2019 IL App (3d) 180430WC-U
No. 3-18-0430WC
Order filed June 14, 2019

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

RAMON ZARATE, Petitioner-Appellee, v. THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al*., (Kankakee Nursery, Respondent-Appellant).	)	Appeal from the Circuit Court of Kankakee County Nos. 17-MR-776 17-MR-802 Honorable Ronald J. Gerts, Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.

Presiding Justice Holdridge and Justices Cavanagh and Barberis concurred in the judgment.

Justice Hoffman specially concurred in the judgment.

ORDER

¶ 1 *Held*: The Commission's decision that claimant's injuries were caused exclusively by the second of two accidents that occurred while employed by the same employer, who was represented by different insurance carriers for each accident, was not contrary to the manifest weight of the evidence where claimant returned to full-duty employment between accidents.

¶ 2 I. INTRODUCTION

¶ 3 Respondent, Kankakee Nursery, appeals an order of the circuit court of Kankakee County confirming a decision of the Illinois Workers' Compensation Commission finding the condition of ill-being of claimant, Ramon Zarate, was causally related to an at-work accident he suffered on April 28, 2014. The Commission further determined that an earlier accident suffered by claimant that occurred on August 17, 2012, also while in the employ of Kankakee Nursery was not causally related to his condition of ill-being. Respondent changed insurance carriers between the two accidents.[1] At the time of the first accident, it was represented by BerkeleyNet and at the time of the second, Acuity Insurance. For the reasons that follow, we affirm.

¶ 4 Claimant initiated this action by filing two claims, one based on each accident date. Both claims involved injuries to his lumbar spine. The main issue presented was which accident caused claimant's subsequent condition of ill-being and need for surgery. The arbitrator found that claimant's condition was caused by the 2012 accident and was unrelated to the 2014 accident, which he deemed to have only temporarily aggravated claimant's condition. The Commission reversed both decisions. Kankakee-Acuity sought review of the decision concerning the 2014 accident; claimant then sought review of the decision concerning the 2012 accident. The circuit court confirmed the Commission, and this appeal was initiated by Kankakee-Acuity.

¶ 5 II. BACKGROUND

¶ 6 The facts surrounding the two accidents are straightforward and largely undisputed; medical records are extensive. Claimant testified that he began working for respondent in August 2005, when he was 26 years old. He worked as a laborer, and his duties included

[1]When necessary to distinguish between Kankakee Nursery in its two roles, it will be referred to as Kankakee-Berkeley and Kankakee-Acuity, as appropriate.

preparing and planting trees, which required lifting over 75 pounds. On August 17, 2012, claimant suffered an at-work accident (respondent does not dispute this). He fell when he stepped on some debris on the floor of a pole barn. He noted immediate pain in his back, and he reported the accident (notice was not in dispute).

¶ 7 He first sought medical treatment on October 3, 2012, at Riverside Corporate Health Services, a facility to which he was directed by respondent. Claimant reported low back pain and pain radiating down his right leg. X rays showed nothing acute. Claimant was prescribed pain medications and physical therapy. He was given work restrictions that included no lifting over 15 pounds. On November 10, 2012, claimant ceased working due to a seasonal layoff.

¶ 8 Claimant did not experience much improvement from physical therapy, and an MRI was ordered. It was performed on November 26, 2012. The MRI showed a moderate to large herniation at the L5-S1 level. He returned to Riverside on November 28, 2012, to review the MRI. Claimant was referred to Dr. Charles Harvey for neurosurgical evaluation. Harvey first saw claimant on December 28, 2012. Harvey recommended a lumbar laminectomy and discectomy. Claimant did not want to undergo surgery. Therefore, Harvey prescribed further physical therapy. On January 29, 2013, claimant saw Harvey and reported some improvement. Claimant still wished to avoid surgery if possible, and Harvey continued claimant on outpatient physical therapy.

¶ 9 Claimant returned to see Harvey on March 7, 2013. Claimant estimated his symptoms had improved by 50 percent. Harvey ordered three more weeks of physical therapy. Claimant stated his medications were only providing minimal relief. A second MRI was performed on March 15, 2013. It showed a disc herniation at LF-S1. Claimant visited Harvey on March 19, 2013. Harvey reviewed the MRI and noted no change in claimant's condition and continued to

recommend the surgery he had previously recommended. Claimant continued with physical therapy.

¶ 10 During an April 9, 2013, visit with Harvey, claimant reported that his pain was "better under control." Claimant's physical therapist wanted to begin work hardening. Harvey agreed that claimant could attempt work hardening. Claimant returned on May 21, 2013, and reported an 80 percent improvement. Claimant remained opposed to surgery. Harvey allowed claimant to return to work full duty.

¶ 11 Harvey re-evaluated claimant on July 2, 2013. Claimant reported that he had been working full-duty since May 28, 2013, and was doing well. He was using a TENS unit to control his pain. Harvey saw claimant on September 17, 2013. He noted claimant was still using a TENS unit and was still doing well. Claimant had been working full duty for over two months. Harvey opined that claimant had reached maximum medical improvement (MMI) at this time.

¶ 12 Claimant continued to work until the seasonal layoff on November 25, 2013. He returned to work for respondent on March 20, 2014. On April 28, 2014, while at work, claimant experienced his second work-related accident. To enter one greenhouse, due to the nature of the doorway, claimant had to bend at the waist and step over a small wall and water boom. He was not carrying anything, and he was in a bent position for five or six seconds. When he stood back up, he felt a pain in his lower back. He reported the accident and was sent to Riverside.

¶ 13 He was seen by Barbara Sauvage, a nurse-practitioner at Riverside, on April 29, 2014. Claimant stated that he was experiencing lower back pain radiating into his legs. Claimant reported his earlier back problems and stated that he had not had a recurrence until the second accident occurred. Claimant was given a work restriction of no lifting greater than five pounds. Claimant also engaged in further physical therapy. Claimant next saw Sauvage on May 7, 2014.

Claimant reported significant improvement in his symptoms; however, he was still experiencing lower back pain radiating into his buttocks. Claimant continued with physical therapy. An MRI was ordered. The MRI, performed June 5, 2014, showed a herniation at L5-S1. Claimant followed up with Sauvage on June 10 and stated that he was 60 percent improved. Claimant was again referred to Harvey. On June 19, 2014, claimant was discharged from physical therapy.

¶ 14 Claimant saw Harvey on July 15, 2014. Harvey noted that claimant was experiencing continuing radiating back pain. Harvey again recommended a lumbar laminectomy and discectomy. Claimant wished to proceed with the surgery; however, it had not been approved by the time of the arbitration hearing. Claimant worked through the seasonal layoff in November 2014. Harvey did not impose any work restrictions at this time. Claimant returned to work on March 9, 2015. He was promoted to a supervisory position in August 2015, and he continued to work until the seasonal lay off, which occurred on December 18 that year.

¶ 15 Claimant was examined by two doctors acting on respondent's behalf. First, on January 31, 2013, claimant was examined by Dr. Ramsis Ghaly. Ghaly opined that "it is reasonable to believe that the injury on 8/17/12 caused the aggravation in [claimant's] condition." He added, "The surgical option seems very attractive especially with the large disc herniation and with the severe stenosis that he has." He believed delaying surgery, giving the nature of claimant's job, entailed "[t]oo much risk." He agreed with Harvey's recommendation as to the type of surgery. Ghaly believed it likely that claimant had a preexisting degenerative condition and the accident in August 2012 aggravated it.

¶ 16 The second such examination was performed by Dr. Edward Goldberg on February 27, 2015. Goldberg who authored two reports and testified via evidence deposition. Goldberg reviewed claimant's medical records and conducted a physical examination. He opined that

claimant's herniation at L5-S1 "was not caused by the accident of" April 28, 2014. He stated that he was not able to compare the various MRIs claimant underwent, so he could not say whether claimant's herniation had changed. He acknowledged that claimant returned to work full duty after the first accident. Moreover, he could not state claimant's condition was "due to solely the accident of April 2014." He did not believe claimant was at MMI. MRI films were subsequently forwarded to Goldberg, and he authored an addendum to his report. He opined that the accident of April 28, 2014 aggravated claimant's prior disc herniation. He further agreed with Harvey's recommendation for surgery. He did not "see any acute differences" in the MRI films. He reiterated that claimant was not at MMI.

¶ 17 The arbitrator found that claimant had suffered a work-related accident on April 28, 2014, that temporarily aggravated his low-back condition that had been caused by the August 17, 2012, accident. The arbitrator stated that the evidence was undisputed that claimant suffered an at-work accident in August 2012 and that accident caused a large disc herniation at the L5-S1 level. The arbitrator found that claimant's condition of ill-being was related solely to the August 2012 accident and not the April 2014 accident. The arbitrator discounted claimant's release to full-duty work that occurred between the two accidents, noting that Harvey continued to recommend surgery through the time of the release. The arbitrator noted that the release was based primarily on claimant's desire to avoid surgery. After returning to work, claimant continued to experience symptoms, which he controlled with a TENS unit. The arbitrator explained that claimant did not experience a "full resolution of his symptoms so as to make the return to work the defining factor on the issue of causal connection." The arbitrator also noted that no evidence indicated that the nature of claimant's symptoms changed following the April

2014 accident. Furthermore, "[T]here was no change in the size or pathology of the large disc herniation between [claimant's] MRI studies taken before and after the April 28, 2014 accident."

¶ 18 The Commission reversed. It found claimant had reached MMI with respect to the 2012 accident on September 17, 2013. On that date, during an appointment with Harvey, claimant denied having "any weakness, numbness, or tingling." Claimant had been working for over two months, including lifting 75 pounds, at this time. Harvey opined claimant had reached MMI on this date. Medical records generated after the second accident indicate that claimant reported that "he did fine until yesterday and had no further recurrence of the back pain and paresthesia until now." The Commission found persuasive Goldberg's testimony that claimant "aggravated his prior disc herniation at L5-S1 secondary to the accident of April 28, 2014, and that the need for surgery was due to that accident." The Commission also remanded in accordance with *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980).

¶ 19 III. ANALYSIS

¶ 20 On appeal, Kankakee-Acuity raises two main issues. First, it contends that the Commission "did not perform the proper analysis prior to finding claimant's need for surgery" was causally related to his accident sustained of April 28, 2014. Second, it argues "[t]hat the evidence does not support a finding that the independent intervening accident sustained on April 28, 2014 broke the causal chain of connection from the initial work accident sustained on August 17, 2012." We will address these arguments *seriatim*.

¶ 21 A. THE COMMISSION'S ANALYSIS

¶ 22 Kankakee-Acuity first contends that the Commission did not properly analyze the issue of causation. Specifically Kankakee-Acuity asserts that the Commission failed to address whether the second accident broke the causal chain to the first accident. We begin with the

reminder that we analyze the result at which the Commission arrived rather than its reasoning. See *Boaden v. Department of Law Enforcement*, 267 Ill. App. 3d 645, 652 (1994); *Department of Mental Health & Developmental Disabilities v. Illinois Civil Service Comm'n*, 103 Ill. App. 3d 954, 957 (1982). Thus, Kankakee-Acuity's argument is not on point. It is incumbent on the appellant to show that the Commission's conclusion on causation is contrary to the manifest weight of the evidence. How it came to that conclusion is immaterial. Moreover, though it did not explain its reasoning in great detail, the Commission's determination that the second accident aggravated the first and that only the second is causally related to the claimant's current condition of ill-being entails a finding that the second accident broke the chain of causation leading to the first accident.

¶ 23 B. CAUSATION

¶ 24 Kankakee-Acuity next argues that the Commission's alleged finding that "the independent intervening cause sustained on April 28, 2014 broke the causal chain of connection from the initial work accident sustained on August 17, 2012" is contrary to the manifest weight of the evidence. Although the Commission does not use the term "intervening cause," it made the following finding: "[Claimant] aggravated his prior disc herniation at L5-S1 secondary to the accident of April 28, 2014, and that the need for surgery was due to that accident." Whether an accident constitutes an intervening cause presents a question of fact. *Bell & Gossett Co. v. Industrial Comm'n*, 53 Ill. 2d 144, 148 (1972). As such, review is conducted using the manifest-weight standard of review. *Caterpillar, Inc. v. Industrial Comm'n*, 228 Ill. App. 3d 288, 293 (1992). A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Teska v. Industrial Comm'n*, 266 Ill. App. 3d 740, 741-42 (1994). Moreover, we owe substantial deference to the Commission's resolution of medical issues, as its

expertise in this arena has long been recognized. See *Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979).

¶ 25 An intervening cause is one that breaks the chain of causation between a work-related injury and a subsequent condition of ill-being. *Boatman v. Industrial Comm'n*, 256 Ill. App. 3d 1070, 1074 (1993). As always, the accident need not be the sole or primary cause of an injury for a claimant to recover, so long as it remains *a* cause despite the occurrence of an intervening event. *Dunteman v. Illinois Workers' Compensation Comm'n*, 2016 IL App (4th) 150543WC, ¶ 43. If the ensuing condition would not have occurred but for the original injury, the chain of causation is not broken. *International Harvester Co. v. Industrial Comm'n*, 46 Ill. 2d 238, 245 (1970). That is, if the subsequent condition would not have arisen but for the original accident, the original accident is causally related to the ensuing condition of ill-being. *Dunteman*, 2016 IL App (4th) 150543WC, ¶ 42.

¶ 26 Here, the evidence was undeniably conflicting, and Kankakee-Acuity can point to some evidence that supports its position; however, given the state of the record, we cannot say that an opposite conclusion to the Commission's is clearly apparent. That is, there is sufficient support for the Commission's decision. In the summer of 2013, claimant was able to return to work full-duty, which included lifting 75 pounds. When claimant saw Harvey in September 2013, claimant stated that he was not experiencing any weakness, numbness, or tingling. Harvey believed claimant had reached MMI with respect to the first injury at that time. While it is true that claimant also stated that he was experiencing a dull pain at the time and that he continued to use a TENS unit, this merely created a conflict in the evidence for the Commission to resolve. See *Ingersoll Milling Machine Co. v. Industrial Comm'n*, 253 Ill. App. 3d 462, 467 (1993) ("Further, it is the Commission's province to resolve conflicts in medical evidence."). On the

day after the second accident, when seeking medical treatment, claimant himself reported that he was doing fine until the second accident occurred. Moreover, Goldberg opined that "the surgery is due to the accident of April 28, 2014." We further note that the fact that claimant changed his mind about going forward with surgery following the second accident allows an inference that his condition had changed.

¶ 27 It is true that evidence to the contrary exists. For example, Goldberg did not note "any acute differences in the MRI films." Further, the surgery Harvey recommended following the second accident was the same as he recommended prior to the second accident. Kankakee-Acuity also points out that claimant's subjective complaints did not change following the second accident (except, we note, for his request to proceed with surgery). While this and other evidence cited by Kankakee-Acuity is compelling, so is the fact that claimant returned to work full duty following the first accident. For Kankakee-Acuity to prevail here, it must show that an opposite conclusion is clearly apparent. *Teska*, 266 Ill. App. 3d at 741-42. It has not met that burden.

¶ 28 Kankakee-Acuity contends that *Teska*, 266 Ill. App. 3d 740, compels a different result. In that case, a claimant injured his neck in a work-related accident. *Id.* at 741. An MRI revealed a herniated disc, and, in February 1991, a surgery was performed. *Id.* The claimant returned to work on April 25, 1991. *Id.* In October, 1991, a second MRI revealed a recurrent herniated disc, which was treated conservatively. *Id.* In February 1992, the claimant experienced an increase in symptoms while bowling. *Id.* At issue was whether bowling constituted an intervening cause that broke the chain of causation between the claimant's original at-work accident and his ongoing condition of ill-being. *Id.* at 742. This court reversed the Commission's decision that it was an intervening cause. *Id.* at 743.

¶ 29 *Teska* is easily distinguishable. In *Teska*, the claimant's job involved "sitting at his work bench assembling industrial spray equipment." *Id.* at 741. There is no indication that the claimant in *Teska* was involved in activities anywhere near as physical as claimant in this case was, as claimant's job involved lifting up to 75 pounds. Further, in *Teska*, one of the claimant's treating physicians testified that the "bowling incident had nothing at all to do with claimant's current condition of ill-being and that his current problem was still a direct result of the work-related injuries he sustained in 1990." *Id.* at 743. The *Teska* court expressly noted that the employer "presented no evidence to rebut [the treating physician's] conclusions and statements." *Id.* Here, Kankakee-Acuity presented the testimony of Goldberg, who opined that "the surgery is due to the accident of April 28, 2014."

¶ 30 Similarly, in *Vogel v. Industrial Comm'n*, 354 Ill. App. 3d 780, 788-89 (2005), the reviewing court cited the lack of evidence that claimant's condition changed in rejecting an employer's claim that the chain of causation had been broken by two intervening accidents. Goldberg's opinion provides such evidence. Moreover, *Vogel* also differs in that the claimant in that case sought less demanding work (*Id*. at 783) and later was unable to return to work full duty. *Id.* at 789. In fact, the *Vogel* court had distinguished two other cases on that very basis. See *Vogel*, 354 Ill. App. 3d at 789 ("Those decisions are distinguishable. The claimants in those cases had returned to work after receiving treatment for their work injuries and had been working for several months at the times of their second accidents. Here, [the] claimant was still recovering from surgery and had not yet been released to return to full-duty work."). This case is more like the cases distinguished in *Vogel* in that claimant returned to work full duty.

¶ 31 Kankakee-Acuity also cited *National Freight Industries v. Illinois Workers' Compensation Comm'n*, 2013 Il App (5th) 120043WC, a case that found an intervening accident

broke the chain of causation between a work-related accident and an ensuing condition of ill-being. Kankakee-Acuity attempts to show how *National Freight* differs from the instant case. Kankakee-Acuity points out that, in *National Freight*, the evidence showed that the claimant's symptoms changed; that the intervening accident caused a change in the claimant's pathology; that it changed the type of surgery recommended; and that the claimant's ability to work had changed following the second accident. Here, Kankakee-Acuity asserts, claimant's symptoms did not change (though, we note, they did cause him to change his mind about proceeding with surgery). Moreover, Goldberg acknowledged that there was not "any acute differences in the MRI films." Harvey recommended the same surgery. Finally, claimant did return to work following the second accident (though he was soon promoted to a supervisory position).

¶ 32 While all of this is true, it ignores the bases for the Commission's decision. That is, the Commission based its decision on claimant's full-duty return to work, his self report of diminished symptoms, and Goldberg's opinion on causation. For *National Freight* to be persuasive here, Kankakee-Acuity would have to show not only that the constellation of evidence present in that case pointed to a different result, rather, it would have to show that such evidence is entitled to so much more weight than that relied on by the Commission that an opposite conclusion is clearly apparent. This it has not done.

¶ 33 IV. CONCLUSION

¶ 34 In light of the foregoing, the decision of the circuit court of Kankakee County is affirmed. This cause if remanded for further proceedings, if any, in accordance with *Thomas*, 78 Ill. 2d 327.

¶ 35 Affirmed and remanded.

¶ 36 JUSTICE HOFFMAN, specially concurring:

¶ 37 I, too, concur in the affirmance of the circuit court's judgment confirming the decision of the Commission; albeit for reasons different from those articulated by the majority. I believe that this appeal was prosecuted for the benefit of a non-party, Acuity Insurance, and not for the benefit of the named appellant, Kankakee Nursery. Consequently, I would strike the appellant's brief and summarily affirm the judgment of the circuit court.

¶ 38 As noted by the majority, the claimant filed two applications for adjustment of claim, both of which sought recovery against his employer, Kankakee Nursery, for injuries to his lumbar spine. The first application listed August 17, 2012, as the date of accident and was docketed at the Commission as case No. 13 WC 2494. The second application listed April 28, 2014, as the date of accident and was docketed as case No. 14 WC 39062. At the time of the claimant's accident on August 17, 2012, Kankakee Nursery was insured by BerkeleyNet, and at the time of the second accident on April 28, 2014, it was insured by Acuity Insurance. The two claims were consolidated for hearing, but the arbitrator issued separate decisions.

¶ 39 In her decision in case 13 WC 2494, the arbitrator found that, on August 17, 2012, the claimant suffered an accident that arose out of and in the course of his employment with Kankakee Nursery and that he sustained injuries to his lower back as a proximate result. The arbitrator awarded the claimant 28 3/7 weeks of temporary total disability (TTD) benefits for the period commencing November 11, 2012 through May 27, 2013. The arbitrator also found that the claimant's current condition of lower back ill-being is causally related to his accident of August 17, 2012, and that the surgery recommended by his physician is causally related to that accident. As a consequence, the arbitrator ordered Kankakee Nursery to authorize and pay for the recommended surgery and attendant care.

¶ 40 In her decision in case No. 14 WC 39062, the arbitrator found that the claimant suffered an accident on April 28, 2014, that arose out of and in the course of his employment with Kankakee Nursery. However, finding that the claimant's current condition of lower back ill-being is not causally related to his April 28, 2014 accident, the arbitrator declined to award the claimant any benefits as a result of that accident.

¶ 41 Reviews of both of the arbitrator's decisions were initiated before the Commission. In its decision in case No. 13 WC 2498, the Commission reversed the arbitrator's finding that the claimant's current condition of lower back ill-being is causally related to his work-related accident of August 17, 2012, and vacated the arbitrator's award of prospective surgery and care related to that accident. In all other respects, the Commission affirmed and adopted the arbitrator's decision in case No. 13 WC 2498.

¶ 42 In its decision in case No. 14 WC 390062, the Commission reversed the arbitrator's finding as to causation of the claimant's current condition of lower back ill-being, finding that the claimant's need for surgery is related to his accident of April 28, 2014. The Commission ordered Kankakee Nursery to authorize and pay for the claimant's recommended surgery and attendant care. In all other respects, the Commission affirmed and adopted the arbitrator's decision in case No. 14 WC 390062.

¶ 43 The effects of the Commission's two decisions are the following: (1) it found that the claimant suffered accidents on both August 17, 2012, and April 28, 2014, that arose out of and in the course of his employment with Kankakee Nursery, and that his current condition of lower back ill-being is causally related to his April 28, 2014 accident, not his August 17, 2012 accident; (2) it affirmed the arbitrator's award of 28 3/7 weeks of TTD benefits for the period commencing November 11, 2012 through May 27, 2013, as a consequence of his August 17,

2012 accident; and (3) it ordered Kankakee Nursery to authorize and pay for the claimant's recommended surgery and attendant care.

¶ 44 Judicial review of both of the Commission's decisions was sought in the circuit court of Kankakee County. The cases were consolidated. The circuit court issued a single judgment, confirming both of the Commission's decisions.

¶ 45 A notice of appeal was filed on behalf of Kankakee Nursery by the law firm of Hennessy & Roach, P.C., the law firm that represented Kankakee Nursery before the Commission in case No. 14 WC 390062, relating to the April 28, 2014 accident. In the brief filed by Hennessy & Roach, P.C. on behalf of Kankakee Nursery, only two arguments were asserted, namely: (1) that the Commission failed to perform the proper analysis prior to finding that the claimant's need for the recommended surgery is causally related to his April 28, 2014 accident; and (2) that the Commission's finding that the claimant's accident of April 28, 2014, was an independent intervening cause which broke the causal connection between his current condition of ill-being and his August 17, 2012 accident is against the manifest weight of the evidence. No arguments were asserted that the Commission erred in finding that the claimant suffered accidents on both August 17, 2012, and April 28, 2014, that arose out of and in the course of his employment with Kankakee Nursery; awarding the claimant 28 3/7 weeks of TTD benefits as a consequence of his August 17, 2012 accident; or finding that the claimant is in need of the surgery recommended by his treating physician. The brief filed by Hennessy & Roach, P.C., even if either argument asserted therein were found to be meritorious, would not benefit Kankakee Nursery in any respect. As to the liability of Kankakee Nursery to the claimant, there is no difference in result regardless of whether the claimant's current condition of ill-being and his need for prospective medical care is the result of his August 17, 2012 accident or his April 28, 2014 accident. If the

Commission's determination in both decisions that the claimant's current condition of ill-being is causally related to his April 28, 2014 work accident and not to his August 17, 2012 accident were to be reversed and the arbitrator's decisions reinstated, Kankakee Nursing would still be liable for 28 3/7 weeks of TTD benefits and the payment of the claimant's prospective surgery and attendant care. The only difference is which of Kankakee Nursery's insurance carriers is liable for the payment of claimant's prospective medical expenses.

¶ 46 This appeal was not filed for the benefit of Kankakee Nursery. It was filed for the benefit of Acuity Insurance, the carrier insuring Kankakee Nursery on April 28, 2014. As the circuit court correctly observed in its written decision, "[t]his case is a battle between insurance companies." However, neither BerkeleyNet nor Acuity Insurance is a party to the cases before the Commission or the circuit court. The only parties are the claimant, the Commission, and Kankakee Nursery. I believe, therefore, that the brief filed on behalf of Kankakee Nursery, which in actuality was for the sole benefit of Acuity Insurance, a non-party, should have been stricken and the circuit court's judgment summarily affirmed.