

ORIGINAL

In the
Supreme Court of Ohio

STATE OF OHIO, ex rel. RICK D. WARNER,

Relator-Appellee,

vs.

INDUSTRIAL COMMISSION OF OHIO,

Respondent-Appellant,

and

CENTRAL ALLIED ENTERPRISES, INC.,

Respondent.

Case No.

10-1283

On Appeal from the Tenth District
Court of Appeals for Franklin County
Case No. 09AP-841

NOTICE OF APPEAL

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FILED
JUL 21 2010
CLERK OF COURT
SUPREME COURT OF OHIO

NOTICE OF APPEAL

The Respondent, Industrial Commission of Ohio, gives notice of its appeal to the Supreme Court of Ohio from the Judgment Entry entered in Tenth District Court of Appeals Case No. 09AP-841, on June 7, 2010.

This case originated in the court of appeals.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Notice of Appeal was sent by regular U.S. Mail, postage prepaid, to Thomas R. Pitts, attorney for Relator-Appellee, STOCKER PITTS CO., LPA, 159 South Main Street, Suite 400, Akron, Ohio 44308, and James W. Ellis, attorney for Respondent Central Allied Enterprises, Inc., KASTNER WESTMAN & WILKINS, LLC, 3480 West Market Street, Suite 300, Akron, Ohio 44333, on this 21ST day of July, 2010.



GERALD H. WATERMAN (0020243)
Assistant Attorney General

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

FILED
COURT OF APPEALS
FRANKLIN CO. OHIO

2010 JUN -7 PM 2: 01

CLERK OF COURTS

State of Ohio ex rel. Rick D. Warner, :
Relator, :
v. : No. 09AP-841
Industrial Commission of Ohio and : (REGULAR CALENDAR)
Central Allied Enterprises, Inc., :
Respondents. :

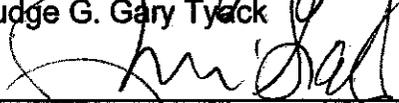
JUDGMENT ENTRY

For the reasons stated in the decision of this court rendered herein on June 3, 2010, we adopt the findings of fact contained in the magistrate's decision but we do not adopt the conclusions of law. As a result, we issue a limited writ of mandamus compelling the commission to weigh the evidence with regard to Rick D. Warner seeking employment during the time Allied Enterprises idled him via a seasonal layoff. Based upon that weighing, the commission shall further address the inclusion of the unemployment compensation in computation of Warner's AWW. Costs shall be assessed against respondent Industrial Commission of Ohio.

Within three (3) days from the filing hereof, the clerk of this court is hereby ordered to serve upon all parties not in default for failure to appear notice of this judgment and its date of entry upon the journal.



Judge G. Gary Tyack



Judge Patrick M. McGrath



Judge John A. Connor