

## IN THE SUPREME COURT OF THE CHEROKEE NATION

STANLEY JOHN, Claimant

v.

CHEROKEE NATION  
RespondentHUDSON INSURANCE COMPANY,  
Insurance Carrier

Case No. SC -2018 -

CHEROKEE NATION  
SUPREME COURT  
AMENDED PETITION, COURT CLERK

2018 APR -2 AM 9:26

FILED

PETITION IN ERROR

  X   PETITION IN ERROR  
      AMENDED OR SUPPLEMENTAL PETITION  
      CROSS PETITION  
      COUNTER-PETITION

## I. TRIAL COURT HISTORY

COURT/ COMMISSION: Cherokee Nation District Court

CASE NO.: CV-2016-640

JUDGE: Judge Luke Barteaux

NATURE OF CASE: Workers' Compensation

NAME OF PARTY FILING THIS PETITION IN ERROR: Cherokee Nation and the  
Hudson Insurance Company

THE APPEAL IS BROUGHT FROM: (check one)

  X   Judgment, Decree or Final order of the District Court  
      Appeal from order granting summary judgment or motion to dismiss  
      Final Order of Other Tribunal, Commission, or Hearing Board  
      Interlocutory Order Appealable by right  
      Other

## II. TIMELINESS OF APPEAL

1. Date judgment, decree, or order appealed was filed: March 2, 2018 (file stamp  
incorrectly states March 2, 2017)

2. Does the judgment or order on appeal dispose of *all* claims by and against *all* parties?  X  Yes   No

3. Were any post-trial motions filed? No

4. This Petition is filed by:  X  Delivery to Clerk, or  
  Mailing to Clerk by U.S. Certified Mail,  
Return Receipt Requested

### III. RELATED OR PRIOR APPEALS

None

### IV. SETTLEMENT CONFERENCE

Is the appellant willing to participate in a Settlement Conference?   Yes  X  No

### V. RECORD ON APPEAL

A Transcript will be ordered  
 X  No Transcript will be ordered because the record for this appeal  
was made at arbitration and is included in the record that was  
before the District Court  
  Narrative Statement will be filed

### VI. JUDGMENT, DECREE OR ORDER APPEALED-- EXHIBIT "A"

Attached as Exhibit "A" to the Petition in Error is a certified copy of the judgment of March 2, 2018

### VII. ORAL ARGUMENT AND DECISION ON APPEAL DESIRED -- Exhibit "B"

Attached as Exhibit "B" is Respondent/Insurance Carrier's request regarding oral argument and decision on appeal desired from the Supreme Court.

## VIII. NAME OF COUNSEL OR PARTY, IF PRO SE

## ATTORNEY FOR APPELLANT

Name: Jay L. Jones  
Firm: Connie M. Wolfe & Associates  
Address: 501 North Walker Avenue,  
Suite 140  
City: Oklahoma City  
State: OK Zip: 73102  
Phone: (405) 702-5356  
Fax: (405) 702-5399

## ATTORNEY FOR APPELLEE

Name: Bryan Berry  
Address: 2230 E. 49<sup>th</sup> Street, Suite A  
City: Tulsa  
State: OK Zip: 74105  
Phone: (918) 742-3200  
Fax: (918) 742-3772

DATE: March 30, 2018

Verified by:   
Jay L. Jones CNBA: 0222  
Firm: Connie M. Wolfe & Associates  
Address: 501 N. Walker, Suite 140  
City: Oklahoma City  
State: OK Zip: 73102  
Phone: (405) 702-5356  
Fax: (405) 702-5399

## IX. CERTIFICATE OF MAILING TO ALL PARTIES AND COURT CLERK

I hereby certify that a true and correct copy of the Petition in Error was mailed this 30<sup>th</sup> day of March 2018 to the following:

Bryan Berry  
2230 E. 49<sup>th</sup> Street, Suite A  
Tulsa, OK 74105

I further certify that a copy of the Petition in Error was mailed to, or filed in, the office of the Court Clerk of the Cherokee Nation Supreme Court on the 30th day of March 2018.



## IN THE DISTRICT COURT OF THE CHEROKEE NATION

STANLEY JOHN,  
Claimant,

v.

CHEROKEE NATION,  
Respondent,HUDSON INSURANCE COMPANY,  
Insurance Carrier.

2017 MAR -2 PM 2:57

CV-2016-640

CHEROKEE NATION  
DISTRICT COURT  
KRISTI MONCOOYEA  
COURT CLERKORDER ON APPEAL

NOW on March 1, 2018, the District Court of Cherokee Nation, sitting as the Appellate Court in the above-styled matter hereby makes the following ruling after review of the court file, briefs, transcript and exhibits the court finds and orders as follows:

The arbitrator being the trier of fact was in the best position to evaluate the credibility of the testimony and evidence presented. The arbitration award of November 7, 2016 is hereby affirmed in its entirety including but not limited to the issues of travel reimbursement and res judicata.

IT IS SO ORDERED.

Luke BarteauxLuke Barteaux  
District Court Judge

Copies to be furnished to:  
All parties of record.

EXHIBIT "A"

I certify that the foregoing instrument is a true and correct copy of the original document filed in the records of the District Court of the Cherokee Nation.

Date: 3-2-18

KRISTI MONCOOYEA, COURT CLERK

By: 

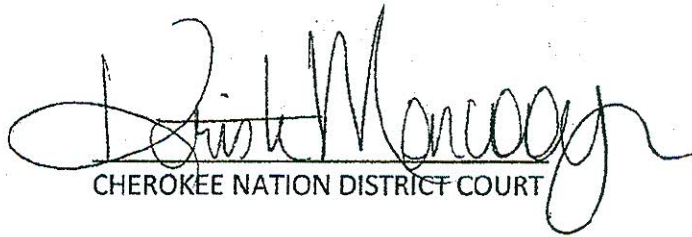
DEPUTY

CERTIFICATE OF DELIVERY

I certify that on the 2<sup>nd</sup> day of March, 2018, I emailed a true and complete copy of the foregoing Order on Appeal entered this date in CV-2016-640, and mailed same by U.S. first class mail, to the following:

Brian Berry  
Attorney for Claimant  
2230 E. 49<sup>th</sup> St.  
Tulsa, OK 74105  
[natelawyer@toonandcompany.com](mailto:natelawyer@toonandcompany.com)

Jay Jones  
~~Attorney for Respondent~~  
501 N. Walker, Ste. 140  
Oklahoma City, OK 73102  
[ionesj@CMWALAW.com](mailto:ionesj@CMWALAW.com)

  
CHEROKEE NATION DISTRICT COURT

03/30/2018  
Tulsa, OK  
P.006/009

**EXHIBIT "B"****REQUEST FOR ORAL ARGUMENT**

Respondent and Insurance Carrier believe that Oral Argument is not necessary in this appeal. The briefing process is the most efficient and reasonable method of thoroughly conveying the factual and legal arguments of both parties.

**DECISION ON APPEAL DESIRED**

Respondent and Insurance Carrier request the Supreme Court to reverse the decision of the District Court in affirming the Arbitrator's award of Temporary Total Disability benefits in the amount of \$11,702.75, for the time period April 15, 2015 to December 2, 2015 (less eight weeks previously Ordered). Respondent and Insurance Carrier assert the Claimant requested Temporary Total Disability benefits for that time period at Arbitration held September 10, 2015. Arbitrator Vic Seagle adjudicated that issue when he awarded a limited period of Temporary Total Disability benefits for that time period in the September 11, 2015 Order. Claimant did not appeal that order and it became final. Respondent and Insurance Carrier assert the rule of Res Judicata applies to any request for benefits for that same time period. Arbitrator Otteson-Gosa in her Order of November 7, 2016 awarded Temporary Total Disability benefits for the same period of time previously requested, adjudicated, and not appealed by Claimant. The District Court erred in Affirming Arbitrator Otteson-Gosa's ruling on the issue and Respondent and Insurance Carrier request the Supreme Court to reverse the District Court and deny the period of Temporary Total Disability awarded.