

In the
Supreme Court of Ohio

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

In response to the Appellee Administrator’s December 10, 2010, Motion That The Court Expedite Ruling on Pending Dispositive Motion, the Appellant James E. Lundeen, Sr., M.D., filed a detailed memorandum on December 20, 2010. Incorporated therewith, Lundeen moved the Court for alternative relief. Lundeen asked that this Court remand this case to the Tenth District Court of Appeals:

1. “with a directive to issue a Writ of Mandamus,” or;
2. “with a directive to re-open the appeal period so that [Lundeen] may have an opportunity to correct his modest procedural error.”

The “modest procedural error” referred to, and the underlying basis for the Appellee-Administrator’s August 25, 2010, Motion to Strike the Appeal and Dismiss the Cause, was Lundeen’s failure to file any objection whatsoever, in the court below, to the Magistrate’s Decision in accordance with Civ.R. 53(D)(3).

In effect, Lundeen asks that the Court either summarily reverse the decision and judgment of the Court of Appeals with issuance of a writ of mandamus, or remand the case back

to the Court of Appeals so that he can cure his mistake, presumably by now filing Civ.R. 53(D) objections to the Magistrate's Decision.

Lundeen's request of the Court is unprecedented, evidenced by his own failure to set forth any supporting legal authority for either action by the Court. The Administrator, thus, asks that Lundeen's motion to remand be denied.

Respectfully submitted,

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Ohio Attorney General



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Ohio Bureau of Workers' Compensation

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Memorandum was served by regular U.S.

Mail, postage prepaid, this 28th day of December, 2010, upon:

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and

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