

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT KNOXVILLE
October 22, 2012 Session

JOSEPH SIMS v. MILLENNIUM PACKAGING SOLUTIONS, LLC

**Appeal from the Chancery Court for Hamilton County
No. 010204 Jeffrey M. Atherton, Chancellor**

No. E2011-02448-WC-R3-WC - Mailed January 4, 2013/Filed February 4, 2013

Pursuant to Tennessee Supreme Court Rule 51, this workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel for a hearing and a report of findings of fact and conclusions of law. The employee fell and struck his head in March of 2000 in the course and scope of his employment, resulting in a complex scalp laceration, post-concussion syndrome and dysfunction of the trigeminal nerve. He filed this workers' compensation action in February of 2001, seeking temporary total disability and permanent disability benefits and medical expenses. After many delays the case was heard in September of 2011. The employee's medical expert testified that he had a 21% permanent impairment and was temporarily disabled until 2009. The employer's expert testified that he had a 5% impairment, had reached maximum medical improvement and was able to work at the time of his examination in 2007. The trial court awarded temporary total disability benefits from 2000 to 2007, a total of 369.98 weeks, and awarded 60% permanent partial disability, a total of 240 weeks, for a grand total of 609.98 weeks. The employer has appealed, contending that the court erred in awarding more than a total of 400 weeks, in awarding temporary total disability benefits without proper medical proof of inability to work and in awarding 60% permanent partial disability without defining the specific anatomical impairment rating. We reverse the judgment in part and affirm in part.

**Tenn. Code Ann. § 50-6-225(e) (2008) Appeal as of Right; Judgment of the Trial
Court Reversed in Part, Affirmed in Part**

E. RILEY ANDERSON, SP. J., delivered the opinion of the Court, in which GARY R. WADE, C.J., and J. S. "STEVE" DANIEL, SP. J., joined.

Patrick Doyle Dodson and Stacie D. Miller, Knoxville, Tennessee, for the appellant, Millennium Packaging Solutions, LLC.

Ronald J. Berke and Megan C. England, Chattanooga, Tennessee, for the appellee, Joseph Sims.

MEMORANDUM OPINION

Factual Background

Joseph Sims (“Employee”) was employed by Millennium Packaging Solutions, LLC (“Employer”) as a machine operator. He was injured at work on March 8, 2000, when he fell and struck his head on or near a die. He was immediately taken to the emergency room of Parkridge Hospital in Hamilton County where he was treated for a complex scalp laceration.

Thereafter, he was referred by Employer to Occupational Health Services (“OHS”), a clinic associated with Parkridge Hospital. He was treated and released to return to work one week later on March 15, 2000. Employee testified that he had pain, dizziness and poor vision at that time, and had great difficulty performing his work as a machine operator. He continued to be treated by OHS until approximately April 24, 2000, when he was released less than seven weeks after the injury. The April 20, 2000 record of OHS listed Employee’s diagnosis as post-concussion syndrome, complex laceration of the left forehead and non-work-related hypertension, and stated that Employee “must get [blood pressure] under control before additional evaluation.” OHS would not treat Employee after April 24, 2000. Employee repeatedly asked Employer for medical treatment after his release by OHS, but it was denied.

Employee continued to work at his former job of machine operator with great difficulty because of his symptoms of dizziness, blurred vision, headaches and pain. He was assisted by other employees who were placed at his machine by Employer until July 26, 2000, when he was terminated. Hailey Bates, who was Employer’s assistant human resources director at the time, testified that she understood that Employee was terminated for insubordination, but she did not witness the incident and could not explain why his separation notice made no mention of insubordination. Employee denied that he was insubordinate, testifying that he was terminated after refusing to sign a document presented by Employer without being permitted to have his mother review it. He could not read or write, but he was told by Employer that the document stated that he was horse-playing with his machine, which he denied.

After his termination, Employee worked briefly for several businesses through a temporary employment agency, but he stated that symptoms from his work injury of headache, dizziness, pain and poor vision had prevented him from doing any of these jobs very well or for very long. On one job he drove a truck but had a wreck because of his dizziness and poor vision. He did not work again before the time of trial in September of 2011.

After Employer's refusal to provide medical treatment, Employee was hampered in his search for medical treatment by limited resources and, at times, a lack of insurance. He visited emergency rooms and free medical clinics and saw a number of physicians.¹ For example, he saw physicians at Fort Wood Center on November 15, 2000, when he complained of feeling weird, unlike himself, angry and suicidal. He was diagnosed with depression and personality change due to head injury. On November 27 and 30, he was seen and provided medication by a physician at Fort Wood Center. Employee was seen four additional times at Fort Wood Center in 2001, and last seen there on June 27, 2001 with complaints of loss of memory and blurred vision.

On February 28, 2001, Employee was seen by Dr. James Creek at the Erlanger Hospital emergency room with complaints of chronic pain in his left temple and neck. Dr. Creek found that a small scar in the left temporal area was exquisitely tender and two to three inches in circumference. Employee was again seen at the Erlanger Hospital emergency room on July 30, 2002, and on April 8, June 30 and July 17, 2003. At the July 17 visit, Employee saw another physician who found diffuse mild tenderness to the left side of the face, and diagnosed chronic trigeminal neuralgia related to old trauma.

On February 28, 2002, Employee was seen at Dodson Avenue Health Center by Dr. Essie Bruel with complaints of pain, blurred vision in the right eye and swollen forehead. He was diagnosed with head trauma, posttraumatic vascular nerve damage, with chronic changes, headaches and depression. He was again seen at Dodson Avenue Health Center on June 20, June 27 and September 5, 2002, and January 27, 2003, with similar complaints. On his last visit he was referred to an ophthalmologist for his vision problems but was unable to schedule an appointment with the doctor because he lacked insurance.

Employee was also seen at the Parkridge Hospital emergency room on December 3, 2002 and April 3, 2003. On most of these occasions his complaints were similar, i.e. chronic pain, headaches, blurred vision, swollen forehead, dizziness and depression. Employee was again seen at the Parkridge Hospital emergency room for pain in the left temple in June of 2004. He was seen by Dr. Frank Calhoun in October of 2004, who referred him to Dr. Hathaway K. Harvey, an ear, nose and throat doctor. Dr. Harvey noted soft tissue swelling on the left side of the face around the left eye, at the site of the old injury, which was painful to touch. He prescribed antibiotics for an infection.

On December 18, 2003, Employee was referred to Dr. William Findlay. Dr. Findlay is a medical doctor and family practitioner, has been licensed in Tennessee since 1965, and

¹ The records of Employee's medical treatment were filed with the trial court but were not introduced into evidence. The medical records from the date of his injury, however, were summarized by both Dr. Steven Musick and Dr. William Findlay in their depositions.

was board certified in the past with many years of experience. Dr. Findlay examined Employee's past medical records, including those of his first treatment at OHS in March of 2000. The medical records indicated that Employee suffered a one and one-half to two centimeter cut to the bone, a complex laceration where he lost a pint of blood and was either dazed or suffered a loss of consciousness. Medical tests including an MRI, X-rays and a CT scan were normal. Although Dr. Findlay considered himself more of a consultant than a treating physician, he treated Employee from 2003 until 2009. Employee complained to him of dizziness, blurred vision, headaches and pain. Medication, including muscle relaxants, was provided for pain. Dr. Findlay saw Employee on January 15, February 4, 11 and 22, March 8, April 8 and 22, May 18, June 4 and July 4, 2004. Employee was seen again on August 10, 2004, complaining of sleeping a lot during the day. He was provided medication for dizziness and lack of sleep related to the work injury. He was seen again on September 13, 2004 and in October, and given medication for vertigo and pain. Dr. Findlay saw Employee on January 25, February 24, April 12, 17, 20 and 27, June 7, July 12 and September 27, 2005, which was five and one-half years after the injury. Dr. Findlay did not see Employee again until January 22, 2009. Thereafter, he saw him on February 24 and April 30, 2009. At each of these visits, Employee consistently complained of headaches, dizziness, blurred vision, pain in the temple and inability to sleep. Medication was provided for pain.

In February of 2009, Dr. Findlay opined that Employee retained a 21% anatomical impairment to the body as a whole. In 2011, he completed a Form C-32 medical report assigning the same impairment, and also recommending activity restrictions. Dr. Findlay based his impairment rating on the Fourth Edition of the American Medical Association Guides ("AMA Guides"), citing a class two impairment of the trigeminal nerves located at the side of the head. Dr. Findlay stated that he first made that diagnosis in 2003. Dr. Findlay further stated that the symptoms were severe enough to require medication and interfere with the activities of daily living. Dr. Findlay testified that part of the impairment rating was for mental dysfunction and he believed Employee's personality changes were a result of his work injury. Dr. Findlay testified that OHS was not aware of the trigeminal nerve damage and made a monumental mistake in returning Employee to work in March of 2000, just one week after the injury. Dr. Findlay stated that Employee reached maximum medical improvement by May 12, 2009, and that he cannot work. Dr. Findlay also testified that high blood pressure can cause headaches and dizziness but most people have no symptoms.

Dr. Steven Musick, an osteopathic physician and a physical medicine and rehabilitation specialist, conducted an independent medical examination of Employee on September 5, 2007, at Employer's request. In addition, Dr. Musick reviewed Employee's past medical records and noted that no physician had provided work restrictions. He observed that Employee had facial swelling and was sensitive to touch in the area of the laceration. He testified that the primary symptoms reported to him by Employee were dizziness, blurred vision and headaches. Dr. Musick's assessment was that Employee had

abnormal nerve function in the area of the laceration and symptoms of post-concussion syndrome. He testified that Employee retained a 5% permanent anatomical impairment for mild sensory dysfunction of the trigeminal nerve, according to the Fifth Edition of the AMA Guides. He also testified that he had originally assigned a 7% impairment, but had reduced that to 5% after thinking about it for a day. He agreed that Employee had objective medical findings and that Employee's symptoms could cause difficulty driving. He agreed that there was a mental component to the impairment and that Employee should be referred for treatment. He testified that pre-injury medical records showed that Employee had been diagnosed with high blood pressure before 2000.

Employee had worked for Employer for eight to ten years prior to his injury and was considered by Employer as an excellent machine operator. He was twenty-eight years old on the date of the injury and forty years old when the trial occurred. He attended school into the ninth grade. While in school, he was assigned to a special education program. He testified that he was unable to read or write. Prior to being hired by Employer, he had washed cars for an automobile dealership. Employee testified that after he was returned to work seven days after the injury, he suffered dizziness, headaches and blurred vision. As a result, he had great difficulty performing his job as a machine operator during the four months before his termination. During that time, Employer assigned an extra employee to assist him in the operation of his machine. Employee testified that after his release by OHS he requested additional medical treatment numerous times, but his requests were denied. From the time of his injury in March of 2000, he continued to have dizziness, swelling, headaches, vision problems and difficulty sleeping until the time the trial occurred in 2011. He was unable to sleep in a bed and slept in a recliner. After his termination by Employer in 2000, he worked briefly for a job agency and had several assignments but could not perform the jobs because of his symptoms. He was unable to work again. Employer's mother testified that Employee had always lived with her, that he had dizzy spells, pain and trouble sleeping, and was very inactive after the injury. She helped him dress and treated him for his symptoms.

The trial court found that Employee reached maximum medical improvement on September 5, 2007, the date of Dr. Musick's examination, and awarded temporary total disability benefits from the date of Employee's termination, July 26, 2000, until the date of maximum medical improvement. The court made no explicit finding concerning anatomical impairment, but found that Employee had sustained a 60% permanent partial disability as a result of his injury. The court noted Employee's failure to make a request for medical treatment to the Department of Labor and Workforce Development or the trial court during the ten years this case was pending and, accordingly, the trial court declined to order Employer to pay any medical expenses accrued before the trial. The court did award future medical benefits. Judgment was entered in accordance with those findings, and Employer has appealed.

Standard of Review

The standard of review of issues of fact is *de novo* upon the record of the trial court accompanied by a presumption of correctness of the findings, unless the preponderance of evidence is otherwise. Tenn. Code Ann. § 50-6-225(e)(2) (2008). When credibility and the weight to be given testimony are involved, considerable deference is given to the trial court when the trial judge had the opportunity to observe the witnesses' demeanor and to hear in-court testimony. Madden v. Holland Grp. of Tenn., Inc., 277 S.W.3d 896, 898 (Tenn. 2009). "When the issues involve expert medical testimony that is contained in the record by deposition, determination of the weight and credibility of the evidence necessarily must be drawn from the contents of the depositions, and the reviewing court may draw its own conclusions with regard to those issues." Foreman v. Automatic Sys., Inc., 272 S.W.3d 560, 571 (Tenn. 2008) (citing Orrick v. Bestway Trucking, Inc., 184 S.W.3d 211, 216 (Tenn. 2006)). A trial court's conclusions of law are reviewed *de novo* upon the record with no presumption of correctness. Seiber v. Reeves Logging, 284 S.W.3d 294, 298 (Tenn. 2009).

Analysis

At the outset, we note that this case involves a March 2000 injury that was not resolved by the trial court until September of 2011. The action was filed on February 11, 2001 and was set for trial on a number of occasions during the next ten years, but was continued each time for reasons not reflected in the record. When Chancellor Atherton took over the case he acted properly and promptly in expediting the case to trial, fulfilling the legislative edict set out in Tennessee Code Annotated section 50-6-225(f) that "[t]he trial of all [workers' compensation] cases . . . shall be expedited by . . . [g]iving the cases priority over all cases on the trial . . . docket[.]" It is the obligation of the trial court as well as the attorneys as officers of the court to comply with this legislative mandate.

This case was complicated by an early denial by Employer of additional medical treatment, which resulted in an inconsistent medical history of Employee's visits to emergency rooms, free medical clinics and numerous doctors. There was also a change of defense attorneys four years after the case was filed. The defense attorneys filed a number of motions to dismiss for lack of prosecution but they were overruled for reasons not stated in the record. Despite Employee's need for medical care and lack of income, Employee's attorney failed to petition the Department of Labor and Workforce Development or the trial court for medical care or temporary total disability benefits in the long period prior to trial. Employee's attorney abysmally failed to comply with the legislative edict that workers' compensation cases are to be expedited.

Our supreme court has condemned a six-year delay in a workers' compensation case as inexcusable. See Mahoney v. NationsBank of Tenn., 158 S.W.3d 340, 343 n.2 (Tenn. 2005), overruled on other grounds by Bldg. Materials Corp. v. Britt, 211 S.W.3d 706 (Tenn. 2007). There are not sufficient words in the English language to describe the incredible

delay in this case for an injury occurring in March of 2000 and still not resolved at this writing in December of 2012.

Admission of Dr. Findlay's Deposition

Employer asserts that the trial court erred by overruling its objection to the admission of Dr. Findlay's deposition into evidence. Employee filed the Form C-32 medical report from Dr. Findlay on August 8, 2011. Employer filed a motion to exclude the report from evidence. In that motion, Employer referred to a motion hearing of June 13, 2011, at which the trial court directed the parties to "complete the taking of medical proof within forty-five days." Employer simultaneously sought to take a cross-examination deposition of Dr. Findlay pursuant to Tennessee Code Annotated section 50-6-235(c)(1). That deposition was taken on September 9, 2011, three days before the trial. Immediately prior to the trial, the parties discussed Dr. Findlay's deposition with the court. Apparently, a hearing had occurred on the previous day, which is not in the record. The trial court ultimately excluded the C-32 report because it was not timely filed, but it permitted the deposition to be placed into evidence, reasoning that there is normally no deposition when a C-32 report is filed.

A trial court's decisions to admit or exclude evidence are reviewed on an abuse of discretion basis. Biscan v. Brown, 160 S.W.3d 462, 468 (Tenn. 2005). In this case, the record does not contain transcripts or written orders of the hearings on which Employer's arguments are based. Based upon the existing record, we conclude that the trial court did not abuse its discretion by admitting the deposition of Dr. Findlay into evidence.

Failure to Find Medical Impairment

Employer contends that the trial court erred by failing to make a finding of the specific anatomical impairment sustained by Employee as a result of his work injury. It bases this argument on Tennessee Code Annotated section 50-6-241(b), which limits awards of permanent partial disability benefits to six times the "medical impairment rating," and section 50-6-241(c), which requires a trial court to make specific findings of fact when making an award in excess of five times the impairment. We agree with Employer that a trial court should make a specific finding concerning impairment in order for these provisions to have meaning. Employer, however, does not cite any court decisions in which the failure to make such a finding has been held to be reversible error.

In this case, the trial court was presented with expert medical testimony from Dr. Findlay that Employee had a 21% impairment, and testimony from Dr. Musick that the impairment was 5%. In its findings, the court noted that Dr. Findlay had some difficulty in defining the mental portion of Employee's impairment. The C-32 report, however, appears to separate the 21% physical impairment from the mental impairment. The trial court also observed that Dr. Musick appeared to agree that Employee had a mental impairment and had recommended a referral to a psychiatrist to address that issue. The referral did not take place.

When conflicting expert evidence is presented, the trial court has the discretion to determine the weight to be assigned to each expert's testimony. See Johnson v. Midwesco, Inc., 801 S.W.2d 804, 806 (Tenn. 1990); Kellerman v. Food Lion, Inc., 929 S.W.2d 333, 335 (Tenn. Workers' Comp. Panel 1996). Having reviewed the evidence independently, we find that it was sufficient to support the trial court's finding that Employee sustained an anatomical impairment of more than 12% to the body as a whole. In light of that conclusion, we hold that the trial court's failure to make a specific finding of the anatomical impairment constituted harmless error.

Temporary Total and Permanent Partial Disability Benefits Exceeding 400 Weeks

Employer asserts that the trial court erred by awarding temporary total and permanent partial disability benefits in excess of 400 weeks. The trial court awarded temporary total disability benefits from 2000 to 2007, a total of 369.98 weeks, and awarded 60% permanent partial disability, a total of 240 weeks, for a grand total of 609.98 weeks.

Tennessee Code Annotated section 50-6-102(13)(C) provides: "For injuries occurring on or after July 1, 1992, the maximum total benefit shall be four hundred (400) weeks times the maximum weekly benefit except in instances of permanent total disability[.]" In Wausau Insurance Co. v. Dorsett, 172 S.W.3d 538, 544 (Tenn. 2005), our supreme court held that the maximum total benefit applied to temporary total as well as permanent partial disability benefits; therefore, "unless an employee is adjudged to be entitled to permanent total disability benefits, the disability benefits that an employee may receive for a single injury may not exceed the maximum total benefit." Id. at 543 (footnote omitted) (internal quotation marks omitted); see Collier v. Life Care Ctrs. of Collegedale, No. E2011-01683-WC-R3-WC, 2012 WL 4762033, at *9 (Tenn. Workers' Comp. Panel Oct. 8, 2012).²

Employee argues that for practical purposes the court's award of 60% permanent partial disability amounts to permanent total disability because Tennessee Code Annotated section 50-6-207(4)(B) (1994) provided that when an injury totally incapacitates the employee from working at an occupation that brings the employee an income, such employee shall be considered "totally disabled." Employee argues that he cannot work and does not have transferable job skills because of his lack of skills, education, age and availability of work. Employee contends he was unable to earn a living and was instead on social security disability. Nevertheless, after reviewing the evidence, the trial court found that Employee had a 60% permanent partial disability to the body as a whole. The statutory language is clear and unambiguous. Employee's recovery of permanent partial and temporary total disability benefits is subject to the 400-week maximum. The award must therefore be

² Effective July 8, 2009, Tennessee Code Annotated section 50-6-102 was amended to provide that the 400-week maximum does not apply to temporary total disability benefits for injuries occurring after July 1, 2009. See Tenn. Code Ann. § 50-6-102(13)(D) (Supp. 2012). The amendment does not apply in this case.

modified to conform with that limitation.

Award of Temporary Total Disability Benefits

Employer finally argues that the trial court erred by awarding temporary total disability benefits from July 2000 until September 2007. Employer states that according to the Workers' Compensation Act, "to make out a prima facie case of entitlement to temporary total disability, an employee must prove that he was (1) totally disabled to work by a compensable injury; (2) that there was a causal connection between the injury and his inability to work; and (3) the duration of that period of disability." Simpson v. Satterfield, 564 S.W.2d 953, 955 (Tenn. 1978). "Temporary total disability benefits are terminated either by the ability to return to work or attainment of maximum recovery." Id.

Employer states that Employee was released to return to work by OHS on March 15, 2000, one week after the injury, with no work restrictions, and that he continued to work for four months until his termination for insubordination. Employer also contends that Employee worked for several other employers through a temporary job agency after his termination, but concedes that Employee testified his employment lasted for only a week or so and that he quit because of his medical symptoms related to his work injury.

Employer argues that Dr. Musick found that on the date of his examination, September 5, 2007, Employee was able to work with limitations, and that no doctor had assessed any work restrictions until Dr. Findlay did so on August 3, 2011 in his C-32 report. Employer also contends that Dr. Findlay's statements that Employee did not reach maximum medical improvement until 2009 and was unable to work, and that OHS made a monumental mistake by returning Employee to work, were not credible, and that Dr. Musick was the more believable medical expert. Employer concludes that Employee was able to return to work one week after his injury and that he had reached maximum medical improvement at the time of his release by OHS in April of 2000 and, accordingly, was not entitled to temporary total disability benefits.

In contrast, Employee contends that the trial court was correct in awarding temporary total disability benefits from the date of Employee's termination in July of 2000 until September 5, 2007, for a total of 369.98 weeks. Employee states that Tennessee Code Annotated section 50-6-207(3)(A)(i) (2008) provided that an injured employee shall receive compensation "for the period of time during which [he] suffers temporary total disability on account of the injury," and that the public policy behind these benefits is to allow for the healing period during which the employee is totally prevented from working. Vanatta v. Tomlinson, 774 S.W.2d 921, 925 (Tenn. 1989). Accordingly, Employee states that an injured employee is entitled to temporary total disability benefits from the time the employee is unable to return to work until the employee is able to return to work or until the employee has reached maximum medical improvement. See Simpson, 564 S.W.2d at 955.

In addition, Employee asserts that a trial court determines disability under the Workers' Compensation Act by considering both lay testimony and medical evidence, Kellwood Co. v. Gibson, 581 S.W.2d 645, 648 (Tenn. 1979), abrogated on other grounds by Lollar v. Wal-Mart Stores, Inc., 767 S.W.2d 143 (Tenn. 1989), and a "trial judge is not bound to accept physicians' opinions of the extent of the employee's disability but is entitled to determine the extent of disability from all of the evidence, both expert and non-expert." Hinson v. Wal-Mart Stores, Inc., 654 S.W.2d 675, 677 (Tenn. 1983) (citing Trane Co. v. Morrison, 566 S.W.2d 849 (Tenn. 1978)).

In this case, both Employee and his mother testified that he was significantly disabled by his injury and unable to work. His mother testified that he lived with her, that he was very limited in his activities as compared to his activity before the injury, and that she assisted him in the treatment of his symptoms. The proof showed he has trouble staying awake, sleeps in a recliner and does not drive because of his symptoms of pain, headaches, dizziness and poor vision. He received social security disability benefits in September of 2003 because of his inability to work. Employee testified that when OHS released him to return to work one week after his injury, he had great difficulty operating his machine because of his symptoms of dizziness and lack of vision. Even after Employer provided an extra employee to assist in the operation of Employee's machine, Employee continued to have difficulty until his termination in July of 2000. In addition, after his termination, he tried to work through a temporary job agency but could not do the jobs assigned because of his symptoms. He never worked again. The trial court found Employee to be a credible witness.

The trial court found that Employee was entitled to temporary total disability benefits from the date of his termination in July of 2000 until September 5, 2007, the date that Dr. Musick examined him and stated he was able to work with limitations. We find that the evidence does not preponderate against the trial court's finding that Employee is entitled to some temporary total disability benefits. However, in view of our decision that Employee's recovery of permanent partial and temporary total disability benefits is subject to the 400-week maximum, and that the trial court's 60% permanent partial disability award was 240 weeks, the court did err in awarding temporary total disability benefits from July 2000 until September 2007, a total of 369.98 weeks. This award, when combined with the permanent partial disability award, exceeds 400 weeks. Accordingly, we find that the evidence does not preponderate against a temporary total disability benefits award of 160 weeks.

Conclusion

The award of temporary total disability benefits is limited to 160 weeks and the judgment of the trial court is therefore reversed in part. The judgment is otherwise affirmed. The case is remanded to the trial court for entry of an order consistent with this opinion. Costs are taxed to Millennium Packaging Solutions, LLC and its surety, for which execution may issue if necessary.

E. RILEY ANDERSON, SP. J.

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE, TENNESSEE
October 22, 2012 Session

JOSEPH SIMS v. MILLENNIUM PACKAGING SOLUTIONS, LLC

**Hamilton County Chancery Court
No. 010204**

No. E2011-02448-WC-R3-WC

JUDGMENT

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference;

Whereupon, it appears to the Court that the Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of facts and conclusions of law are adopted and affirmed and the decision of the Panel is made the Judgment of the Court.

The costs on appeal are taxed to Millennium Packaging Solutions, LLC and its surety, for which execution may issue if necessary.

PER CURIAM

