



Supreme Court
STATE OF ARIZONA

ROBERT BRUTINEL
Chief Justice

ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007
TELEPHONE: (602) 452-3396

JANET JOHNSON
Clerk of the Court

November 14, 2019

RE: **TANYA WINTERS v ICA/FNF/ZURICH**
Arizona Supreme Court No. CV-19-0157-PR
Court of Appeals, Division One No. 1 CA-IC 19-0010
Industrial Commission of Arizona No. 98155-295758
Insurance Carrier No. 2620028906

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on November 14, 2019, in regard to the above-referenced cause:

ORDERED: Plaintiff's Motion for Summary Judgment = DENIED.

FURTHER ORDERED: Motion for Summary Judgment = DENIED.

FURTHER ORDERED: Motion for Summary Judgment or Partial Judgment = DENIED.

FURTHER ORDERED: Petition for Special Action (Treated as Motion) = DENIED.

FURTHER ORDERED: Motion and Memorandum Supporting Motion for Summary or Partial Judgment = DENIED.

FURTHER ORDERED: (Second) Petition for Special Action (Treated as Motion) = DENIED.

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JAN 28 2020

United States Court of Appeals
For The Federal Circuit

FURTHER ORDERED: (Second) Motion for Summary Judgment or Partial Judgment = DENIED.

FURTHER ORDERED: (Second) Motion and Memorandum Supporting Motion for Summary or Partial Judgment = DENIED.

FURTHER ORDERED: (Third) Motion for Summary or Partial Judgment = DENIED.

FURTHER ORDERED: (Third) Motion and Memorandum Supporting Motion for Summary or Partial Judgment) = DENIED.

FURTHER ORDERED: (Third) Petition Special Action (Treated as Motion) = DENIED.

FURTHER ORDERED: Petition for Review = DENIED.

A panel composed of Vice Chief Justice Timmer, Justice Gould, Justice Beene and Justice Montgomery participated in the determination of this matter.

Janet Johnson, Clerk

TO:

Tanya Winters
Gaétano J Testini
Rachel Parise Brozina
Amy M Wood
lg

IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE

FILED: 4/9/19
AMY M. WOOD,
CLERK
BY: RB

TANYA WINTERS,)	Court of Appeals
)	Division One
Petitioner Employee,)	No. 1 CA-IC 19-0010
)	
v.)	ICA Claim
)	No. 98155-295758
THE INDUSTRIAL COMMISSION OF)	
ARIZONA,)	Carrier Claim
)	No. 2620028906
Respondent,)	
)	
FNF CONSTRUCTION,)	
)	
Respondent Employer,)	
)	
ZURICH AMERICAN INSURANCE)	
COMPANY,)	
)	
Respondent Carrier.)	
)	

ORDER DISMISSING SPECIAL ACTION

The court has considered petitioner employee's Petition for Special Action - Industrial Commission, filed in this court on March 4, 2019.

This court's review of an ICA award is commenced by the filing of a Petition for Special Action - Industrial Commission with the clerk of this court. See Rule 10, R.P.S.A. The petition for special action must be filed within 30 days after the administrative law judge's decision upon review is mailed to the parties. A.R.S. § 23-943(H). The timely filing of the petition for special action is jurisdictional. *Hall v. Indus. Comm'n*, 106 Ariz. 221, 223 (1970), overruled on other grounds, *Watts v.*

Indus. Comm'n, 180 Ariz. 512, 514 (1994) (treating failure to pay filing fees as non-jurisdictional defect).

In this case, the decision upon review was mailed to the parties on November 1, 2016. A petition for special action therefore had to be filed by December 1, 2016. The petition for special action was filed with this court on March 4, 2019. For that reason, claimant's petition for special action was untimely and this court lacks jurisdiction to review the merits of the special action. Therefore,

IT IS ORDERED dismissing the special action and quashing the writ of review.

/s/
Barbara Vidal Vaught, Judge Pro Tempore

A copy of the foregoing
was sent to:

Tanya Winters (mailed)
Gaetano J Testini
Rachel Parise Brozina
Hon Paula R Eaton

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LAW OFFICES
LONG, LUNDMARK & POPPE P.A.
POST OFFICE BOX 33997
PHOENIX, ARIZONA 85067-3997
(602) 279-9777

Melinda K. Poppe
Bar No: 011554
Defendants Employer
and Carrier

BEFORE THE INDUSTRIAL COMMISSION OF ARIZONA

TANYA WINTERS,

Applicant,

vs.

FNF CONSTRUCTION,

Defendant Employer,

CRAWFORD & COMPANY,

Defendant Insurance
Carrier.

ICA CLAIM NO.: 9563

CARRIER CLAIM NO.: 763-905957

DATE OF INJURY: 06/01/98

STIPULATION

(Assigned to the Honorable Layna Taylor)

Pursuant to A.A.C. R20-5-152, the parties hereby stipulate as follows:

1. The applicant's June 1, 1998 industrial injury was medically stationary effective August 24, 1999 with a 5% right lower extremity scheduled permanent partial disability which was properly calculated based upon 50% of the applicant's average monthly wage.

2. The applicant is entitled to the remainder of any supportive care as authorized by the defendants in their September 23, 1999 supportive medical care award which included two office visits for one year and medications prescribed by Dr. Brad Bruns. This award will terminate effective August 3, 2000.

3. The applicant has received all medical, temporary and permanent partial disability benefits to which she was entitled through the closure of her June 1, 1998 claim effective August 24, 1999.

1 4. The defendants' rights pursuant to A.R.S. §23-1023 shall apply to all third-party claims or
2 actions related to the applicant's June 1, 1998 industrial injury.

3
4 The parties respectfully request that the above stipulations be approved by the presiding
5 Administrative Law Judge.

6 RESPECTFULLY SUBMITTED this 7th day of ^{April} March, 2000.

7 LONG, LUNDMARK & POPPE, P.A.

8
9 By Melinda K. Poppe
10 Melinda K. Poppe
11 100 West Clarendon
12 Suite 2180
13 Phoenix, Arizona 85013
14 Attorneys for Defendants
15 Employer and Carrier

16 TAYLOR & ASSOCIATES

17 By: Brian A. Weekley
18 Brian A. Weekley
19 814 W. Roosevelt
20 Phoenix, Arizona 85007
21 Attorneys for Applicant

22 ORIGINAL of the foregoing
23 DELIVERED this 7th day of
24 March, 2000, to:
APM

25 The Hon. Layna Taylor
26 Administrative Law Judge
27 Industrial Commission of Arizona
28 800 West Washington Street
29 Phoenix, Arizona 85007

30 ML

*Winters
10-00*

BEFORE THE INDUSTRIAL COMMISSION OF ARIZONA

TANYA WINTERS,

Applicant,

vs.

FNF CONSTRUCTION,

Defendant Employer,

MARYLAND CASUALTY CO c/o CRAWFORD
& CO,

Defendant Insurance Carrier.

ICA Claim No. 98155295758
Social Security #: 9563
Ins. Claim No. 557-62227-CS
Date of Injury: 06/01/1998

FINDINGS AND AWARD APPROVING STIPULATION

On June 1, 1998, the applicant sustained an industrial injury. The claim was accepted for benefits. On September 23, 1999, the carrier issued a Notice of Claim Status closing the applicant's claim effective August 24, 1999, with a permanent disability. The applicant filed a timely Request for Hearing and a formal hearing was initially scheduled to be held on January 18, 2000, in Phoenix, Arizona. In lieu of proceeding with formal hearing, the parties filed a stipulation and requested approval of same. The applicant is represented by Brian Weekley. The defendants are represented by Melinda Poppe.

The undersigned, having fully considered the file, records and all related matters, now enters her Findings and Award as follows:

FINDINGS

1. On June 1, 1998, the applicant sustained an industrial injury. The claim was accepted for benefits. On September 23, 1999, the carrier issued a Notice of Claim Status closing the applicant's claim effective August 24, 1999, with a permanent disability. The applicant filed a timely Request for Hearing and a formal hearing was initially scheduled to be

TANYA WINTERS

held on January 18, 2000, in Phoenix, Arizona. In lieu of proceeding with formal hearing, the parties filed a stipulation on April 7, 2000, wherein the parties stipulated to the following facts to form the basis of this Award.

2. The parties stipulated, and it is found, that the applicant's condition was medically stationary with a five percent scheduled right lower extremity permanent partial disability which was properly compensated based upon fifty percent of the applicant's average monthly wage. The parties further stipulate that the applicant is entitled to any remaining supportive care authorized in the September 23, 1999, supportive medical award which included two medical office visits and medications prescribed by Dr. Bruns, and that she has received all medical and temporary and permanent partial disability benefits to which she was entitled through the closure of her claim effective August 24, 1999.

3. The parties to a proceeding before the Industrial Commission may stipulate orally or in writing to any facts or issues, and any such stipulation shall be considered binding upon the parties. Arizona Administrative Code, R20-5-152.

A W A R D

IT IS ORDERED approving the stipulation of the parties.

NOTICE: Any party dissatisfied with this Award may file a written request for review of the same with the Administrative Law Judge Division of the Industrial Commission within THIRTY (30) DAYS after the mailing of this Award as provided by Arizona Revised Statutes, Sec. 23-942 (D) and 23-943 (A) and (B). Unless such written request is made within the time provided, this Award is final.

By 
LAYNA TAYLOR
Administrative Law Judge

DATED AND MAILED IN PHOENIX, ARIZONA THIS 10TH DAY OF APRIL, 2000.

