STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2016 CA 1450

CHARLES POOLE, JR.

VERSUS

GUY HOPKINS CONSTRUCTION CO. AND LUBA WORKERS' COMPENSATION

Judgment rendered: NOV 0 1 2017

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On Appeal from the
Office of Workers' Compensation,
In and for the Parish of East Baton Rouge
District 05, No. 15-03789

The Honorable Pamela A. Moses-Laramore,
Workers' Compensation Judge Presiding

* * * * *

Michael B. Miller
Crowley, Louisiana

Attorney for Plaintiff/Appellant
Charles Poole, Jr.

Eric J. Waltner
Lafayette, Louisiana

Attorney for Defendants/Appellees
Guy Hopkins Construction Co. and
LUBA Workers' Compensation

* * * * *

BEFORE: WELCH, CRAIN, AND HOLDRIDGE, JJ.

Holdridge J., dissents w/ reasons

WELCH, J.

In this workers' compensation matter, the plaintiff, Charles Poole, Jr., appeals a judgment of the Office of Workers' Compensation ("OWC"), which dismissed Mr. Poole's claim for a modification of his indemnity benefits against defendants, Guy Hopkins Construction Company ("Guy Hopkins") and LUBA Workers' Compensation ("LUBA") (collectively referred to as "defendants"). For the reasons that follow, we affirm the judgment.

FACTUAL AND PROCEDURAL HISTORY

The instant appeal arises out of an on-going workers' compensation matter related to an injury sustained by Mr. Poole in April of 2003, while in the course and scope of his employment as a laborer with Guy Hopkins. See **Guy Hopkins Construction Co. v. Poole**, 2013-2072 (La. App. 1st Cir. 6/6/14), 148 So.3d 14, 16, writ denied, 2014-1371 (La. 10/3/14), 149 So.3d 798. In 2003, Mr. Poole filed an initial disputed claim for compensation, and in 2006 he was awarded temporary total disability ("TTD") benefits, reasonable and necessary medical treatment, penalties, and attorney fees. **Id.** Mr. Poole underwent two surgeries in connection with the 2003 injury, including a spinal fusion in 2009.

The 2006 judgment was eventually modified by a September 12, 2013 judgment wherein the workers' compensation judge ("WCJ") granted Guy Hopkins and LUBA's motion to modify Mr. Poole's benefits from TTD to supplemental earnings benefits ("SEBs").[1] The September 12, 2013 judgment terminated Mr. Poole's TTD benefits and awarded SEB benefits at the TTD rate of $1,802.66 per month on the basis of a change in circumstances. In particular, the WCJ found that "a change had occurred in that two physicians, including the

[1] In 2012, Guy Hopkins filed a motion attempting to modify the 2006 judgment; however, the matter was ultimately resolved by a consent judgment between the parties wherein Guy Hopkins conceded that the 2012 motion to modify was without merit.

Court's IME, found that Mr. Poole was able to return to work. Mr. and Mrs. Poole's testimony that [Mr. Poole] was actually worse was not supported by the evidence." The WCJ found no evidence that Mr. Poole had received medical care from his treating physician since October 4, 2012. The WCJ also ordered vocational rehabilitation services to begin immediately for Mr. Poole. The September 12, 2013 judgment was affirmed in all respects by this court in a previous appeal. See **Id.** 148 So.2d at 18-19.

The issue of Mr. Poole's benefits was revisited in 2014 when the defendants sought and were granted a motion for summary judgment. In a judgment, signed on February 27, 2014, the WCJ recognized that the SEB cap was exhausted and that no further SEBs were owed to Mr. Poole after February 14, 2014. See La. R.S. 23:1221(3)(d). The 2014 judgment expressly modified all previous judgments, including but not limited to the 2013 judgment. Mr. Poole continued to receive medical benefits and vocational rehabilitation services after the issuance of the February 27, 2014 judgment.

On June 2, 2015, Mr. Poole initiated the disputed claim for compensation at issue in the instant appeal. Mr. Poole asserted that his condition had worsened and that he was entitled to receive permanent total disability ("PTD") benefits. The matter was heard by the WCJ over the course of two days - March 28, 2016 and April 20, 2016. At the close of Mr. Poole's case, counsel for the defendants presented an oral motion for involuntary dismissal pursuant to La. C.C.P. art. 1672(B), which was granted by the WCJ.[2]

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[2] Louisiana Code of Civil Procedure article 1672(B) provides:

> In an action tried by the court without a jury, after the plaintiff has completed the presentation of his evidence, any party, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal of the action as to him on the ground that upon the facts and law, the plaintiff has shown no right to relief. The court may then determine the facts and render judgment against the plaintiff and in favor of the moving party or may decline to render any judgment until the close of all the evidence.

In granting the dismissal, the WCJ found merit in the defendants' assertion that Mr. Poole had failed to prove a change in his condition sufficient to change the category of benefits to which he was entitled, and failed to demonstrate by clear and convincing evidence that he was permanently and totally disabled. Instead, the WCJ observed that "[w]ere supplemental earnings benefits still available to [Mr. Poole], that is the category that he continues to be in." In oral reasons for judgment the WCJ concluded that despite problems with the jobs suggested by the vocational rehabilitation counselor and Mr. Poole's on-going use of narcotic painkillers there were "jobs out there" that Mr. Poole could perform. Further, the WCJ found that Mr. Poole had failed to make any effort to secure employment. Relevantly, the WCJ expressly found that Mr. Poole was not "credible," and explained that Mr. Poole's recent physical complaints were "almost identical" to those he asserted previously in his testimony at the 2013 trial.

A judgment was signed by the WCJ on April 29, 2016, granting the motion for involuntary dismissal and dismissing the captioned matter with prejudice. The judgment provides, in pertinent part:

> IT IS ORDERED, ADJUDGED AND DECREED THAT the Motion for Involuntary Dismissal be and is hereby granted and that the claimant failed to establish a change in his condition sufficient to warrant by clear and convincing evidence that he is entitled to an award of permanent total disability benefits.
>
> IT IS ORDERED, ADJUDGED AND DECREED THAT the above-captioned matter be and is hereby dismissed with full prejudice.

Mr. Poole now appeals the April 29, 2016 judgment.[3]

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[3] On June 8, 2017, this court issued a rule to show cause why this appeal should not be dismissed, noting that the judgment did not specifically identify the party against whom judgment was rendered and the party in favor of whom the ruling was ordered. On June 22, 2017, Mr. Poole submitted a brief in response to the show cause order alleging that "the judgment as written is not a final judgment and the case should be remanded to the [OWC] to place the name of the party [whose] case is being dismissed and the name of the party(s) who are being dismissed with prejudice."

ISSUES ON REVIEW

Mr. Poole filed the instant appeal asserting multiple assignments of error to the WCJ's judgment. Generally, Mr. Poole challenges the scope of the judgment as overly broad, the WCJ's finding that Mr. Poole was not credible, and WCJ's failure to find that Mr. Poole had proven a change in condition as well as entitlement to PTD benefits. Mr. Poole alternatively challenges the WCJ's failure to consider his entitlement to TTD benefits or further vocational rehabilitation. Mr. Poole also assigns error to the WJC's rulings regarding the admission of certain medical evidence at trial and his ability performing a video monitoring job.

DISCUSSION

Scope of April 29, 2016 Judgment

Louisiana Revised Statutes 23:1310.8 provides, in pertinent part:

> B. Upon the motion of any party in interest, on the ground of a change in conditions, the workers' compensation judge may, after a contradictory hearing, review **any award**, and, on such review, may make an award ending, diminishing, or increasing the compensation previously awarded, subject to the maximum or minimum provided in the Workers' Compensation Act, and shall state his conclusions of fact and rulings of law, and the director shall immediately send to the parties a copy of the award. [Emphasis added.]

Within the scheme of the workers' compensation law, the concept of modification set forth in La. R.S. 23:1310.8 is unique because it allows a case to be reopened and the award amended after the judgment becomes "final." See **Borja**

Louisiana courts require that a judgment be "precise, definite and certain." **Laird v. St. Tammany Parish Safe Harbor**, 2002-0045 (La. App. 1st Cir. 12/20/02), 836 So.2d 364, 365. However, the form and wording of judgments are not sacramental. **Matter of Succession of Porche**, 2016-0538 (La. App. 1st Cir. 2/17/17), 213 So.3d 401, 405. Review of the judgment renders it evident that Mr. Poole, whose name appears in the caption, is the claimant against whom the motion for involuntary dismissal was filed by the employer and carrier – i.e. Guy Hopkins Construction Company and LUBA, who also appear in the caption. Compare **Laird**, 836 So.2d at 366. The ruling dismisses "the above-captioned matter" with prejudice, leaving no doubt that any claim by any party in the above-captioned matter is dismissed with prejudice. Moreover, the judgment in this case sets forth that the claimant failed to establish his entitlement to permanent total disability benefits. While that statement arguably constitutes reasons for judgment that should not have been included, the statement does preclude any possible confusion whether the judgment is dismissing the claim for benefits. We find the ruling a final judgment as the determination of the matter is evident from the language of a judgment without reference to other documents in the record. See **Id.** As such, we maintain the instant appeal.

v. FARA, 2016-0055 (La. 10/19/16), 218 So.3d 1, 10. In his first assignment of error, Mr. Poole asserts that the April 29, 2016 judgment is overly broad and goes beyond the single issue raised in his amended disputed claim for compensation regarding whether he was entitled to modify his award and receive PTD benefits. In particular, Mr. Poole asserts that the language of the judgment dismissing the "above-captioned matter ... with prejudice" somehow results in the dismissal of his "case," including the WCJ's previous judgments and the determination that he was entitled to receive medical expenses and vocational rehabilitation services related to the 2003 workplace incident.

As noted above, the revision of indemnity awards under the workers' compensation scheme is flexible and open to revision, and review of any award can be initiated by the filing of Form 1008, as was done herein. See **Gabriel v. Lafourche Parish Water Dist.**, 2012-0797 (La. App. 1st Cir. 2/25/13), 112 So.3d 281, 285, writ denied, 2013-0653 (La. 4/26/13), 112 So.3d 848. Further, because medical benefits awards are separate from indemnity awards, there is nothing to prohibit a WCJ from hearing and ruling solely on the issue of indemnity benefits without affecting medical expense benefits. See **Roussell v. St. Tammany Parish School Bd.**, 2004-2622 (La. App. 1st Cir. 8/23/06), 943 So.2d 449, 460, writ not considered, 2006-2362 (La. 1/8/07), 948 So. 2d 116.

The scope of the proceeding herein was limited to the claims for change in condition and PTD eligibility asserted by Mr. Poole in his amended disputed claim for compensation as well as the parties' pre-trial statements. The judgment clearly provides that it is granting the motion for involuntary dismissal and dismissing the claim asserted with prejudice as required by La. R.S. 23:1310.8. We find no legal or factual merit in this assignment of error.

Change in Condition – Permanent Total Disability

Whenever a claimant seeks to modify an earlier indemnity award, he must prove by a preponderance of the evidence that there had been a change in his condition. See La. R.S. 23:1310.8(B); **Guy Hopkins Construction Co.**, 148 So.3d at 16. The factual finding of the WCJ as to whether the claimant has demonstrated a change in condition is entitled to great weight and will not be disturbed unless clearly wrong. **Guy Hopkins Construction Co.**, 148 So.3d at 16. Under La. R.S. 23:1221(2)(c), a finding of PTD is only possible if a claimant is unemployed and proves, by clear and convincing evidence, unaided by any presumption of disability that he is:

> ...physically unable to engage in any employment or self-employment, regardless of the nature or character of the employment or self-employment, including, but not limited to, any and all odd-lot employment, sheltered employment, or employment while working in any pain, notwithstanding the location or availability of any such employment or self-employment.

The clear and convincing standard requires a party to prove the existence of a contested fact is highly probable, or much more probable than its non-existence. **Iberia Medical Center v. Ward**, 2009-2705 (La. 11/30/10), 53 So.3d 421, 432. Whether a claimant has carried his or her burden of proof and whether testimony is credible are questions of fact to be determined by the trier of fact. **Allman v. Washington Parish Police Jury**, 2004-0600 (La. App. 1st Cir. 3/24/05), 907 So.2d 86, 88. A finding of disability is a legal determination reached by the trier of fact based upon consideration of a totality of the evidence, both lay and medical testimony. See **Batiste v. Tenet Healthcare Corp.**, 2009-1192 (La. App. 1st Cir. 2/12/10), 35 So.3d 352, 355, writ denied, 2010-0559 (La. 5/7/10), 34 So.3d 864. Under the totality of the evidence other factors besides purely physical limitations should be considered in determining status as permanently and totally disabled.

Factors considered include whether the injured employee could reasonably be given training or education that would raise him to an employable status. See **Comeaux v. City of Crowley**, 2001-0032 (La. 7/3/01), 793 So.2d 1215, 1222.

Since a determination regarding disability is a question of fact, it cannot be reversed in the absence of manifest error. **Batiste**, 35 So.3d at 355. The manifest error test requires that a reviewing court determine not whether the trier of fact was right or wrong, but whether the factfinder's conclusion was a reasonable one. **Stobart v. State through Dept. of Transp. & Development**, 617 So.2d 880, 882 (La. 1993). Even though an appellate court may feel its own evaluations and inferences are more reasonable than the factfinder's, reasonable evaluations of credibility and reasonable inferences of fact should not be disturbed upon review where conflict exists in the testimony. **Rosell v. ESCO**, 549 So.2d 840, 844 (La. 1989). The manifest error standard of review is based not only upon the factfinder's "better capacity to evaluate live witnesses (as compared with the appellate court's access only to a cold record), but also upon the proper allocation of trial and appellate functions between the respective courts." **Hayes Fund for First Methodist Church of Welch, LLC v. Kerr-McGee Rockey Mountain,** LLC, 2014-2592 (La. 12/8/15), 193 So.3d 1110, 1116. Thus, where two permissible views of the evidence exist, the factfinder's choice between them cannot be manifestly erroneous or clearly wrong. **Id.**

Mr. Poole contends that he demonstrated a change in his condition since 2013 through medical evidence as well as his own testimony establishing an increase in physical limitations and pain. As to the denial of his claim for PTD benefits, Mr. Poole argues the totality of the circumstances demonstrate that he is permanently and totally disabled. Essentially, Mr. Poole argues that he "cannot be rehabilitated" due to his age, education level, reliance on narcotic pain medication,

and long absence from the work place. According to Mr. Poole, his inability to be rehabilitated renders him permanently and totally disabled.[4] Based on our review of the record and the applicable law, we find no manifest error in the WCJ's determination that Mr. Poole failed to prove a change in condition or in the WCJ's finding that Mr. Poole not did prove by clear and convincing evidence that he qualified for PTD benefits.

The relevant medical evidence presented at trial provided an overview of Mr. Poole's condition at the time of the 2013 judgment as well as prior to the 2016 determination on appeal herein. The physicians who examined Mr. Pool prior to the September 2013 hearing, Dr. George Jiha and Dr. Gray Barrow, both found him to be able to return to sedentary or light duty work. Further, Dr. Jiha found that Mr. Pool was at maximum medical improvement, stating he did not anticipate any worsening of Mr. Poole's condition.[5]

The medical records evidencing Mr. Poole's condition at the time of the 2016 hearing included a report by and the deposition of Dr. Neil Romero, an orthopedic surgeon selected by Mr. Poole, the IME report of Dr. John R. Budden,

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[4] Alternatively, Mr. Poole contends on appeal for the first time that a determination should have been made by the WCJ regarding his entitlement to further rehabilitation services under La. R.S. 23:1226 and/or TTD benefits. We decline to consider Mr. Poole's assertions that the WCJ erred in failing to make a determination regarding his entitlement to further rehabilitation services under La. R.S. 23:1226 and/or TTD benefits. Mr. Poole raises these alternative arguments for the first time on appeal. As a general rule, appellate courts will not consider issues raised for the first time in this court, which are not pleaded in the court below and which the court below has not addressed. See **Geiger v. State ex rel. Dept. of Health & Hosp.**, 2001-2206 (La. 4/12/02), 815 So.2d 80, 86. Nevertheless, as noted above, the only matter determined in this matter is whether there has been change in Mr. Poole's condition and whether he is entitled to PTD. The other rulings in this matter remain in place. Further, we note that the WCJ's finding that there had been no change in Mr. Poole's status of SEB eligibility since the 2013 hearing would preclude a finding that he was entitled to TTD benefits, as any modification to his eligibility status requires a showing of a change in condition under La. R.S. 23:1310.8.

[5] Mr. Poole asserts that the inclusion of Drs. Jiha and Barrow's records was improper herein on the basis of the exclusion of certain evidence at the 2013 hearing regarding eligibility. The propriety of the 2013 evidentiary determination is not properly before this court. The critical threshold issue in the instant matter is whether there has been a change in Mr. Poole's condition since the last hearing. As such, we find no error by the WCJ in the admission of Drs. Jiha and Barrow's medical records from 2013 to assist in that determination.

and a letter/report dated March 22, 2016 from Mr. Poole's treating physician, Dr. Daniel Hodges. All three physicians reviewed and rendered an opinion on the results of a March 2015 MRI that revealed a 2 millimeter retrolisthesis of L3 and L4. The 2015 MRI was performed following subjective reports of increased pain by Mr. Poole to Dr. Hodges beginning in February of 2014.

In oral reasons for judgment, the WCJ noted that the medical reports submitted evidenced "some degenerative change" in Mr. Poole's condition, however, said changes were found to be expected with age. Further, citing the testimony of Dr. Neil Romero, the WCJ found that any degenerative changes were too insignificant to warrant the pain levels alleged by Mr. Poole. Support for the WCJ's finding can be found in the reports of Drs. Budden and Romero, neither of whom found the changes present on the 2015 MRI significant. Dr. Budden stated that he did not believe that Mr. Poole had suffered "any change or worsening of his condition" since 2012. Further, Dr. Budden opined that Mr. Poole was capable of performing the job duties associated with jobs listed by the vocational rehabilitation counselor, including, cashier, customer service, and delivery driver.

In his deposition, Dr. Romero stated that his review of x-rays and the March 2015 MRI of Mr. Poole's spine evidenced "mild degenerative changes above his [earlier] fusion[;]" however, the doctor opined that Mr. Poole's symptoms were not consistent with the mild changes above his fusion. In fact, based on his review of Dr. Hodges' records, Dr. Romero opined that Mr. Poole's condition had been stable for a number of years. In his report, Dr. Romero deferred the issue of Mr. Poole's work status to Dr. Hodges; however, when asked in his deposition, Dr. Romero testified that he believed that Mr. Poole was capable of performing sedentary labor. Dr. Romero explained that this conclusion was based on his physical examination of Mr. Poole, review of x-rays and the 2015 MRI, and his

viewing of a surveillance video of Mr. Poole. In contrast, Dr. Hodges opined in his report that the 2 millimeter retrolisthesis of L3 and L4 was an indication of progressive degeneration with slippage, and noted Mr. Poole's reports of increase pain. As set forth above, the record clearly demonstrates that the WCJ was presented with two permissible views of the evidence regarding Mr. Poole's medical condition. The WCJ's choice between them cannot be manifestly erroneous or clearly wrong. See **Hayes Fund**, 193 So.3d at 1116.

With regard to the WCJ's finding that Mr. Poole's was not credible, we note that deference to the WCJ's findings regarding credibility is particularly important, as only the factfinder can be aware of the variations in the demeanor and tone that bear so heavily on the listener's understanding and belief in what is said. See **West v. Wal-Mart**, 2010-2271 (La. App. 1st Cir. 6/17/11), 70 So.3d 164, 168. Review of the record suggests a reasonable basis existed for the WCJ's finding that Mr. Poole lacked credibility. For example, the WCJ compared Mr. Poole's testimony at the 2016 hearing with the 2013 hearing transcript and found that "it's almost identical in terms of what he said he couldn't [do] back in 2013 and what he says [he] can't do now." The WCJ correctly summarized Mr. Poole's testimony in both instances as essentially that he was unable to perform any activities other than watching television at home, because all activities resulted in pain. Moreover, the WCJ was presented with surveillance footage that supported a finding that Mr. Poole possesses a greater ability to ambulate than presented in his testimony.

Finally, we find no error in the WCJ's holding that Mr. Poole was not entitled to PTD benefits on the grounds that he failed to meet his burden of proving that he was physically unable to engage in any employment or self-employment by clear and convincing evidence. Mr. Poole contends that the WCJ's determination failed to consider factors that rendered him unable to be rehabilitated, including his

age, his low education level, and his dependency on narcotic pain medication.[6] In support of his position, Mr. Poole cites the following decisions: **Conerly v. Triad Nitrogen**, 2012-2032 (La. App. 1st Cir. 8/14/13), 123 So.3d 273, writ denied, 2013-2441 (La. 1/10/14), 130 So.3d 329, and writ denied, 2013-2515 (La. 1/10/14), 130 So.3d 330; **Severio v. J.E. Merit Constructors, Inc.**, 2002-0359 (La. App. 1st Cir. 2/14/03), 845 So.2d 465; **Smith v. Season's Mfg.**, 2001-0890 (La. App. 3rd Cir. 2/6/02), 815 So.2d 899, writ denied, 2002-0692 (La. 5/3/02), 815 So.2d 822.

The WCJ was presented with the above-referenced medical evidence, a surveillance video of Mr. Poole, Mr. Poole's elementary school report card, the testimony of Mrs. Poole, and the documents and testimony of Mr. Ronnie J. Ducote, a vocational rehabilitation counselor. Viewing this evidence as a whole, and in light of the evidence demonstrating that Mr. Poole failed to prove a change in condition, we cannot say that the WCJ's denial of PTD benefits was manifestly erroneous. The WCJ's finding that Mr. Poole was able to engage in some kind of employment, but had failed to attempt to acquire any employment was reasonable based on the record.[7] Mr. Poole testified that he met with several of the potential employers suggested by Mr. Ducote and was told by each that he did not have the necessary skills for the jobs advertised. Mr. Poole also testified that he attempted to attend a free computer skills class suggested by Mr. Ducote, but was told "[i]f

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[6] Vocational testing indicated that Mr. Poole had reading comprehension skills at approximately the second grade level, calculation skills at approximately a fifth grade level and applied skills at approximately the fourth grade level.

[7] Mr. Poole assigns error to a statement contained in the WCJ's oral reasons for judgment expressing the opinion that Mr. Poole could perform a video monitoring job. Mr. Poole asserts that the WCJ's statement amounts to judicial notice of a fact under La. C.E. art. 201. Appeals are from the judgment itself, not the reasons for judgment. See La. C.C.P. art. 2083. Reasons for judgment only set forth the basis for the court's holding and are not binding. **Veal v. American Maintenance & Repair, Inc.**, 2004-1785 (La. App. 1st Cir. 9/23/05), 923 So.2d 668, 673. We find no merit in Mr. Poole's assignment of error on this issue. For the same reason, Mr. Poole's assignment of error regarding the WCJ's failure to reference Dr. Hodge's March 22, 2016 report in the oral reason for judgment lacks merit as well.

you can't read, ain't nothing we can do for you." However, Mr. Poole provided no evidence to corroborate his testimony regarding attempts to contact the potential employers or attend the class suggested by Mr. Ducote, nor did Mr. Poole present evidence of any attempts to secure any type of employment since the 2013 determination that he was qualified for SEB not TTD benefits. Further, Mr. Poole did not refute Mr. Ducote's testimony that Mr. Poole never accepted any of the multiple offers to meet regarding vocational rehabilitation options after the two initial meetings, which undermines any assertion by Mr. Poole that he cannot be rehabilitated despite his best efforts. This evidence combined with the credibility determination of the WCJ renders the instant matter distinguishable from the cases cited by Mr. Poole. See **Conerly**, 123 So.3d at 275; **Severio**, 845 So.2d at 470; and **Smith**, 815 So.2d at 904.

Based on the above, we find no manifest error in the WCJ's ruling that Mr. Poole failed to demonstrate a change in condition under La. R.S. 23:1310.8 or eligibility for PTD benefits under La. R.S. 23:1221(2)(c). As such, we affirm the judgment of the WCJ dated April 29, 2016.

CONCLUSION

For the above and foregoing reasons, we affirm the judgment signed April 29, 2016 of the WCJ dismissing the claim for permanent total disability benefits filed by Mr. Poole against the defendants, Guy Hopkins Construction Company and LUBA Workers' Compensation. All costs of this appeal are to be paid by the appellant/plaintiff, Charles Poole, Jr.

AFFIRMED.

CHARLES POOLE

VERSUS

GUY HOPKINS CONSTRUCTION CO. AND LUBA WORKERS' COMPENSATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2016 CA 1450

HOLDRIDGE, J., dissenting.

I respectfully dissent from the majority opinion. Although the "Judgment" on appeal grants Luba Workers' Compensation oral motion for involuntary dismissal, the "Judgment" fails to specifically identify against whom judgment was rendered and party in favor of whom the ruling is ordered. A judgment is the determination of the rights of the parties in an action. La. C.C.P. art. 1841. This court's appellate jurisdiction extends to "final judgments." La. C.C.P. art. 2083. A final, appealable judgment must name the party in favor of whom the ruling is ordered, the party against whom the ruling is ordered, and the relief that is granted or denied. **Carter v. Williamson Eye Center**, 2001-2016 (La. App. 1 Cir. 11/27/02), 837 So.2d 43, 44. Additionally, when there are multiple parties, the judgment must specifically identify the names of the parties to which the judgment applies. **English Turn Property Owners Association v. Taranto**, 2016-0319 (La. App. 4 Cir. 4/19/17), 219 So.3d 381, 395, reh'g denied (Apr. 23, 2017).

The "Judgment" in this case dismisses with full prejudice the "above-captioned matter"; however, it is unclear from the "Judgment" which parties claim is being dismissed with prejudice, as there are multiple parties named in the caption.[1] See **Conley v. Plantation Management Co., L.L.C.**, 2012-1510 (La.

[1] On June 8, 2017, this court issued ex proprio motu a rule to show cause order directing the parties to show cause as to whether or not the appeal should be dismissed because it was unclear from the April 29, 2016 judgment which parties' claim was being dismissed with prejudice. On June 22, 2017, Mr. Poole submitted a brief in response to the show cause order alleging that "the judgment as written is not a final judgment and the case should be remanded to the Office of Workers' Compensation to place the name of the party who the case is being dismissed and the name of the party(s) who are being dismissed with

App. 1 Cir. 5/6/13), 117 So.3d 542, 547, writ denied, 2013-1300 (La. 9/20/13), 123 So.3d 178. Therefore, the "Judgment" is not a valid final judgment and this court lacks jurisdiction to review it.

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prejudice." No opposition was filed by Guy Hopkins Construction Company and LUBA Workers' Compensation.