

ORIGINAL

In the
Supreme Court of Ohio

[State ex rel.]	:	Case No. 2010-1400
JAMES E. LUNDEEN, SR., M.D.,	:	
	:	
Appellant-Relator,	:	On Appeal from the Franklin County
	:	Court of Appeals, 10 th Appellate District
v.	:	Case No. 08AP-601
	:	
MARSHA P. RYAN, ADMINISTRATOR	:	
OHIO BUREAU OF WORKERS'	:	
COMPENSATION,	:	
	:	
Appellee-Respondent.	:	

**APPELLEE-ADMINISTRATOR'S MOTION TO STRIKE THE APPEAL AND
DISMISS THE CAUSE PURSUANT TO CIV. R. 53(D)(3)(b)**

JAMES E. LUNDEEN, SR., M.D.
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Pro se Appellant-Relator.

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Marsha P. Ryan, Administrator,
Ohio Bureau of Workers' Compensation.

FILED
AUG 25 2010
CLERK OF COURT
SUPREME COURT OF OHIO

In the
Supreme Court of Ohio

[State ex rel.]	:	Case No. 2010-1400
JAMES E. LUNDEEN, SR., M.D.,	:	
	:	
Appellant-Relator,	:	
	:	
v.	:	MOTION TO STRIKE THE APPEAL
	:	AND DISMISS THE CAUSE
MARSHA P. RYAN, ADMINISTRATOR	:	
OHIO BUREAU OF WORKERS'	:	
COMPENSATION	:	
	:	
Appellee-Respondent.	:	

Appellee, Marsha P. Ryan, Administrator, Ohio Bureau of Workers' Compensation, moves the Court to strike the appeal of James E. Lundeen, Sr., M.D., and to dismiss this cause of action pursuant to Civ.R. 53(D)(3)(b) and well-settled Ohio law. In the court below, the case had been referred to a magistrate who issued a decision to which Dr. Lundeen did not object. Having failed to object, Dr. Lundeen may not now assign as error before this Court any factual findings or conclusions of law which were adopted by the court of appeals. As it has no basis in law, the appeal to this Court should be stricken, the cause dismissed, and the decision and judgment of the court of appeals should be affirmed. A memorandum in support of this motion follows.

Respectfully submitted,

RICHARD CORDRAY
Ohio Attorney General


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Counsel for Appellee-Respondent

MEMORANDUM IN SUPPORT

I. Introduction and Statement of Facts

Pro se Appellant-Relator, James E. Lundeen, Sr., M.D., appeals as of right to this Court from a decision rendered by the Tenth District Court of Appeals, wherein the court denied Dr. Lundeen's complaint for a writ of mandamus in which he sought a court order that the Ohio Bureau of Workers' Compensation pay certain disputed medical provider claims.

The appellate court referred Dr. Lundeen's original action to a magistrate pursuant to Civ.R. 53(C) and Loc.R. 12(M) of the Tenth District Court of Appeals. Exhibit A, hereinafter "Ex. ___." In October 2009, the magistrate issued a decision, including findings of fact and conclusions of law, recommending that the court deny the requested writ. Ex. B. *No objections to the magistrate's decision were filed in the court of appeals.* Ex. C.

However, in December 2009, prior to a decision or judgment by the court of appeals, Dr. Lundeen filed a "Notice of Appeal" with this Court, [*State ex rel.*] *Lundeen v. Ryan, Adm'r.*, Case No. 09-2150. This Court, sua sponte, dismissed the cause as Dr. Lundeen failed to submit a copy of a judgment entry from which he was appealing. Ex. D. The Court, in essence, pointed out to Dr. Lundeen that his "appeal" was premature, as the appellate court had yet to render a decision or judgment in the case.

Ultimately, in its straight-forward Memorandum Decision, the appellate court found no error of law or other defect in the magistrate's decision and adopted it as their own, including the findings of fact and conclusions of law. Ex. E. The appellate court entered judgment on its decision on June 30, 2010. Ex. F. Dr. Lundeen filed a notice of appeal from that decision to this Court, the case at bar, on August 16, 2010.

Dr. Lundeen's appeal, however, is fatally flawed on its face and forever barred, as he failed to object to the magistrate's decision in the court below. Civ.R. 53(D)(3)(b)(iv). Accordingly, the Administrator asks this Court to strike Dr. Lundeen's appeal as a matter of law, dismiss the cause arising therefrom, and affirm the decision and judgment of the Tenth District Court of Appeals to deny the writ.

II. Law and Argument

A party cannot assign as error on appeal a court's adoption of any finding of fact or conclusion of law unless the party has objected to that finding or conclusion pursuant to Civ.R. 53(D)(3)(b).

Civ.R. 53 provides for the use and management of magistrates by Ohio courts. As the appellate court elected to appoint a magistrate to initially hear Dr. Lundeen's complaint in mandamus, two particular provisions of this rule apply here. First, Civ.R. 53(D)(3)(b)(i) specifies that a party may file a written objection to a magistrate's decision within 14 days of the filing of that decision. Second, except for a claim of plain error, a party shall not assign as error on appeal the court's adoption of any factual finding or conclusion of law unless the party has objected to that finding or conclusion as required by Civ.R. 53(D)(3)(b). Failure to timely object to a finding or conclusion operates as a waiver of the right to do so. Civ.R. 53(D)(3)(b)(iv).

Support for the "no objection - no appeal" principal also exists beyond the Civil Rules in well-settled Ohio law. In *State ex rel. Booher v. Honda of America Manufacturing, Inc., et al.*, 88 Ohio St.3d 52, 2000-Ohio-269, the relator Ramona Booher requested temporary total disability compensation from her self-insured employer, Honda of America Manufacturing. Honda denied the application and the Industrial Commission affirmed the denial administratively through a series of hearings. Booher responded by filing a complaint in mandamus in the Franklin County Court of Appeals. A magistrate issued a decision on July 29, 1997,

recommending denial of the writ. Booher did not file objections to that decision within the 14 day time period specified in former Civ.R. 53(E)(3)(a) [now Civ.R. 53(D)(3)(b)(i)]. In late August 1997, Booher's counsel allegedly "discovered" the magistrate's decision in a pile of unsorted mail. Rather than moving the appellate court for leave to file objections to the magistrate's decision, Booher appealed directly to the Ohio Supreme Court. The commission responded with a motion to dismiss, prompting Booher to voluntarily dismiss her Supreme Court appeal.

In December 1997, Booher moved the court of appeals to vacate the magistrate's decision and permit her to file objections. The court denied the motion after finding that Booher had no good reason for waiting nearly five months from the discovery of the magistrate's decision to seek relief. Booher responded by filing objections anyway, in spite of the court's denial of her motion. After striking her objections, the appellate court issued a decision adopting the magistrate's decision and denying the writ.

Booher appealed as of right to the Ohio Supreme Court, which affirmed *per curiam* the judgment of the court of appeals, holding that, since Booher's arguments on appeal derived directly from the magistrate's conclusions of law which went without timely objection and were adopted by the appellate court, her appeal was prohibited by [former] Civ.R. 53(E)(3)(b). *Booher, supra*.

This Court continued its support for the *Booher* "no objection – no appeal" proposition in subsequent cases such as *State ex rel. Wilson v. Indus. Comm.*, 100 Ohio St.3d 23, 2003-Ohio-4832, and *State ex rel. Findlay Industries v. Indus. Comm.*, 121 Ohio St.3d 517, 2009-Ohio-1674. Magistrates issued decisions unfavorable to the relators in both cases, and the decisions were later adopted by the appellate courts as to findings of fact and conclusions of law and

judgment was entered thereon. In neither case had the relator objected to the magistrate's decision. This Court cited *Booher* as authority to affirm the appellate court decision in each case, holding that, since the appellants had not objected to the magistrate's decision as required by Civ.R. 53(E)(3)(a) (*Wilson*) or Civ.R. 53(D)(3)(b) (*Findlay Industries*), they had waived any right to appeal as a matter of law. *Wilson* and *Findlay Industries*, supra.

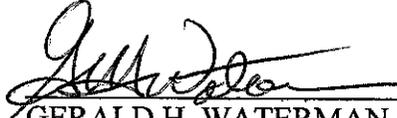
Dr. Lundeen's case parallels the significant legal landscape in *Booher*. A magistrate heard his complaint and made findings of fact and conclusions of law in a decision unfavorable to him. Dr. Lundeen attempted to completely bypass the appellate court with a notice of appeal directly to this Court, which was rebuffed for lack of a judgment below. The court of appeals, meanwhile, issued a decision which adopted the magistrate's findings of fact and conclusions of law. Dr. Lundeen again filed an appeal as of right in the Ohio Supreme Court from the appellate court decision. At no time during the period from the date of the magistrate's decision to the filing of the latest notice of appeal did Dr. Lundeen file any objection to the magistrate's decision in the appellate court, nor did he seek leave of the appellate court to do so, having failed to file written objections within the 14 day period specified in Civ.R. 53(D)(3)(b)(i).

III. Conclusion

Under authority of *Booher*, *Wilson*, and *Findlay Industries*, supra, Dr. Lundeen's failure to file written objections to the magistrate's decision as required by Civ.R. 53(D)(3)(b) operates as a waiver of his right to appeal the appellate court judgment in this cause. Any appeal to this Court is foreclosed and forever barred as a matter of law. As it has no basis in law, his appeal to this Court should be stricken and the cause dismissed. The decision and judgment of the Franklin County Court of Appeals must be affirmed and the requested writ denied as a matter of law.

Respectfully submitted,

RICHARD CORDRAY
Ohio Attorney General



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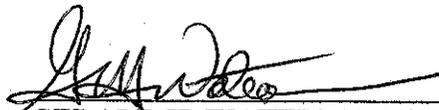
Counsel for Appellee-Respondent,
Marsha P. Ryan, Administrator,
Ohio Bureau of Workers' Compensation

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Motion to Strike the Appeal and Dismiss the Cause was served by postpaid regular U.S. Mail, this 26th day of August, 2010, upon:

James E. Lundeen, Sr., M.D.
668 North Nelson Road, Suite A
Columbus, Ohio 43219

Pro se Appellant-Relator



GERALD H. WATERMAN (0020243)
Assistant Attorney General

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

FILED
COURT OF APPEALS
FRANKLIN CO. OHIO

2008 JUL 23 AM 9:24
CLERK OF COURTS

[State ex rel.] James E. Lundeen, Sr., M.D., :

Relator, :

v. :

No. 08AP-601

Marsha P. Ryan, Administrator, Ohio
Bureau of Workers' Compensation, :

(REGULAR CALENDAR)

Respondent. :

JOURNAL ENTRY

Pursuant to Rule 12(M) of this court, Kenneth W. Macke, an attorney admitted to practice in Ohio, is hereby appointed magistrate in this cause without limitation of authority specified in Civ.R. 53(C). Civ.R. 53 shall govern the proceedings and the decision of the magistrate.

Objections to the decision of the magistrate, if any, shall be filed as provided in Civ.R. 53(D)(3)(b), with briefs in support or opposition to be filed as provided by Loc.R. 12(M). Oral argument to the court upon objections to the decision will be permitted only if good cause is demonstrated in writing within the time for filing objections thereto and only if supported by a memorandum showing good cause therefor.



JUDGE

OK
Xm Exhibit A
1

APPENDIX

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

[State ex rel.]	:	
James E Lundeen, Sr., M.D.,	:	
	:	
Relator,	:	
	:	
v.	:	No. 08AP-601
	:	
Marsha P. Ryan, Administrator, Ohio	:	(REGULAR CALENDAR)
Bureau of Workers' Compensation,	:	
	:	
Respondent.	:	

MAGISTRATE'S DECISION

Rendered on October 13, 2009

James E Lundeen, Sr., M.D., pro se

Richard Cordray, Attorney General, and Rena A. Ina, for respondent.

IN MANDAMUS

{¶14} In this original action, relator, James E. Lundeen, Sr., M.D., requests a writ of mandamus ordering respondent, Administrator of the Ohio Bureau of Workers' Compensation ("bureau"), to pay his medical provider claims that were allegedly the

subject of an order of the United States Bankruptcy Court, Northern District of Ohio, Eastern Division ("bankruptcy court") in case No. 07-19423.

Findings of Fact

PROCEDURAL CHRONOLOGY OF THIS ACTION

{¶5} 1. The focus of relator's complaint is an exhibit attached thereto. The exhibit is an order filed in the bankruptcy court on June 27, 2008. Respondent has also submitted to this court an identical copy of the above-described bankruptcy order. Captioned "Order Vacating Bench Ruling on Temporary Restraining Order and Setting Preliminary Injunction Hearing," the June 27, 2008 bankruptcy court order states:

Plaintiff-chapter 7 trustee Lauren Helbling moves to vacate the June 17, 2008 bench ruling on her motion for a temporary restraining order because one of the defendants, James Lundeen, Sr., M.D., was not served with the complaint or notice of the hearing, as required by the court's order of June 11, 2008 * * * The motion states good cause and is granted

The Ohio Bureau of Workers' Compensation has frozen the funds at issue. As a result, it is not necessary to reschedule a hearing on the motion for a temporary restraining order. The court will, therefore, hold a hearing on the plaintiff's motion for a preliminary injunction on **July 8, 2008 at 10:00 a.m.** The parties are to confer immediately to discuss whether the hearing on the preliminary injunction should be combined with the final hearing on the merits and are to file a joint notice advising the court of their decision on or before **July 1, 2008.**

(Emphases sic.)

{¶6} 2. According to the complaint, when the bankruptcy court issued its June 27, 2008 order, respondent failed to release funds owed to relator. Relator requests that a writ order respondent to release the funds allegedly owed to him.

{¶7} 3 Following respondent's answer to the complaint, the magistrate issued a schedule for the filing of stipulated or certified evidence and briefs.

{¶8} 4. In response to the magistrate's scheduling order, respondent filed the affidavit of Dora West, executed April 9, 2009:

1 I have been employed by the Ohio Bureau of Workers' Compensation for over 17 years and presently hold the position of Director of HPP Systems Support.

2 Creditors of James E. Lundeen, Sr., M.D., Inc filed an involuntary chapter 7 case against that corporation in the United States Bankruptcy Court for the Northern District of Ohio on December 13, 2007

3 Under that litigation, the Bureau of Workers' Compensation was subject to a Temporary Restraining Order. See attached Exhibit A.

4 The Temporary Restraining Order was vacated on June 27, 2008. See attached Exhibit B

5 On July 14, 2008, the United States Bankruptcy Court for the Northern District of Ohio issued an order stating that the Bureau is preliminarily enjoined from disbursing the funds currently in its possession which it has categorized as being due to Lundeen Medical Group, Lundeen Physical Therapy Akron Inc., and Lundeen Therapy and Pain Management. See attached Exhibit C.

6 Following that, funds owed to Dr. Lundeen billed under his personal social security number were released, and continue to be paid. However, funds due to Lundeen Medical Group, Lundeen Physical Therapy Akron Inc., and Lundeen Therapy and Pain Management were frozen pursuant to the court order.

{¶9} 5. As the West affidavit indicates, three exhibits are submitted by the affidavit. Exhibit B is the June 27, 2008 bankruptcy court order quoted above at findings of fact number one

{¶10} 6. Exhibit C referenced in the West affidavit is an order filed in the bankruptcy court on July 14, 2008. Captioned "Order Imposing Preliminary Injunction," the order states:

For the reasons stated in the memorandum of opinion entered this same date, the plaintiff trustee's motion for a preliminary injunction requiring the Ohio Bureau of Workers' Compensation (Bureau) to freeze funds pending a decision on the merits of this adversary proceeding is granted in part and denied in part. (Docket 2) Pending further order, the Bureau is preliminarily enjoined from disbursing the funds currently in its possession which it has categorized as being due to Lundeen Medical Group, Lundeen Physical Therapy Akron Inc, and Lundeen Therapy and Pain Management. Within five days after the date on which this order is entered, the Bureau is to file a notice stating the amounts being held in the names of Lundeen Medical Group, Lundeen Physical Therapy Akron Inc., and Lundeen Therapy and Pain Management. The notice is also to state the amount that the Bureau has accounted for under Dr. Lundeen's social security number only.

{¶11} 7 On April 13, 2009, in response to the magistrate's scheduling order, relator filed a document captioned "Submission of Certified Evidence" ("SCE") which submits documents in a three-ring binder preceded by a table of contents. However, the only certification on the SCE is the signature of relator. There is no certification by any governmental agency or institution. See Loc.R 12(G) of the Tenth District Court of Appeals.

{¶12} Some of the SCE documents purport to be filed in the bankruptcy court in case No. 07-19423 For example, there is the June 10, 2008 verified complaint of "Lauren A Helbling, duly appointed and acting Chapter 7 Trustee of James E. Lundeen Sr., M.D., Inc " There are also copies of various e-mails to which relator was a party.

{¶13} 8. On April 28, 2009, relator filed his brief. On May 18, 2009, respondent filed its brief. On May 26, 2009, relator filed a reply brief

{¶14} 9. On September 10, 2009, this magistrate issued an order that relator show cause why this mandamus action should not be dismissed on grounds that relator has an adequate remedy for equitable relief in the Franklin County Court of Common Pleas, see *Henley Health Care v. Ohio Bur. of Workers' Comp.*, (Feb 23, 1995), 10th Dist. No. 94AP-1216, or an adequate remedy in the Ohio Court of Claims, see *State ex rel. Barbee v. Ohio Bur of Workers' Comp.*, 10th Dist No. 01AP-1266, 2002-Ohio-6279.

{¶15} 10. On September 24, 2009, relator filed his written response to the magistrate's show cause order.

{¶16} 11. On September 29, 2009, respondent filed its reply to relator's September 24, 2009 response.

Conclusions of Law

{¶17} It is the magistrate's decision that this court deny relator's request for a writ of mandamus, as more fully explained below.

{¶18} In order for a writ of mandamus to issue, the relator must demonstrate. (1) that he has a clear legal right to the relief prayed for; (2) that respondent is under a clear legal duty to perform the act, and (3) that relator has no plain and adequate remedy in the ordinary course of the law. *State ex rel. Berger v. McMonagle* (1983), 6 Ohio St 3d 28, 29

{¶19} It is also well settled that, in mandamus, the relator has the burden of proof with respect to demonstrating the prerequisite elements of the writ. *Id.*

{¶20} Relator has presented no evidence showing that funds held by respondent are owed to him. Contrary to relator's suggestion, the bankruptcy court orders are not evidence that funds held by respondent are owed to him

{¶21} The West affidavit avers at paragraph six that "funds owed to Dr. Lundeen billed under his personal social security number were released, and continue to be paid " Significantly, even though the complaint suggests otherwise, relator has presented no evidence countering the paragraph six averment of the West affidavit.

{¶22} Based upon the above analysis, this magistrate must find that relator has failed to prove that he is owed any amount of money or funds from respondent.

{¶23} Thus, even if relator's complaint was properly brought as a mandamus action—an issue this magistrate need not determine—relator cannot prevail in this mandamus action because he has failed to meet his burden of showing that funds held by respondent are actually owed to him

{¶24} Accordingly, for all the above reasons, it is the magistrate's decision that this court deny relator's request for a writ mandamus.

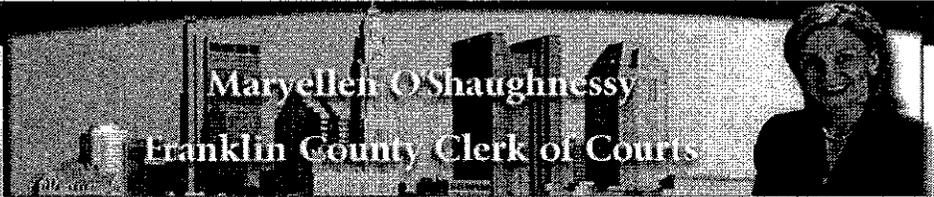
/s/ Kenneth W. Macke

KENNETH W. MACKE
MAGISTRATE

NOTICE TO THE PARTIES

Civ.R. 53(D)(3)(a)(iii) provides that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).

Appeals: 373 S. High St., 23rd Fl. (614) 462 - 3824
 Civil: 388 S. High St., 3rd Fl. (614) 462 - 3621
 Criminal: 388 S. High St., 3rd Fl. (614) 462 - 3650
 Domestic: 373 S. High St., 4th Fl. (614) 462 - 4410
 Juvenile: 373 S. High St., 4th Fl. (614) 462 - 4411
 Juvenile Traffic: 398 S. Front St., 1st Fl. (614) 462 - 6279



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APPEALS CASE DETAIL

CASE NUMBER 08-AP-000601 **CAUSE TYPE** MANDAMUS **LOWER CASE** N/A **LC CASE ORD DATE** N/A **DATE FILED** 07/16/08 **STATUS** CLOSED
STYLE CODE: JAMES E LUNDEEN SR -VS- MARSHA P RYAN
LOWER COURT JUDGE: N/A

APPELLANT/RELATOR(S)
 Name: JAMES E. LUNDEEN SR **Attorney** JAMES E. LUNDEEN SR **MAGISTRATE** KEN MACKE **COURTROOM** MAGISTRATE

APPELLEE/RESPONDENT(S)
 Name: MARSHA P. RYAN **Attorney** GERALD H. WATERMAN

DOCKETING STATEMENT N **CALENDAR TYPE** REGULAR **PROCEEDING STAY** N
TRANSCRIPT N **MEDIATION** N
CONSOLIDATED CASES N/A

PENDING EVENTS

RECORD TRANSMITTAL DATE	ORIGINAL	ESTIMATE	ACTUAL	SUB/ARG DATE: 01/26/10
APPELLANT/RELATOR BRIEF DATE	04/28/09	04/28/09	04/28/09	
APPELLEE/RESPONDENT BRIEF DATE	05/18/09	05/18/09	05/18/09	
REPLY BRIEF DATE	05/26/09	05/26/09	N/A	
STIPULATION DATE	04/13/09	04/13/09	N/A	

DOCKET

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<input checked="" type="checkbox"/> 03/26/09	MOTION DENIED		20592	C86	1

FILED

The Supreme Court of Ohio

JAN 14 2010

CLERK OF COURT
SUPREME COURT OF OHIO

(State ex rel.) James F. Lundeen, Sr., M.D.

Case No. 2009-2150

v.

JUDGMENT ENTRY

Marsha P. Ryan, Administrator, Ohio
Bureau of Workers' Compensation

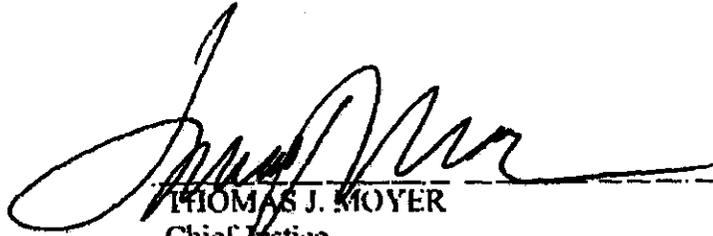
APPEAL FROM THE
COURT OF APPEALS

This cause is pending before the Court as an appeal from the Court of Appeals for Franklin County. Upon consideration thereof,

It is ordered by the Court, sua sponte, that this cause is dismissed due to appellant's failure to respond to this Court's order requiring him to file an amended notice of appeal with the court of appeals judgment entry.

It is further ordered that a mandate be sent to the Court of Appeals for Franklin County by certifying a copy of this judgment entry and filing it with the Clerk of the Court of Appeals for Franklin County.

(Franklin County Court of Appeals: No. 08AP601)


THOMAS J. MOYER
Chief Justice

Witness that this document is a true and accurate copy of the judgment entry of the Supreme Court of Ohio filed on Dec 22 2009 in Case No. 2009-2150 and constitutes the mandate of the Court under S.Cr.Pr. & Ct. Section 4.

In witness I have subscribed my name and affixed the seal of the Supreme Court of Ohio on this 14 day of January, 2010.

Clerk of Court
by Kara Hammett, Deputy Clerk

CLERK OF COURTS
2010 JAN 14 PM 2:54

RECEIVED
CLERK OF COURTS
JAN 14 2010

V8

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

FILED
COURT OF APPEALS
IN CO OHIO
2010 JUN 29 PM 1:35
CLERK OF COURTS

[State ex rel]
James E Lundeen, Sr., M.D.,

Relator,

v.

Marsha P. Ryan, Administrator, Ohio
Bureau of Workers' Compensation,

Respondent.

No. 08AP-601

(REGULAR CALENDAR)

M E M O R A N D U M D E C I S I O N

Rendered on June 29, 2010

James E. Lundeen, Sr., M D , pro se

*Richard Cordray, Attorney General, and Gerald H Waterman,
for respondent.*

IN MANDAMUS

CONNOR, J.

{¶1} Relator, James E. Lundeen, Sr., commenced this original action requesting a writ of mandamus ordering respondent, Administrator of the Ohio Bureau of Workers' Compensation ("bureau"), to pay his medical provider claims, which were allegedly a part of an order issued by the United States Bankruptcy Court, Northern District of Ohio, Eastern Division ("bankruptcy court") in case No. 07-19423.

{¶2} This court referred the matter to a magistrate pursuant to Civ.R. 53(C) and Loc.R 12(M) of the Tenth District Court of Appeals. The magistrate issued a decision, including findings of fact and conclusions of law, which is appended to this decision. In the decision, the magistrate recommended that this court deny the requested writ. No objections have been filed to the magistrate's decision.

{¶3} Finding no error of law or other defect on the face of the magistrate's decision and after an independent review of the evidence, we adopt the decision as our own, including the findings of fact and conclusions of law contained therein. In accordance with the appended decision, the requested writ is denied

Writ of mandamus denied.

KLATT and FRENCH JJ., concur.

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

FILED
COURT OF APPEALS
FRANKLIN CO. OHIO

2010 JUN 30 PM 3:25
CLERK OF COURTS

[State ex rel]
James E. Lundeen, Sr., M.D.,

Relator,

v.

Marsha P. Ryan, Administrator, Ohio
Bureau of Workers' Compensation,

Respondent.

No. 08AP-801

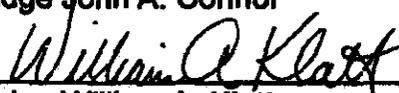
(REGULAR CALENDAR)

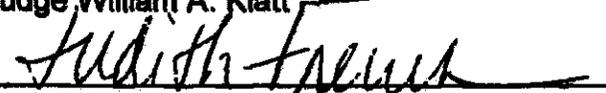
JUDGMENT ENTRY

For the reasons stated in the decision of this court rendered herein on June 29, 2010, the decision of the magistrate is approved and adopted by this court, and it is the judgment and order of this court that the requested writ of mandamus is denied. Costs assessed against relator.

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 John A. Connor


Judge William A. Klatt


Judge Judith L. French

Dwi