

SUPREME COURT OF LOUISIANA

00-C-0132

**ST. BERNARD POLICE JURY AND LOUISIANA INSURANCE GUARANTY
ASSOCIATION**

V.

AUGUST D. MURLA

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, FOURTH CIRCUIT, OFFICE
OF WORKERS' COMPENSATION, DISTRICT 07**

JOHNSON, J., dissenting

I disagree with the court's ruling that the court of appeal erred in awarding Mr. Murla attorney's fees based upon Louisiana Insurance Guaranty Association's (LIGA) meritless filing to reduce defendant's benefits.

LIGA, without consulting with plaintiff's employer, determined that Mr. Murla's benefits should be reduced because he was "uncooperative." However, realizing that it was unable to satisfy its burden of proof and produce sufficient evidence, LIGA voluntarily dismissed its petition. Plaintiff was required to retain an attorney to fight LIGA's meritless claim and incurred \$3,942.50 in legal fees, costs that he would not have otherwise incurred had LIGA investigated its claim prior to filing. OWC awarded attorney's fees to the defendant recognizing this unfair burden. The Fourth Circuit Court of Appeal amended the judgment to cast LIGA with the fees, since LIGA is the party that improperly filed the petition.

I would affirm the decision of the court of appeal.