OPINION ENTERED: March 29, 2013

CLAIM NO. 201200063

PAUL JARVIS PETITIONER

VS. **APPEAL FROM HON. J. LANDON OVERFIELD, CHIEF ADMINISTRATIVE LAW JUDGE**

A & B CONTRACTING;
UNINSURED EMPLOYERS FUND;
WARRIOR COAL;
AUTO OWNERS INSURANCE CO.;
and HON. J. LANDON OVERFIELD,
CHIEF ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
AFFIRMING

* * * * * *

BEFORE: ALVEY, Chairman; STIVERS and SMITH, Members.

ALVEY, Chairman. Paul Jarvis ("Jarvis") seeks review of the Opinion and Order rendered October 26, 2012 by Hon. J. Landon Overfield, Chief Administrative Law Judge ("CALJ"), dismissing his claim for benefits against A & B Contracting,

LLC ("A & B Contracting")[1] finding he failed to prove he sustained a work-related injury on April 26, 2011. Jarvis also seeks review of the November 21, 2012 order on reconsideration finding he knowingly filed or permitted to be filed a false or fraudulent claim on his behalf in violation of KRS 342.335(1) and referring the claim to the Commissioner of the Department of Workers' Claims for consideration of penalties.

The sole issue on appeal is whether the CALJ erred in finding Jarvis knowingly filed or permitted to be filed a false or fraudulent claim on his behalf pursuant to KRS 342.335(1). Because the CALJ's finding is supported by substantial evidence and no contrary result is compelled, we affirm.

Warrior Coal and A & B Contracting each filed special answers asserting, in part, Jarvis' claim is barred by fraud or misrepresentation and by false statements made on his employment application to A & B Contracting. The June 11, 2012 Benefit Review Conference order and memorandum listed fraud by Jarvis and falsification of the employment application, along with several other issues to be decided

[1] Subsequently, the Uninsured Employer's Fund ("UEF") and Warrior Coal, LLC ("Warrior Coal") were joined as additional parties. Jarvis drove for A & B Contracting, who was under contract to haul coal with Warrior Coal.

by the CALJ. On July 3, 2012, the CALJ ordered the claim bifurcated stating the issues of insurance coverage and KRS 342.610(2) up-the-ladder liability would be determined at a later date, if necessary.

Jarvis filed a Form 101 on January 19, 2012, alleging on April 26, 2011 "while driving a coal truck, I drove across rough railroad tracks and it jarred my body" injuring his "back, left leg and left foot." Jarvis acknowledged he had filed a previous claim in 1993 for a back injury. Jarvis attached to the Form 101 an August 31, 2011 First Report of Injury prepared by Sandy Marvel ("Marvel"), co-owner of A & B Contracting. In the box for "Date of Inj./Exp.", "5/14/11" is noted. "4/26/11" appears immediately outside the box.[2] In the box "How injury/ exposure occurred", "light headed, dizzy, back hurting" is noted. It further indicates Jarvis is a truck driver.

Jarvis also attached to the Form 101 medical records from the Marshall County Family Medical Center dated April 27, 2011; July 11, 2011; and September 12, 2011. On April 27, 2011, Jarvis requested to be "checked out" due to family history of "DM, HTW + MI." Jarvis reported a history

[2] The same form is attached as an Exhibit to Marvel's June 27, 2012 deposition testimony. However, the "4/26/11" does not appear immediately outside the box.

of ruptured discs in 1993. Under the complaint section, it was noted "140/80- yesterday dizzy- Anxiety– EKG ok– per Ambulance scheduled to have teeth pulled next wk– getting dentures." On July 11, 2011, Jarvis returned stating he ruptured discs years ago and reinjured it "a few weeks ago" while driving a truck. He complained of low back pain radiating into his left leg, worse after driving a truck. On September 12, 2011, Jarvis complained of low back, left leg and left arm pain, as well as numbness in his left fingers and hand. Jarvis reported he was not working due to the pain. An MRI of the lumbar spine dated September 16, 2011 revealed mild dehydration of the L3-L4 intervertebral disc, with no other abnormalities.

Jarvis testified by deposition on May 1, 2012 and at the final hearing held August 28, 2012. Jarvis was born on October 25, 1963, and is a resident of Benton, Kentucky. He completed the ninth grade and later earned his GED. He also holds a commercial driver's license. Jarvis testified he injured his low back in 1993 while working as a coal truck driver for James Cobb Trucking for which he was later awarded workers' compensation benefits. He received medical treatment, did not work from 1994 through 1998 due to his low back injury, and he drew social security disability benefits. After completing several years of rehabilitation,

Jarvis returned to work as an over-the-road truck driver and later as a foreman for a tree service company. He was subsequently self-employed, performing tree services from March 2004 through September 2009. He then worked for A & B Contracting from March 14, 2011 through July 17, 2011. Thereafter, Jarvis worked on an assembly line at Briggs and Stratton for eight days, and returned to the tree service company from February 2012 through August 2012 initially as a machine operator, and then as a "tree planner."

Jarvis testified he worked as a truck driver for A & B Contracting beginning in March 2011 and typically hauled coal between Warrior Coal located in Hopkins County, Kentucky and ISP in Calvert City, Kentucky several times a day. During the deposition, Jarvis testified as follows regarding the events of April 26, 2011:

> Okay. Well, like I said, on the way in, I hauled a load of coal. There's a set of railroad tracks there. I may have hit it a little bit faster than I normally do. I don't know. But when I hit it, something happened. I'm not for sure at that time what happened. I think I found out when we took the truck back up there what happened, but, you know--you know what a truck spring is? I think a truck spring broke on it. Because when I hit the railroad tracks, I mean, I jammed the floor back up into the cab. That's why I think I did something to my neck up there. . . But here the deal is, I went on down to the ISP there at the dump--to the dump. I

> got the load off and on my way back out, I was having problems breathing. I didn't know what it was. I mean, I didn't know if that hurt my back. I don't know, you know what I mean? At the time, I had no idea. I made it back up to the scales, the I-24 scales, up there by where DOT is. And when I got past them, I couldn't breathe. So, honestly, I thought I was having a heart attack. And so they got another driver with me, Greg Williams, and he was following me. And we called the ambulance out. And when the ambulance came out to get me, I told the ambulance and they was doing all kinds of tests as far as the heart and they said, 'There ain't nothing wrong with your heart.' I said, 'Well, that don't make no sense. I can't breathe.' And so anyway, we took the truck to a lot and then he took me home. And then I went and seen the people at Marshall County Medical and they done the blood and stuff like that. And they said there wasn't nothing wrong with my heart. That's what they said.

Jarvis briefly continued working after the railroad tracks incident. Thereafter, he experienced breathing problems and believed he was having a heart attack for which an ambulance was dispatched. He sought treatment at Marshall County Medical Center the next day. Jarvis testified he informed the staff of the work accident although this is not reflected in the medical record. An MRI was performed in September 2011. Jarvis testified he missed two weeks of work in June 2011 due to his symptoms. He returned to the emergency room in June 2012 after

experiencing similar symptoms of dizziness and breathing problems while operating a chainsaw for Townsend Tree Service. No restrictions have been imposed due to the April 26, 2011 incident.

Jarvis testified he notified A & B Contracting of the work incident on the day it occurred. During his deposition, Jarvis testified he experiences breathing problems, a knot in the middle of his back between his shoulder blades, soreness in his right leg and foot, and low back and left leg pain. At the hearing, Jarvis testified he currently experiences breathing problems, bilateral upper extremity numbness, left foot pain and swelling, a pinched nerve and a knot between his shoulder blades. He began experiencing upper extremity numbness following the April 2011 incident.

During his deposition, Jarvis testified he advised A & B Contracting of the 1993 low back injury and related restrictions by completing a piece of paper and talking to Marvel. He testified a physician had released him from restrictions imposed due to the 1993 injury. Despite repeatedly denying at the hearing he received any treatment for his back and legs from 1997 through April 2011, Jarvis admitted receiving treatment in April 2010 and on March 9,

2011 at Marshall County Medical Center, although he denied complaining of low back pain at the March visit.

Marvel, co-owner of A & B Contracting, testified by deposition on June 27, 2012. She is in charge of the trucking aspect of the business and her duties include "dispatch, hire, [and] fire." Marvel testified Jarvis was hired as a truck driver on March 13, 2011. During the hiring process, Marvel denied Jarvis informed her of his prior back problems and confirmed he did not disclose his previous injury on the employment application. Likewise, Marvel had no knowledge of Jarvis' previous workers' compensation claim until after his employment ended in July 2011. Marvel testified all employees are informed to report all injuries and accidents to her. Marvel further testified Jarvis did not notify her of the April 26, 2011 incident until sometime between August 19, 2001 and August 25, 2011. Once she became aware Jarvis was alleging a work injury, she completed a first report of injury on August 31, 2011. Marvel testified she noted "light-headed, dizzy, and back hurting" under the "how injured" section, as reported to her by Jarvis. Marvel stated Jarvis did not inform her of the actual work incident.

Jarvis filed reports of the September 12, 2011 x-rays of his lumbar and cervical spine. The cervical spine

x-ray demonstrated straightening of the normal lordotic curvature of the upper cervical spine, which may be positional or secondary to pain or muscle spasm. The lumbar spine x-ray demonstrated multilevel degenerative disc disease.

Jarvis filed the March 26, 2012 chiropractic report of Dr. Charles Epstein, DC. Jarvis reported he drove over railroad tracks and hit a bump while driving a truck load of coal for which he reportedly experienced immediate low back pain shooting down his left leg. He also reported mid to low back pain, and left arm and hand pain with tingling. Dr. Epstein assessed a 16% impairment rating pursuant to the American Medical Association, Guides to the Evaluation of Permanent Impairment, 5th Edition ("AMA Guides"), stating "there is damage to the discs in all three areas of the spine." He recommended additional MRIs and X-rays, as well as chiropractic care, massage therapy, water therapy, a TENS unit and physical therapy. He restricted Jarvis from standing, walking or riding in a vehicle over twenty minutes.

The UEF submitted medical records from Marshall County Hospital. The records reflect on January 19, 2002, Jarvis complained of dizziness and nausea. On April 16, 2010, Jarvis returned with a right knee injury due to

jumping from a bucket truck and he was subsequently diagnosed with a possible meniscal injury. On March 9, 2011, Jarvis complained of “R shoulder pain, lower back pain and bilateral knee pain” after he jumped and rolled out of a vehicle at work on March 7, 2011. He was diagnosed with sprains to his right shoulder and knees.

A & B Contracting filed the April 26, 2011 report from Caldwell County Ambulance Services. The narrative section reflects EMS was dispatched in response to a male patient complaining of chest pain. Upon arrival, they found Jarvis stopped on the side of the road in a semi-truck with another driver. Jarvis stated he was driving and “began feeling dizzy [with] heaviness to midsternal area rated @ 4-5/10 [and] numbness/tingling in [left] hand.” Initial testing at the scene demonstrated no obvious abnormalities. Jarvis reported feeling better and stated he would follow up with his primary care physician.

A & B Contracting filed a report dated May 7, 2012 by Dr. Thomas J. O’Brien, an orthopedic surgeon. Dr. O’Brien noted Jarvis reported immediate onset of mid-back pain and a flare up of his chronic back condition after driving across rough roads and railroad tracks. Jarvis also thought he was having a heart attack due to shortness of breath and left arm and mid-back pain. Dr. O’Brien noted

Jarvis' longstanding history of chronic low back and left leg pain, numbness and tingling dating back to 1993. Jarvis reported his chronic low back pain and left leg symptoms are not attributable to the work events at A & B Contracting. He noted Jarvis has previously been assigned a 6 or 7% impairment rating for his 1993 injury, along with permanent restrictions.

Dr. O'Brien opined Jarvis' symptoms are secondary to age-related degenerative disc disease of the cervical and thoracic spine; and his chronic low back pain is secondary to degenerative disc disease with left radiculopathy present since 1993. He opined Jarvis did not sustain an injury due to driving a coal truck over railroad tracks. He assigned a 0% impairment rating pursuant to the AMA Guides for the cervical, thoracic and lumbar spine due to his work activities with A & B Contracting. Dr. O'Brien noted his disagreement with Dr. Epstein's methodology of impairment. Dr. O'Brien stated Jarvis does not require any additional treatment or permanent restrictions due to the alleged work incident at A & B Contracting.

Dr. O'Brien also testified by deposition on May 31, 2012. He reiterated all of his findings and conclusions stated in his May 7, 2012 report. Upon examination, he found no objective abnormalities in any of the three regions

of the spine. He stated Jarvis did not have a permanent impairment rating. Dr. O'Brien stated Jarvis did not sustain any injury from the alleged April 26, 2011 incident. He stated Jarvis has pre-existing, chronic low back and left leg pain, as well as degenerative disc disease, and did not sustain an anatomic or structural breakage, or aggravation of his condition in the April 2011 incident. Dr. O'Brien further stated the April 2011 incident did not render Jarvis unable to perform his duties as a coal truck driver. Finally, Dr. O'Brien opined, from an orthopedic standpoint, there is no explanation for Jarvis' shortness of breath.

The UEF also filed Jarvis' employment record with A & B Contracting. Included in the record is an application for employment completed by Jarvis on March 5, 2011. In his application, Jarvis answered "Hope not no" to the question "Is there any reason you might be unable to perform the functions of the job for which you have applied?" Also included is a handwritten document dated July 19, 2011 documenting Jarvis' haul for the day, noting Jarvis had to stop the truck several times that day due to back pain. In an undated handwritten document, Jarvis noted on June 20, 2011; June 23, 2011; July 13, 2011; July 18, 2011; and July 19, 2011, he stopped his truck due to either back pain or breathing problems.

The UEF also filed the record from Jarvis' previous workers' compensation claim against James Cobb Trucking. The record reflects Jarvis suffered a work-related back injury on January 25, 1993 while working as a truck driver. In an opinion and award rendered August 15, 1995, the CALJ found Jarvis suffered a work-related injury "of appreciable proportions which will have an effect on his future employability." He determined Jarvis is "50% occupationally disabled." The CALJ primarily relied upon a functional capacity assessment from Dr. Schoettle, who opined Jarvis could lift twenty to thirty pounds occasionally and ten pounds frequently. He also found Jarvis would be able to function in some occupational settings, "but certainly none in which he has engaged in the past." The ALJ awarded Jarvis temporary total disability benefits, permanent partial disability benefits, medical benefits and vocational rehabilitation services.

In the opinion and order rendered October 26, 2012, the CALJ denied Jarvis' claim for benefits for the alleged April 26, 2011 work injury and dismissed the claim in its entirety stating as follows:

DISCUSSION

> Plaintiff bears the burden of proof and the risk of non-persuasion concerning all elements of his

entitlement to workers compensation benefits. The first contested issue has proven to be the hurdle over which Plaintiff cannot carry his claim. Plaintiff has failed to prove to the satisfaction of the trier of fact that, on April 26, 2011, while he was in the course and scope of his employment with Defendant Employer, he suffered a work-related injury. Plaintiff's vague reference to having experienced a jarring sensation when he drove his truck over rough railroad tracks simply does not ring true. In addition, the medical records which are contemporaneous to the time of the claimed event paint an entirely different picture.

Plaintiff testified that on April 26, 2011, while driving his truck, he actually felt like he was having a heart attack and emergency medical personnel were called to the scene. The call was answered by the Caldwell County Ambulance Service and the record of Plaintiff's treatment by the EMTs was introduced into evidence by Defendant Employer.

On April 26, 2011, Plaintiff was examined by the EMTs at 9:56 a.m. The records indicate that the EMTs responded to a call in reference to a "male patient complaining of chest pain." On arrival, the EMTs found Plaintiff stopped on the side of the road in a semi-truck. Plaintiff told the EMTs that while he was driving he began feeling dizzy with heaviness to his mid-sternal area and experienced numbness and tingling in his left hand. There's no reference whatsoever to Plaintiff having experienced pain in the neck, thoracic spine region, between the shoulder blades or either upper extremity after having driven across a

> rough railroad crossing. The ER records from the following day are also devoid of any mention of a history of a work-related injury the day before caused by crossing rough railroad tracks.
>
> In addition, the CALJ finds the medical evidence introduced through the opinions of Dr. O'Brien to be much more credible and convincing than the evidence introduced through Plaintiff's evaluating chiropractor. Dr. O'Brien expressed and[sic] unequivocal opinion that Plaintiff had not suffered a work-related injury while driving a truck for Defendant Employer on April 26, 2011.
>
> **FINDINGS AND CONCLUSIONS**
>
> 1. The facts as stipulated and as discussed above.
>
> 2. Plaintiff has failed to sustain the burden of proving to the satisfaction of the trier of fact that, on April 26, 2011, he suffered an injury while he was in the course and scope of his employment with Defendant Employer. This finding is based on the fact that the trier of fact does not believe Plaintiff's testimony concerning the alleged occurrence of the event and upon the medical evidence discussed above which is totally contradictory to Plaintiff's position.
>
> 3. The findings set forth in numerical paragraph 2 above render all other contested issues moot.

Warrior Coal and UEF filed petitions for reconsideration requesting the CALJ to address whether Jarvis' actions have risen to the level of fraud and whether

he should be referred to the Department of Workers' Claims fraud unit for further proceedings. Jarvis submitted a response to Warrior's Coal petition for reconsideration, raising the same arguments he makes on appeal, but did not file his own petition. The CALJ granted the petitions for reconsideration on November 21, 2012 stating as follows:

> The petitions for reconsideration are GRANTED and, in order to correct the error patently appearing on the face of the Opinion and Order of October 26, 2012, it is hereby AMENDED as follows:
>
> 1. An additional finding of fact is added as follows:
>
> The CALJ finds that Plaintiff knowingly filed or permitted to be filed a false or fraudulent claim on his behalf in violation of KRS 342.335(1). This finding is based on the CALJ's finding that Plaintiff did not tell the truth when alleging he suffered a work-related injury on April 26, 2011.
>
> 2. An additional order is rendered as follows:
>
> It is further ordered that this claim pursuant to KRS 342.990 is referred to the Commissioner of the Department of Workers Claims for consideration of penalties.

Subsequently, Jarvis filed a handwritten "Response to All of the Parties" regarding the fraud allegation on December 10, 2012. Jarvis insisted he did have an accident while driving a truck for A & B contracting. He reiterated

he drove over railroad tracks too hard or fast, causing a spring to break. Subsequently, he experienced breathing problems and pain in his back between his shoulders. He stated Marvel informed him he could not come back without seeing a doctor, and he then filed a workers' compensation claim. He insists he has not lied at any time throughout this litigation.

On appeal, Jarvis argues the CALJ erred in finding he committed fraud since "there is no evidence that proves or indicates any deceitful intent or planning." Jarvis points to the fact some sort of medical event did occur on April 26, 2011 while he was driving for A & B Contracting, which was serious enough for an ambulance to be called to the scene. Jarvis also argues there is no evidence he purposefully misled anyone regarding his injuries or the facts of this claim. Jarvis explains he committed an "honest mistake" by failing to initially disclose his prior medical treatment between 1997 and April 2011, which does not rise to the level of fraud. Jarvis also argues he did not lie to Marvel regarding his previous low back injury when he applied to be a trucker for A & B Contracting, as evidenced by his testimony. Jarvis asserts the "he said, she said" testimony provided by he and Marvel does not rise to the level of fraud. Finally, Jarvis argues he is

"unclear as to what happened to his body as he was driving his work truck on the incident date, but this uncertainty should not be construed as misleading or fraudulent."

As the claimant in a workers' compensation proceeding, Jarvis had the burden of proving each of the essential elements of his cause of action. Burton v. Foster Wheeler Corp., 72 S.W.3d 925 (Ky. 2002). Since Jarvis was unsuccessful before the CALJ, the question on appeal is whether the evidence compels a finding in his favor. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). Compelling evidence is defined as evidence so overwhelming no reasonable person could reach the same conclusion as the ALJ. REO Mechanical v. Barnes, 691 S.W.2d 224 (Ky. App. 1985).

In rendering a decision, KRS 342.285 grants the ALJ as fact-finder the sole discretion to determine the quality, character, and substance of evidence. AK Steel Corp. v. Adkins, 253 S.W.3d 59 (Ky. 2008). The ALJ may draw reasonable inferences from the evidence, reject any testimony, and believe or disbelieve various parts of the evidence, regardless of whether it comes from the same witness or the same adversary party's total proof. Jackson v. General Refractories Co., 581 S.W.2d 10 (Ky. 1979); Caudill v. Maloney's Discount Stores, 560 S.W.2d 15 (Ky.

1977). Although a party may note evidence supporting a different outcome than reached by an ALJ, such proof is not an adequate basis to reverse on appeal. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974).

The function of the Board in reviewing an ALJ's decision is limited to a determination of whether the findings are so unreasonable they must be reversed as a matter of law. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000). The Board, as an appellate tribunal, may not usurp the ALJ's role as fact-finder by superimposing its own appraisals as to weight and credibility or by noting reasonable inferences that otherwise could have been drawn from the evidence. Whittaker v. Rowland, 998 S.W.2d 79 (Ky. 1999).

We cannot say the CALJ's determination Jarvis knowingly filed or permitted to be filed a false or fraudulent claim on his behalf in violation of KRS 342.335(1) is so unreasonable based upon the evidence it must be reversed as a matter of law.

KRS 342.335(1) states:

> No person shall knowingly file, or permit to be filed, any false or fraudulent claim on his behalf to compensation or other benefits under this chapter, or by fraud, deceit, or misrepresentation procure or cause to be made or receive any payments of

> compensation or other benefits under this chapter to which the recipient is not lawfully entitled, or conspire with, aid, or abet another so to do.

KRS 342.990(7) provides civil penalties which shall be applied for violations of particular provisions of Chapter 342, including violation of KRS 342.335(1). Furthermore, KRS 342.990(11) states, in addition to the penalties provided in this section, the Commissioner, and any ALJ or court of jurisdiction may order restitution of a benefit secured through conduct proscribed by this chapter.

Whether a claimant knowingly filed or permitted to be filed a false or fraudulent claim on his behalf in violation of KRS 342.335(1) is a determination of fact to be made by the ALJ. On appeal from a decision of an ALJ, the Board is directed to review the decision in a summary manner as the ALJ's award or order is conclusive and binding as to all questions of fact and this Board may not substitute its judgment for that of the ALJ. KRS 342.285(1). It is the ALJ's role to determine the weight and credibility of the evidence. Caudill v. Maloney's Discount Stores, supra. Although evidence exists which could support a different conclusion, it is not the basis for alteration of an ALJ’s determination on appeal. McCloud v. Beth-Elkhorn Corp., supra.

After a close examination of the record, we cannot say the CALJ's determination Jarvis was untruthful when alleging he suffered a work-related injury on April 26, 2011 was not supported by substantial evidence, and therefore a contrary result is not compelled. The CALJ found Jarvis' testimony not credible and ultimately untruthful. In doing so, he provided a clear explanation for his determination. In the October 26, 2012 decision, the CALJ found Jarvis' "vague reference to having experienced a jarring sensation when he drove his truck over rough railroad tracks" to be untrue.

The CALJ then noted contemporaneous records from Caldwell County Ambulance Service provide an entirely different picture of the events occurring on April 26, 2011. The record noted Jarvis complained of chest pains and other symptoms which he reportedly experienced while driving. Importantly, the CALJ noted there is no reference to pain in the neck, thoracic spine region, between the shoulder blades or either upper extremity after having driven across a rough railroad crossing. Likewise, records from Marshall County Family Medical Center on April 27, 2011 make no reference of a work-related injury caused by crossing rough railroad tracks. It only noted "140/80- yesterday dizzy- Anxiety– EKG ok– per Ambulance scheduled to have teeth pulled next

wk– getting dentures." The CALJ also found credible Dr. O'Brien who opined Jarvis did not suffer a work-related injury while driving a truck for A & B Contracting on April 26, 2011. Based upon the above-cited evidence, it was reasonable for the CALJ to infer Jarvis was untruthful in alleging he suffered a work-related injury on April 26, 2011.

Therefore, we find the CALJ did not err by finding Jarvis knowingly filed or permitted to be filed a false or fraudulent claim on his behalf in violation of KRS 342.335(1) and referring the claim to the Commissioner of the Department of Workers Claims for consideration of penalties.

Accordingly, the October 26, 2012 Opinion and Order rendered by Hon. J. Landon Overfield, Chief Administrative Law Judge, and the November 21, 2012 Order granting Warrior Coal's and A & B Contracting's petition for reconsideration are hereby **AFFIRMED.**

STIVERS, MEMBER, CONCURS.

SMITH, MEMBER, NOT SITTING.

COUNSEL FOR PETITIONER:

HON DAVID C TROUTMAN
P O BOX 1837
PADUCAH, KY 42002

COUNSELS FOR RESPONDENTS:

HON DONALD C WALTON, III
9300 SHELBYVILLE RD, STE 700
LOUISVILLE, KY 40222

HON C D BATSON
UNINSURED EMPLOYERS FUND
1024 CAPITAL CENTER DR, STE 200
FRANKFORT, KY 40601

HON STANLEY S DAWSON
1315 HERR LANE, STE 210
LOUISVILLE, KY 40222

HON MICHAEL P NEAL
220 W MAIN ST, STE 300
LOUISVILLE, KY 40202

CHIEF ADMINISTRATIVE LAW JUDGE:

HON J LANDON OVERFIELD
110 NORTH WATER ST
HENDERSON, KY 42420