IN THE SUPREME COURT OF MISSISSIPPI

NO. 2009-CT-01551-SCT

PAUL R. COOK

v.

THE HOME DEPOT AND AMERICAN HOME ASSURANCE COMPANY

ON WRIT OF CERTIORARI

DATE OF JUDGMENT:	08/20/2009
TRIAL JUDGE:	HON. SAMAC S. RICHARDSON
COURT FROM WHICH APPEALED:	RANKIN COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	JOHN HUBERT ANDERSON
ATTORNEY FOR APPELLEES:	P. SHARKEY BURKE, JR.
NATURE OF THE CASE:	CIVIL - WORKERS' COMPENSATION
DISPOSITION:	AFFIRMED - 02/09/2012
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

EN BANC.

RANDOLPH, JUSTICE, FOR THE COURT:

¶1. In July 2006, Paul R. Cook's workers' compensation claim was dismissed for failure to file a properly completed prehearing statement. In December 2006, Cook's "Motion for an Order Re-Instating Claim" was denied for failure to "attach a properly completed prehearing statement . . . ." In August 2008, Cook's "Amended Motion to Reinstate" was dismissed as barred under the one-year statute of limitations provided in Mississippi Code Section 71-3-53. *See* Miss. Code Ann. § 71-3-53 (Rev. 2011) ("the commission may, . . . at any time prior to *one year after the rejection of a claim*, review a compensation case, issue a new compensation order . . . , or award compensation.") (emphasis added). The full

Commission affirmed the dismissal, as did the Circuit Court of Rankin County and a unanimous Mississippi Court of Appeals. *See* ***Cook v. The Home Depot***, __ So. 3d __, 2011 WL 71450 (Miss. Ct. App. Jan. 11, 2011). This Court granted Cook's petition for certiorari. *See* ***Cook v. The Home Depot***, 69 So. 3d 767 (Miss. Sept. 29, 2011). We now affirm.

FACTS AND PROCEDURAL HISTORY

¶2. The Court of Appeals summarized the underlying facts and procedural history, as follows:[1]

> [o]n August 6, 2004, Cook filed his petition to controvert with the Commission alleging a back injury he had sustained [on May 13, 2003] while moving cast-iron bathtubs at The Home Depot, his place of employment. The Home Depot filed a B-31 Final Notice form with the Commission on August 6, 2004, providing Cook disability payments in the amount of $7,153.72.
>
> Cook filed a motion to review the cessation of his benefits and payment of his medical bills on April 29, 2005, alleging further medical treatment was necessary. The Home Depot disputed Cook's need for further treatment in its response to Cook's motion, and on June 30, 2005, the [Administrative Judge ("AJ")] ordered an independent medical examination with The Home Depot to pay the costs associated with the examination.
>
> On July 27, 2006, the AJ dismissed Cook's claim for failure to file a completed prehearing statement pursuant to Commission Procedural Rule 5.[2] Cook filed a petition to reinstate his claim and a prehearing statement [on October 30, 2006], which the AJ denied on December 6, 2006, due to an

[1]The bracketed portions of this quote, including bracketed footnotes, have been added by this Court.

[2]The "Order *Dismissing Claim* for Claimant's Failure to File a Completed Prehearing Statement" specifically stated that "if [Cook] desires to file a motion to reinstate the claim, he/she *must attach* ***to the motion a properly completed prehearing statement*** and a proposed order or the motion will be denied." (Emphasis added.)

> improperly completed prehearing statement.[3] Cook filed an amended prehearing statement on December 13, 2006, and also on January 8, 2007.[4]
>
> In June 2008, Cook's attorney sent a letter to the Commission alleging that he had personally delivered a second amended petition to reinstate, which was attached to a prehearing statement, to them on July 21, 2007. Cook's file with the Commission did not originally contain either of these documents. His file was updated with these documents dated July 21, 2007, but they only bore the official stamp date of June 17, 2008, the day the Commission received them.
>
> [On August 29, 2008,] [t]he AJ dismissed Cook's claim because the one-year statute of limitations under Mississippi Code Section 71-3-53 (Rev. 2000) ran from December 26, 2006,[5] to December 26, 2007, and was not tolled by any action or filing.[6] Cook filed an appeal with the full Commission. The full Commission affirmed the AJ's decision to dismiss Cook's claim. The Rankin County Circuit Court affirmed the dismissal of Cook's claim as barred by the statute of limitations.

Cook, 2011 WL 71450, at *1-2. The Court of Appeals affirmed the dismissal of Cook's claim, finding that Cook "failed to timely file a petition to reinstate with the Commission and that the actions taken during the statute-of-limitations period were insufficient to toll the one-year period . . . ." ***Id***. at *4.

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[3]The "Order Denying Motion to Reinstate Claim" provided that "because [Cook] did not *attach a properly completed prehearing statement to the motion* or did not notice the motion[,]" his claim would ***not*** be reinstated to the Commission's "active docket . . . ." (Emphasis added.)

[4]These "Amended Pretrial Statements," along with subsequent deposition notices, did not accompany a "Motion to Reinstate the Claim."

[5]*See* Miss. Code Ann. § 71-3-47 (Rev. 2011) (a "decision shall be final unless within twenty (20) days a request or petition for review by the full commission is filed.").

[6]The "Order of Dismissal" stated that "[n]either the notices of . . . deposition nor the Amended Prehearing Statements . . . was effective to erase the one-year statute of limitations."

STANDARD OF REVIEW

¶3. This Court has stated that the:

> review of a decision of the Workers' Compensation Commission is limited to determining whether the decision was supported by substantial evidence, was arbitrary and capricious, was beyond the scope or power of the agency to make, or violated one's constitutional or statutory rights.[7] ***Short v. Wilson Meat House, LLC***, 36 So. 3d 1247, 1250 (Miss. 2010) (quoting ***Public Employees' Ret. Sys. v. Dearman***, 846 So. 2d 1014, 1018 (Miss. 2003)). . . . Because the Commission is the ultimate fact-finder and judge of the credibility of the witnesses, this Court may not reweigh the evidence before the Commission. [***Short***, 36 So. 3d at 1251] (quoting ***Barber Seafood, Inc. v. Smith***, 911 So. 2d 454, 461 (Miss. 2005)).
>
> This Court affords de novo review to the Commission's application of the law. ***Natchez Equip. Co., Inc. v. Gibbs***, 623 So. 2d 270, 273 (Miss. 1993). "The legal effect of the evidence, and the ultimate conclusions drawn by [the Commission] from the facts . . . are questions of law, especially where the facts are undisputed or the overwhelming evidence reflects them." ***Cent. Elec. Power Ass'n v. Hicks***, 236 Miss. 378, 388-89, 110 So. 2d 351, 356 (1959). "[W]hen the agency has misapprehended a controlling legal principle, no deference is due, and our review is de novo." ***ABC Mfg. Corp. v. Doyle***, 749 So. 2d 43, 45 (Miss. 1999).

Gregg v. Natchez Trace Elec. Power Ass'n, 64 So. 3d 473, 475-76 (Miss. 2011).

ANALYSIS

¶4. Mississippi Code Section 71-3-47 provides, in pertinent part, that "[e]xcept as otherwise provided by this chapter, *the details of practice and procedure in the* settlement and *adjudication of claims shall be determined by rules of the commission*, the text of which shall be published and be readily available to interested parties." Miss. Code Ann. § 71-3-47 (Rev. 2011) (emphasis added). *See also* Miss. Workers' Comp. Comm'n Gen. R. 2,

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[7]Cook has raised no constitutional or statutory violation, and the procedural rule at issue comports with due process and equal protection.

http://www.mwcc.state.ms.us/LAW-CLMS/_rules.asp (last viewed Feb. 8, 2012) ("These Rules shall be in effect and shall apply to all claims or matters pending before the Commission as of the effective date of the Rules [April 1, 2001], and to all matters or claims thereafter filed.").[8] Mississippi Workers' Compensation Commission Procedural Rule 5 provides that prehearing statements "*shall* follow the form prescribed by the Commission" and that the "[f]ailure of the claimant to timely file the prehearing statement may result in the *dismissal* of the case or other sanctions." Miss. Workers' Comp. Comm'n Proc. R. 5, http://www.mwcc.state.ms.us/LAW-CLMS/_rules.asp (last viewed Feb. 8, 2012) (emphasis added). On January 31, 2006, the Commission issued a memo which stated that:

> [i]n December 2005, the Commission approved changes to the prehearing statement form. The revised prehearing statement form became effective January 2, 2006, and the revised form, as well as general instructions and a sample completed form, are available in the "Forms" section of the Commission's official website . . . .
>
> *Beginning February 21, 2006, the Commission will require the exclusive use of the revised prehearing statement form. On and after that date, any prehearing statement filed using the old form will be considered incomplete under Procedural Rule 5. Any party who files a prehearing statement using the old form will be required to resubmit a complete prehearing statement using the revised form.*

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[8]The effective date of these rules followed this Court's decisions in ***Harper v. North Mississippi Medical Center***, 601 So. 2d 395 (Miss. 1992) and ***Doyle***, upon which Cook and the dissent rely. (Waller Op. at ¶¶ 13, 14, 15, 17, 18). Furthermore, the Mississippi Workers' Compensation Commission Procedural Rules at issue in the case *sub judice* were not addressed in ***Harper*** and ***Doyle***. Finally, this Court notes that the ***Harper*** Court *affirmed* the Commission's decision upon concluding "that there was *substantial evidence* in the record *to support the Commission's decision* that Harper's November 14, 1984, letter acted as a petition to reopen her claim, thus tolling the statute of limitations." ***Harper***, 601 So. 2d at 397 (emphasis added).

(Emphasis added.) The Commission's "General Instructions Regarding Prehearing Statement" provided that "***PREHEARING STATEMENTS, INCLUDING ATTACHMENTS, THAT DO NOT COMPLY WITH THE ABOVE REQUIREMENTS WILL BE CONSIDERED INCOMPLETE AND RETURNED TO THE SENDER.***" (Emphasis in original.)

¶5. Based upon Cook's failure to comply with Mississippi Workers' Compensation Commission Procedural Rule 5, the AJ entered an "Order *Dismissing Claim* for Claimant's Failure to File a Completed Prehearing Statement." (Emphasis added.) That July 27, 2006, order added that Cook "must attach" a "properly completed prehearing statement" to any subsequently filed "Motion to Reinstate the Claim." Yet Cook failed to correct the prehearing statement error in his "Motion for an Order Re-Instating Claim." The AJ's December 6, 2006, "Order Denying Motion to Reinstate Claim" expressly noted Cook's failure to "attach a properly completed prehearing statement to" his "Motion for an Order Re-Instating Claim[,]" such that Cook's claim would not be reinstated to the Commission's "active docket . . . ." The order became final twenty days later, on December 26, 2006, at which point Cook had ***no*** claim pending before the Commission. *See* Miss. Code Ann. § 71-3-47 (Rev. 2011). Furthermore, the one-year statute of limitations began to run at that time. *See* Miss. Code Ann. § 71-3-53 (Rev. 2011). Throughout 2007, while Cook "submit[ted] several notices of depositions and amended prehearing statements," he never "petition[ed] to have his claim reinstated."[9] ***Cook***, 2011 WL 71450, at *2. Not until June 17, 2008, did

[9]The dissent additionally relies, erroneously, upon the "eventual taking of Dr. David Lee's deposition," which occurred on December 28, 2007, *after* the statute of limitations had

Cook file an "Amended Motion to Reinstate" along with a properly completed prehearing statement. In dismissing Cook's motion as procedurally barred by the statute of limitations, the AJ noted that Cook had not complied with her earlier order in filing only "Amended Pretrial Statements" and deposition notices, without any accompanying "Motion to Reinstate the Claim."

¶6. Under these circumstances, this Court is not presented with an "even question" or a "[d]oubtful case" which would be controlled by the "beneficial purposes" of the Mississippi Workers' Compensation Act.[10] ***Metal Trims Indus., Inc. v. Stovall***, 562 So. 2d 1293, 1297 (Miss. 1990); ***Guthrie***, 554 So. 2d at 918. To jettison the Commission's established procedural rules and rulings on how a claimant shall pursue his case, as advocated by the dissent, would contravene this Court's position that "[i]t is a rare day when we will reverse the Commission for an action taken in the implementation and enforcement of its own procedural rules." ***Delta Drilling Co. v. Cannette***, 489 So. 2d 1378, 1380-81 (Miss. 1996). *See also* ***Miss. State Tax Comm'n v. Mask***, 667 So. 2d 1313, 1314 (Miss. 1995) ("The Court has generally accorded great deference to an administrative agency's construction of its own

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expired. (Waller Op. at ¶ 20).

[10]As grounds for reversing the Commission, the "beneficial purposes" of the Act should come into play only on close calls. ***Miller Transporters, Inc. v. Guthrie***, 554 So. 2d 917, 918 (Miss. 1989). By analogy, as the tie goes to the runner in baseball, the close call goes to the employee in workers' compensation matters. But the present case is more akin to a baserunner out by multiple steps, for whom the Act's "beneficial purposes" are simply not implicated. ***Id***. In claiming that this Court "has moved the bag back several feet[,]" the dissent disregards both the clear procedural rule on prehearing statements and, more importantly, the beneficent leniency extended by the AJ in the "Order Dismissing Claim for Claimant's Failure to File a Completed Prehearing Statement," wherein she instructed Cook on the proper procedure to reinstate his claim, which Cook inexplicably failed to follow. (Waller Op. at ¶ 17 n.13).

rules and regulations and the statutes under which it operates."). Furthermore, to reject the Commission's sound rule and ruling creates an expansive void regarding the applicable rule. In the event of such displacement, what becomes the new rule: File at your leisure? File when/as convenient? File when moved by the *Spirit*? Such an approach invites chaos and disorder. Regardless of Cook's subjective intent in filing the "Amended Pretrial Statements" and deposition notices, those filings wholly failed to comply with the AJ's July 27, 2006, Order regarding reinstatement of his claims, i.e., they were ***not*** accompanied by a "Motion to Reinstate the Claim." Rather, Cook's actions were analogous to a civil litigant filing pretrial motions or deposition notices following dismissal of the case. Such filings do not resurrect the case. In the absence of a pending case, such filings are a nullity, insufficient to toll the statute of limitations.

¶7. Many putative suitors intend to file lawsuits; and many lawsuits evidencing an intent to pursue a remedy are dismissed for failure to follow the rules. Intent to proceed does not excuse Cook's failure to follow established procedural rules and court orders providing repeated instruction on his need for, and the means to, cure. A suitor's intent does not toll the statute of limitations. It is his action, or failure to act, that decides the issue. Cook did not file an "Amended Motion to Reinstate" with the proper prehearing statement attached until June 17, 2008, nearly six months after the statute of limitations had expired on December 26, 2007. Therefore, Cook's claim was properly dismissed. To hold otherwise would eviscerate the Commission's rules and rulings of their statutorily intended effect, since "[a] rule which is not enforced is no rule at all." ***Allen v. Nat'l R.R. Passenger Corp.***, 934

So. 2d 1006, 1011 (Miss. 2006) (quoting ***Salts v. Gulf Nat'l Life Ins. Co.***, 872 So. 2d 667, 674 (Miss. 2004)).

CONCLUSION

¶8. Cook's claim is time-barred. Accordingly, the judgments of the Mississippi Court of Appeals, the Circuit Court of Rankin County, and the Mississippi Workers' Compensation Commission are affirmed.

¶9. **AFFIRMED.**

CARLSON AND DICKINSON, P.JJ., LAMAR, AND PIERCE, JJ., CONCUR. DICKINSON, P.J., SPECIALLY CONCURS WITH SEPARATE WRITTEN OPINION. WALLER, C.J., DISSENTS WITH SEPARATE WRITTEN OPINION JOINED BY KITCHENS AND CHANDLER, JJ. KING, J., NOT PARTICIPATING.

DICKINSON, PRESIDING JUSTICE, SPECIALLY CONCURRING:

¶10. While I agree with the majority that workers' compensation applicants must follow the law, I am surprised to read this Court's doctrinaire view that the Commission's rules – which, in terms of authority, hardly rise to the level of statutes – should be so strictly applied. Were all members of this Court to apply the same level of commitment to the strict application of statutes (say, for instance, the State's statutory obligation to bring the accused to trial within 270 days),[11] some of this Court's decisions[12] would certainly have been different.

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[11]Miss. Code Ann. § 99-17-1 (Rev. 2007).

[12]***McBride v. State***, 61 So. 3d 138 (Miss. 2011); ***Murray v. State***, 967 So. 2d 1222 (Miss. 2007).

¶11. I am of the opinion that the law should be strictly applied – whether doing so serves to benefit the accused or the State in a criminal prosecution; or to grant or deny benefits to an injured worker. And I respectfully suggest that prosecutors and judges are no less obligated to follow the law than are applicants for workers' compensation benefits or the accused in criminal proceedings. Lady Justice, I am told, is supposed to be blind. I therefore specially concur in the majority opinion, and take this opportunity to record my notice of this Court's troubling inconsistency.

WALLER, CHIEF JUSTICE, DISSENTING:

¶12. Because I would hold that Cook took sufficient action to toll the statute of limitations on his workers' compensation claim, I would reverse the Court of Appeals and the Rankin County Circuit Court and remand to the Commission for further proceedings. Accordingly, I respectfully dissent.

¶13. Vardaman Dunn, in his oft-cited treatise on workers' compensation law, said, "The humanitarian objectives of compensation laws should not be defeated by over-emphasis on technicalities or by putting form above substance." Dunn, Vardaman S., *Mississippi Workmen's Compensation* § 32 (3d ed. 1990). Long ago, this Court expounded on the beneficent purpose of workers' compensation law:

> [T]he worker's compensation acts should, must, or will be accorded a broad or liberal construction or interpretation, on the various grounds that the acts are remedial in their nature, and that the acts are remedial in their purposes, objects, or operation, that they constitute commendable legislation, or humane, humanitarian, paternal, or social legislation, that they have a beneficent or beneficial purpose, that they are enacted for worthy, public, humane, or humanitarian purposes, that they are grounded in justice, and economically sound, affect the public welfare or interest, establish or are founded on a public policy, and are authorized by the police power.

> . . . [T]he acts are not to be given a strict construction or application, nor are they to be given a narrow, strained, forced, harsh, rigid, unrealistic, fanciful, or technical construction or interpretation.

L.B. Priester & Son, Inc. v. Bynum's Dependents, 244 Miss. 185, 197, 142 So. 2d 30, 31 (Miss. 1962) (quoting 99 C.J.S. *Workmen's Compensation* § 20b). The Court repeatedly has affirmed the principle that the Mississippi Workers' Compensation Act is to be construed liberally in favor of claimants. *See, e.g.,* ***ABC Mfg. Co. v. Doyle***, 749 So. 2d 43, 47 (Miss. 1999); ***Harper v. N. Miss. Med. Ctr.***, 601 So. 2d 395, 398 (Miss. 1992); ***Stuart's, Inc. v. Brown***, 543 So. 2d 649, 652 (Miss. 1989); ***Big "2" Engine Rebuilders v. Freeman***, 379 So. 2d 888, 889 (Miss. 1980). With this in mind, this Court has "allowed the reopening of Worker's Compensation claims if justice so required." ***Stovall***, 562 So. 2d at 1296. The Court's liberal construction of the Act, including the application of the statute of limitations, is evident in two cases factually analogous to the case at hand.

¶14. In ***Harper v. North Mississippi Medical Center***, 601 So. 2d 395 (Miss. 1992), this Court held the claimant had tolled the one-year statute of limitations, despite having failed to file a formal petition to reopen the claim. Harper, the claimant, filed a petition to controvert more than one year after the filing of a Form B-31 Final Report. ***Id.*** at 396. However, prior to the expiration of the statute of limitations, Harper had sent a letter to the Commission stating that she was still having problems with her back and needed help. ***Id.*** at 395-96. She also sought additional medical treatment and filed a Form B-9 Medical Report with the Commission. ***Id.*** at 396. This Court held that Harper's letter, combined with the filing of her medical report, served as a "sufficient request and enforcement of payment

so as to serve as a substitute for a formal petition to reopen." ***Id.*** at 398. Accordingly, the Court held the statute of limitations had been tolled. ***Id.*** at 397.

¶15. In ***Doyle***, this Court again found that actions other than a formal petition to reopen were sufficient to toll the statute of limitations on a claim. ***Doyle***, 749 So. 2d at 47. Doyle, the claimant, failed to file a Form B-5, 11 Petition to Controvert within one year after his employer filed a Form B-31 Final Report, notifying Doyle of the cessation of his benefits. ***Id.*** at 45. The Commission's Procedural Rules required a claimant to file such a petition in order for his claim to be controverted. ***Id.*** at 46. Within the one-year period following the last date of payment, Doyle's newly retained attorneys did file an entry of appearance, referencing Doyle's interest in continued benefits and attaching a notice of controversy, stating that Doyle remained injured and unable to work. ***Id.*** When Doyle finally filed a petition to controvert nearly eighteen months after the date of last payment, the Commission held the claim barred by the statute of limitations. ***Id.*** at 45. This Court reversed, holding that the entry of appearance constituted a "sufficient request for payment," since it contained Doyle's allegation that she continued to be due medical payments and disability benefits. ***Id.*** at 47. The Court held that this informal request for payment was sufficient to toll the statute of limitations, despite the fact that Doyle had not filed a proper petition to controvert within one year following the last date of payment. ***Id.***

¶16. In today's case, Cook filed two amended pretrial statements following the AJ's December 6, 2006, order of dismissal. These statements noted that Cook's disability status and the amount of benefits he was due were contested. Furthermore, the statements alleged that Cook and Home Depot did not agree on his date of maximum medical recovery. It is

apparent that these statements were intended to show that Cook was continuing to seek disability benefits. Cook also filed several notices of deposition, and took the deposition of Dr. David Lee on December 28, 2007.

¶17. As with the claimants in ***Doyle*** and ***Harper***, Cook's actions subsequent to the AJ's order constituted a "sufficient request for payment" to toll the statute of limitations. *See* ***Doyle***, 749 So. 2d at 47. While recognizing that "doubtful cases" or "even questions" are to be decided in favor of compensation, the majority gives no credit to Cook's actions taken in an effort to pursue compensation.[13]

¶18. The majority points out that ***Harper*** and ***Doyle*** predate the effective date of the current version of the Mississippi Workers' Compensation Commission's General and Procedural Rules. (Maj. Op. ¶4, n.8). I fail to see how this is significant. First, in ***Doyle***, the Court recognized that the claimant's actions were not in compliance with the Commission's Procedural Rules, as the Rules existed at that time. ***Doyle***, 749 So. 2d at 46. Despite this, the Court held that Doyle had taken sufficient action to toll the statute of limitations on his claim. Furthermore, Procedural Rule 5 of the Mississippi Workers' Compensation Commission, cited by the majority, exists in nearly identical form today as it did in 1999, when ***Doyle*** was decided. *See* Miss. Workers' Comp. Comm'n, Workers' Comp. Law of Miss. and Rules of the Comm'n 53 (1994).[14] Also, the Court in ***Harper*** and ***Doyle*** was

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[13]In keeping with the majority's baseball analogy, based on this Court's precedent, if Cook is "out by multiple steps," it is only because the majority has moved the bag back several feet. (*See* Maj. Op. ¶6, n.10).

[14]The only difference between the prior version of this rule, with an effective date of September 1, 1993, and the version quoted by the majority is that the current version refers to a "prehearing statement" where the prior version labeled it a "pretrial statement."

addressing the same statute of limitations at issue today. *See* ***Harper***, 601 So. 2d at 395; ***Doyle***, 749 So. 2d at 46 (each addressing Section 71-3-53). Finally, the majority points out that ***Harper*** is distinguishable from today's case since the Court in ***Harper*** was affirming the Commission's ruling on a statute-of-limitations issue. (Maj. Op. ¶4, n.8). However, in ***Doyle***, the more recent case, this Court reversed the Commission's ruling that the claimant had not tolled the statute of limitations. ***Doyle***, 749 So. 2d at 45, 47.

¶19. The majority also takes issue with my reliance on Cook taking Dr. Lee's deposition as one of the actions sufficient to toll the statute of limitations. The majority believes that because this took place on December 28, 2007, it occurred "after the statute of limitations had expired." (Maj. Op. ¶5, n.9). However, Cook had taken significant actions prior to this date, including filing multiple amended pretrial statements and several notices of deposition. Based on this, I would find that Cook had taken actions sufficient to toll the limitations period prior to the date of the deposition.

¶20. I agree with the majority that "[a] suitor's intent does not toll the statute of limitations. It is his actions, or failure to act, that decides the issue." (Maj. Op. ¶7). However, Cook did take action. Cook's amended pretrial statements, combined with Cook's notices of deposition and eventual taking of Dr. Lee's deposition, were more than sufficient to put Home Depot on notice that Cook continued to request and seek enforcement of payment. In barring Cook's claim for his failure to file a formal petition to controvert with a proper prehearing statement attached, the majority incorrectly focuses on "form above substance,"

Otherwise, the rule is unchanged.

and ignores the beneficent purpose of the worker's compensation acts. *See* Dunn, *Mississippi Workmen's Compensation* § 32; ***Prentice v. Schindler Elevator Co.***, 13 So. 3d 1258, 1260-61 (Miss. 2009); ***Freeman***, 379 So. 2d at 889.

¶21. Based on this Court's precedent, and considering the beneficent purpose of the worker's compensation acts, I would reverse the Court of Appeals and the trial court and hold that Cook took sufficient action to toll the statute of limitations on his claim. Accordingly, I respectfully dissent.

KITCHENS AND CHANDLER, JJ., JOIN THIS OPINION.