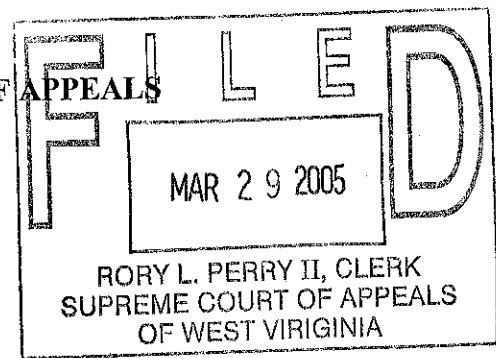


BEFORE THE SUPREME COURT OF APPEALS
OF WEST VIRGINIA



NO. 32521

W & R, INC. d/b/a
SHOCKERS LOUNGE,

Appellee,

v.

Appeal from the Circuit Court of Kanawha
County, Civil Action No. 03-AA-172
Hon. James C. Stucky, Judge

MARY A. WHITING,

Appellant.

BOARD OF REVIEW, WEST VIRGINIA BUREAU
OF EMPLOYMENT PROGRAMS, DONALD H. PARDUE,
ACTING COMMISSIONER, BUREAU OF EMPLOYMENT
PROGRAMS,

Intervenor.

BRIEF OF THE APPELLEE

Jennelle L. Harper - WV State Bar #9665
Christopher S. Smith - WV State Bar #3457
Hoyer, Hoyer & Smith, PLLC
22 Capitol Street
Charleston, WV 25301
(304)344-9821 • (304)344-9519 (fax)

**BEFORE THE SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

NO. 32521

**W & R, INC. d/b/a
SHOCKERS LOUNGE,**

Appellee,

v.

**Appeal from the Circuit Court of Kanawha
County, Civil Action No. 03-AA-172
Hon. James C. Stucky, Judge**

MARY A. WHITING,

Appellant,

**BOARD OF REVIEW, WEST VIRGINIA BUREAU
OF EMPLOYMENT PROGRAMS, DONALD H. PARDUE,
ACTING COMMISSIONER, BUREAU OF EMPLOYMENT
PROGRAMS,**

Intervenor.

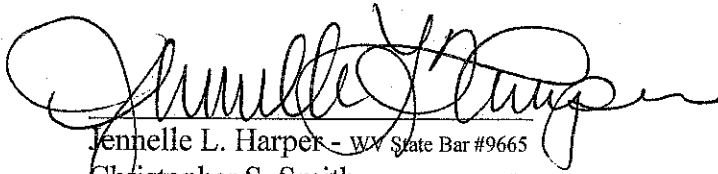
BRIEF OF APPELLEE W & R, INC.

The Appellee, W & R, Inc., for the purposes of this proceeding only, and without admitting or denying liability, hereby concedes judgment, that the compensation for the Appellants's services as a waitress are subject to employment compensation premiums, in order to avoid further costs in litigating this claim.

Respectfully submitted,

W & R, INC.,

By Counsel



Jennelle L. Harper - WV State Bar #9665

Christopher S. Smith - WV State Bar #3457

Hoyer, Hoyer & Smith, PLLC

22 Capitol Street

Charleston, WV 25301

(304)344-9821 • (304)344-9519 (fax)

BEFORE THE SUPREME COURT OF APPEALS
OF WEST VIRGINIA

NO. 32521

W & R, INC. d/b/a
SHOCKERS LOUNGE,

Appellee,

v.

Appeal from the Circuit Court of Kanawha
County, Civil Action No. 03-AA-172
Hon. James C. Stucky, Judge

MARY A. WHITING,

Appellant,

BOARD OF REVIEW, WEST VIRGINIA BUREAU
OF EMPLOYMENT PROGRAMS, DONALD H. PARDUE,
ACTING COMMISSIONER, BUREAU OF EMPLOYMENT
PROGRAMS,

Intervenor.

CERTIFICATE OF SERVICE

I, Jennelle L. Harper, do hereby certify that on the 28 day of March, 2005,
the foregoing **BRIEF OF APPELLEE** was served by United States first class mail, postage prepaid
on the following:

Mr. Bradford W. Deel, Esq.
Attorney for Appellant
Deel Law Office
4109 41st Street
Nitro, West Virginia 25143

Mr. Jeffrey G. Blades, Esq.
Attorney for Intervenor
Donnelly, Carbone & Blades, PLLC
113 Goff Mountain Road, Suite 300
Charleston, West Virginia 25313


Jennelle L. Harper - WV State Bar #9665