

DIANA ZALESKI

2004 MAR 12 PM 2: 10

SUMMIT COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

HOWARD HUGHES)

Plaintiff,)

-vs-)

DAIMLER-CHRYSLER CO. et al.,)

Defendants,)

CASE NO. AC 2003-09-5144

JUDGE JOHN R. MILLIGAN

ORDER ON SUMMARY
JUDGMENT

Rule 58 Notice

This matter came on for hearing upon the Motion of Defendant for Summary Judgment filed March 1, 2004. Plaintiff has failed to respond. It is the judgment of this Court that the pendency of the appeal on the issue of the propriety of video tape trials does not preclude this Court from exercising collateral, continuing jurisdiction over the Summary Judgment Motion.

This is another case in a long line of cases where there is a preliminary challenge to the exercise of Common Pleas – Administrative Appeal – subject matter jurisdiction in asbestos workers compensation cases.

This court has previously addressed the prefatory nature of the tripartite steps a claimant is required to complete as a condition precedent to entitlement to a BWC specialist review and eventual determination of the merits of his or her right to participate in the workers compensation fund.

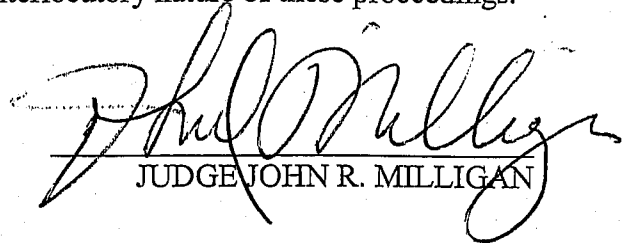
Here, the ex parte order of the commission from which the appeal to this court is lodged facially recites that the Plaintiff-appellant has failed to comply with the requirements of Resolution R03-1-02, a reaffirmation of R96-1-01, adopted February 26, 1996. In addition, the order states that it is interlocutory in nature and not subject to appeal.

For all of the reasons recited in *Humphrey v. Goodyear*, Summit County C.P. Court, AC 2003-09-5143, decided January 14, 2004, appeal not taken, noted on the court's web site

at www.cpclerk.co.summit.oh.us; as well as *Davis v. Daimler Chrysler Co.*, Summit County C.P. Court, AC 2002-11-6366, (January 23, 2004, summary judgment), *Chaffee v. Daimler Chrysler Co.*, Summit County C.P. Court, AC 2003-03-1451, Feb. 25, 2004 summary judgment, and *Allen v. Daimler Chrysler Co.*, Summit County C.P. Court AC 2003-12-7585, decided March 1, 2004, THE MOTION TO DISMISS IS SUSTAINED.

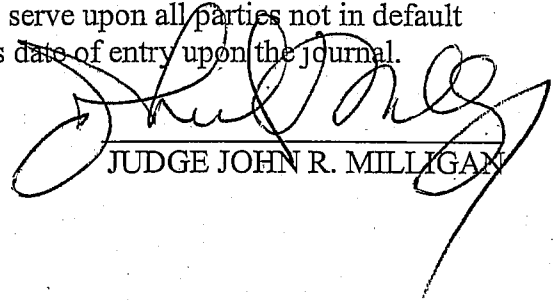
This Plaintiff's attempt to "leap-frog" the orderly, sequential, administrative process for receiving the special remedy of workers compensation claim allowance cannot avail. It is the Plaintiff himself who is the architect of the interlocutory nature of these proceedings.

So ordered.



JUDGE JOHN R. MILLIGAN

Pursuant to Civ.R. 58(B), the Clerk of Courts shall serve upon all parties not in default for failure to appear notice of this Judgment and its date of entry upon the journal.



JUDGE JOHN R. MILLIGAN