

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

JOE S. WILSON

NO. 2013 CW 1329

VERSUS

McGUIRE CONSTRUCTION, LLC
D/B/A SHORELINE SERVICES AND
ARGONAUT INSURANCE COMPANY

DEC 20 2013

In Re: Joe S. Wilson, applying for supervisory writs, Office of Workers' Compensation, District 9, No. 10-11117.

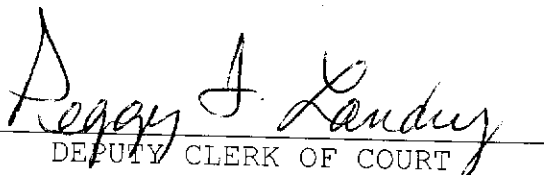
BEFORE: KUHN, HIGGINBOTHAM, AND THERIOT, JJ.

WRIT DENIED.

TMH
MRT

Kuhn, J., concurs. La. R.S. 23:1310.3(F) vests the Office of Workers' Compensation with original, exclusive jurisdiction over all claims or disputes arising out of the Workers' Compensation Act. However, the Workers' Compensation Act does not create an action or provide relief where an employer or its insurer does not "either establish and maintain a claims office within the state or retain a licensed claims adjuster" pursuant to La. R.S. 23:1161.1. Article IV, Section 11 of the Louisiana Constitution established the Department of Insurance headed by the Commissioner of Insurance, who is to "have powers and perform duties authorized by this constitution or provided by law." Pursuant to La. R.S. 22:337(A)(17), the Commissioner of Insurance "may refuse, suspend, or revoke the certificate of authority of a foreign or alien insurer whenever he shall find that such insurer" fails to maintain "a claims office for processing workers' compensation insurance claims in this state, as required by La. R.S. 23:1161.1, or to retain the services of Louisiana domiciled independent claims adjusters." Moreover, under La. R.S. 23:1161.1(D), requests for waivers from the provisions of La. R.S. 23:1161.1 are to be submitted to the Commissioner of Insurance. Therefore, the Office of Workers' Compensation does not have authority to compel defendant, McGuire Construction, LLC d/b/a Shoreline Services or its insurer, Argonaut Insurance Company, to retain a licensed claims adjuster with an office located in Louisiana under La. R.S. 23:1161.1.

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