

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

SUSAN COURVILLE

NO. 2013 CW 0711R

VERSUS

TURNER INDUSTRIES GROUP, LLC

AUGUST 18, 2014

In Re: Susan Courville, on remand from the Louisiana Supreme Court, No. 2013-CC-2631, Office of Workers' Compensation, District 5, No. 11-05934.

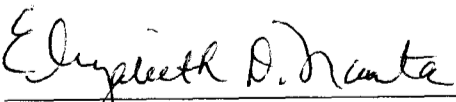
BEFORE: McDONALD, WELCH, AND CRAIN, JJ.

WRIT GRANTED. After reconsideration on remand and pursuant to the Supreme Court's decision in **Church Mutual Insurance Company v. Dardar**, 2013-2351 (La. 5/7/14), ___ So.3d ___, 2014 WL 1800067, we find that the medical treatment schedule provided for in La. R.S. 23:1203.1 applies to this unresolved dispute. However, we remand the matter in order to allow the claimant, Susan Courville, an opportunity to demonstrate whether she is entitled to a variance from the medical treatment schedule by a preponderance of the evidence in accordance with La. R.S. 23:1203.1(I).

JMM
WJC

Welch, J., concurs in part and dissents in part. I concur in the granting of the writ application and remand, but otherwise dissent, believing that the Office of Workers' Compensation Judge should make a factual determination regarding the applicability of the medical treatment schedule. If the Workers' Compensation Judge determines that the triggering event is the surgery request made after Dr. David Wyatt concurred in the more conservative treatment and that treatment failed to provide relief (which occurred after the effective date of the guidelines), rather than the surgery request prior to the effective date of the guidelines, Ms. Courville can challenge the medical director's determination and/or demonstrate that she is entitled to a deviation from the guidelines.

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DEPUTY CLERK OF COURT
FOR THE COURT