

Judgment rendered November 3, 2010.
Application for rehearing may be filed
within the delay allowed by Art. 2166,
La. C.C.P.

No. 45,699-WCA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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MICHELLE MORGAN

Plaintiff-Appellee

versus

LOWE'S HOME CENTERS, INC.
and SPECIALTY RISK SERVICES, LLC

Defendants-Appellants

* * * * *

Appealed from the
Office of Workers' Compensation, District 1W
Parish of Bossier, Louisiana
Docket No. 09-02563

Ryan Gatti
Workers' Compensation Judge

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TAYLOR, WELLONS, POLITZ & DUHE'
By: Patrick F. Robinson

Counsel for
Appellants

ROBERT M. HANNA

Counsel for
Appellee

* * * * *

Before BROWN, DREW, and MOORE, JJ.

BROWN, CHIEF JUDGE

Defendants, Lowe's Home Centers, Inc., and Specialty Risk Services, appeal from a judgment entered by default in favor of plaintiff, Michelle Morgan, awarding her temporary total disability benefits, penalties, and attorney fees. A Joint Motion to Vacate Trial Court Judgment and Remand for Further Proceedings was filed in this court by both plaintiff and defendants. Thereafter, no brief was filed by plaintiff/appellee.

A ruling on the motion was referred to the merits of the case. Considering, *inter alia*, that the medical evidence presented was insufficient under La. R.S. 23:1316.1(C) to prove plaintiff's entitlement to a default judgment, we now grant the motion and vacate the default judgment rendered in the trial court and remand for further proceedings.

Costs of this appeal are assessed one-half to plaintiff and one-half to defendants.