

ORIGINAL



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

ATWOOD DISTRIBUTING LP, and)
ZURICH AMERICAN INS. CO.)
Petitioners,)

No. 114,575

vs.)

DARLA JEAN CAMP, and THE)
WORKERS' COMPENSATION)
COMMISSION,)

Respondents)

FILED
SUPREME COURT
STATE OF OKLAHOMA

JAN - 6 2016

MICHAEL S. RICHIE
CLERK

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MOTION TO RETAIN APPEAL IN SUPREME COURT

Comes now the Respondent, Darla Jean Camp, and respectfully requests the Supreme Court to exercise its discretion to retain the appeal from an order of the Workers' Compensation Commission. This Motion to Retain is authorized by Supreme Court Rule 1.24. Even though such rule is in regard to appeals from the district court, at present there are no applicable Supreme Court rules governing appeals from the Workers' Compensation Commission.

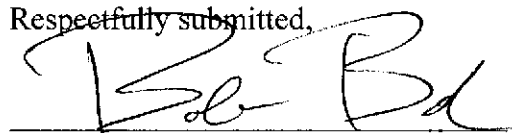
In support of the **Motion to Retain Appeal**, counsel for Petitioner states:

1. This is a **case of first impression** involving the new workers' compensation law, Title 85A, specifically the interpretation of 85A O.S. § 62 and 85A O.S. § 45 as they relate to the extent of Temporary Total Disability (TTD) allowed for a worker who sustains a "non-surgical" soft tissue injury which later results in surgery.
2. The issues raised on appeal affect public policy and the administration of the Workers' Compensation Commission. **There are hundreds of cases each year with identical**

circumstances. An injured worker is awarded only eight weeks of TTD because a compensable injury meets the statutory definition found in 85A O.S. § 62 of a “non-surgical” soft tissue injury. Short term extensions of the TTD are allowed if there is an injection or recommendation for surgery. Later, after diagnostic tests, surgery is performed, leaving a “gap” of temporary total disability weekly benefits between the short-term TTD allowed and the date of surgery. In this case, the Workers’ Compensation Commission found that TTD was owed retroactively because the case was no longer “non-surgical” within the limitations in 85A O.S. § 62, that the injured worker did not cause the delay in surgery, and that the general limits of TTD found in 85A O.S. § 45 apply.

3. The Petitioners have appealed the award of TTD for the “gap” period in which it was stipulated that Respondent worker was TTD as defined by Title 85A.

Respectfully submitted,



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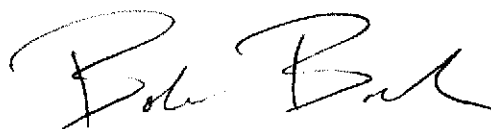
ATTORNEYS FOR RESPONDENT,
DARLA JEAN CAMP

Certificate of Mailing

I hereby state that on this 6TH day of January, 2016, I placed in the U.S. Mail, postage prepaid, a copy of this Motion to Retain Appeal to:

Attorney General of Oklahoma
313 N.E. 21st Street
Oklahoma City, OK 73105

Timothy E. Lurtz, Esq.
429 N.E. 50th, Second Floor
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A handwritten signature in black ink, appearing to read "Bob Burke". The signature is written in a cursive style with a horizontal line underneath it.

Bob Burke