklahoma opt-out system is something of a hybrid. The Oklahoma legislature allowed employers who opt out of traditional workers' compensation coverage to provide an alternative benefit structure, but it provided that opt-out plans must provide for the same form of benefits as provided under the Administrative Workers' Compensation Act [AWCA] and those benefits must be equal to or greater than those under the AWCA. The legislature also provided for an appeals process for denied claims, substantially similar to the appeals process under the AWCA. Finally, the legislature extended the exclusive remedy protection to employers electing to opt out.

It is clear, however, that the legislature anticipated that employers who opt out of the traditional workers' compensation system would fulfill their obligations under OEIBA by establishing employee benefit plans governed under the provisions of federal law, the Employee Retirement Income Security Act [ERISA]. For example, under section 211 of OEIBA, 85A O.S. § 211(B)(5), which provides for review of benefit denials, the workers' Compensation Commission as "the court of competent jurisdiction under 29 U.S.C.A. § 1132(e)(1)," the jurisdictional provision for claims under ERISA.

While beyond the scope of this brief, it is clear that section 211, raises complex issues involving the interplay between Oklahoma and federal law, as well as issues as to whether and to what extent OEIBA might be pre-empted by ERISA. Suffice it to say that the regulatory provisions of OEIBA, including the exclusive remedy protections afforded to employers who opt-out, are called into serious question. Furthermore, it is well settled that ERISA plans may grant discretion to the plan administrator in making benefit decisions. In such circumstances, those benefit decisions are reviewed under an abuse of discretion standard. Whether ERISA might pre-empt OEIBA with respect to the applicable standard of review of benefit denials is certainly an open question. Thus, it appears that plans governed by ERISA are inevitably ill-suited substitutes for traditional workers' compensation plans. This is particularly true where exclusive remedy protections

are afforded to employers under those ERISA plans. In effect, opt-out may only be able to work if there is a meaningful right to sue. Absent a truly robust right to sue, ERISA plans are a wholly inadequate substitute for traditional workers' compensation plans. WILG respectfully submits even with a right to sue, ERISA plans are inadequate substitutes for traditional workers' compensation plans, and will inevitably shift the burden of liability from employers for employees' injuries to state and federal programs.

D. Shifting the Burden of Liability to State and Federal Programs

The stated purpose of the Oklahoma Employee Injury Benefit Act, 85A O.S. §§ 200 *et seq.* is to set forth the regulations and procedures for employers to secure compensation for their covered employees for work-related injuries. 85A O.S. §§ 200 et seq. However, it is quite clear the Act as it applies to opt-out does not consider the ramifications of burden shifting to other state and federal health and welfare programs, nor does it consider whether opt-out provides adequate remedies.

When a government determines that citizens who are hurt at work should lose their fundamental and inviolate right to trial by jury to redress a wrong, the government enacts a workers' compensation act and deems the resulting benefits of the act to be the exclusive remedy for the injury suffered. An administrative process is set up to replace trial by jury. The Executive chooses the administrative

judges. The Police power of the state is the basis for the taking. The adequacy of the replacement remedy in Oklahoma has not been a challenged, until after the opt-out. Former Chief Justice Charles Evans Hughes said, "The power of administrative bodies to make findings of fact which may be treated as conclusive, if there is evidence both ways, is a power of enormous consequence. An unscrupulous administrator might be tempted to say 'let me find for the people of my country, and I care little who lays down the general principles.'" IMPORTANT WORK OF UNCLE SAM'S LAWYERS, 17 American Bar Association Journal 237, 238 (1931). In a society where a significant portion of the population is dependent upon social welfare, decisions about eligibility for benefits are among the most important that a government can make. By one set of values the condemnation of property for public purposes might seem of more far reaching significance. But in a society that considers the individual as its basic unit a decision affecting the life of a person or a family should not be taken by any means that would be unfair for a property owner. Indeed, full adjudicatory procedures are far more appropriate in welfare cases than in most of the areas of administrative procedure.Under this Act, benefits to eligible workers are undoubtedly reduced—more than under the statutory workers' compensation acts, which prior to opt-out in Oklahoma remained a reasonable alternative to tort litigation.

Currently under CMS there are federal statutory protections to protect Medicare from the burden shifting of medical costs from workers' compensation carriers to Medicare in a workers' compensation settlement. Although Medicaid does not enjoy the same protection at this point from burden shifting due to a workers' compensation settlement, potentially such protections could be expanded. Although any ***conditional payments*** made by either Medicare or Medicaid or VA are entitled to protection and reimbursement if a denied claim is subsequently accepted and/or if pursuant to an accepted claim a conditional payment is erroneously made. Furthermore, even unemployment benefits paid in lieu of workers' compensation while a claim is pending ultimately awards a credit to the employer. However, when, as in opt-out or when such previously allowed benefits are limited or terminated, or when workers' compensation plans severely limit the compensability of medical benefits, medical conditions, prescriptions, wage compensation, and other previously paid benefits, the receipt of medical and wage compensation is permanently shifted to these federal and state programs—Medicare, Medicaid, Social Security Disability, Unemployment, Affordable Care Act—and ultimately the taxpayer.

E. Oklahoma Opt-Out Allows Shielding Under ERISA

ERISA can be a powerful tool to overcome the loss of the exclusive remedy when operating outside a state workers' compensation system, but only if all opt-

out participating employers operate in good faith—a quality which constantly escapes most employers in America, an which ultimately required the multitudes of legislation to ensure a safe work place, unemployment benefits, and health insurance. The doctrine of *noblesse oblige* failed in the middle ages and also fails in the 21st century as it relates to ERISA and opt-out.

Pursuant to the opt-out plan under review, defendant-employer asserted that its Employee Benefit Plan is governed by ERISA, merely because their Employee Benefit Plan includes non-occupational death benefits, in addition to the benefits required under Section 203 of the Oklahoma Injury Employee Benefit Act. However, their plan does not fall within the ERISA exemption for plans "maintained **solely** for the purpose of complying with applicable...workmen's compensation laws..." 29 U.S.C. § 1103 (emphasis added). Thus, although the employer's plan in this case may be theoretically governed by ERISA, it should not be afforded nor should such plans be governed or protected by ERISA. See, *Shaw v. Delta Air Lines, Inc.,* 463 U.S. 85, 108 (1983); *Contract Servs. Employee Trust v. Dovis,* 55 F.3d 533, 536 (10th Cir. 1995).

CONCLUSION

For the foregoing reasons, WILG respectfully requests that this Court hold Oklahoma Injury Employee Benefit Act invalid, particularly to the extent the Act or resulting plan is governed by the ERISA discretion standard. Furthermore,

assuming the Act stands, it will limit the benefit coverage to such an extent that injured workers will be forced onto other state and federal programs, including but not limited to unemployment, Medicaid, Social Security Disability, the subsidized coverage of the Affordable Care Act, Medicare, and other social welfare programs. In effect opt-out only works if there is a meaningful right to sue, absent that meaningful right to sue there are serious questions as to whether the right to sue would be in fact meaningful under ERISA. These are only some of the problems that initially led to the Grand Bargain, which the Oklahoma Employee Injury Benefit Act rejects.

____

BRANDON BURTON, OBA # 16973
P.O. Box 2666
Oklahoma City, OK 73101
405-232-055

Kathleen G. Sumner
Chair, WILG Amicus Committee
Law Offices of Kathleen G. Sumner
P.O. Box 7915
Greensboro, NC 27417-0915
N.C. State Bar No. 17733
(336) 294-9388
sumnerlaw@aol.com

ATTORNEYS FOR AMICUS,
WORKERS' INJURY LAW &
ADVOCACY GROUP

Certificate of Service

On this 16TH day of June, 2016, I placed in the U.S. Mail, postage prepaid, a copy of this brief to Counsel of Record for Appellant and the Attorney General.

____
BRANDON BURTON