

**STATE OF LOUISIANA  
COURT OF APPEAL, THIRD CIRCUIT**

**04-1049**

**BRENDA JEANISE**

**VERSUS**

**TOMMY CANNON D/B/A RENTAL WORLD, INC.**

THIBODEAUX, C.J., concurring in part and dissenting in part.

I agree with Judge Amy and dissent from the majority decision regarding the reduction of attorney fees. Furthermore, the decision to reverse the award of penalties by the trial court is, in my view, erroneous.

I agree with the analysis and findings of the workers' compensation judge. Those findings were not manifestly erroneous. Moreover, the workers' compensation judge assessed a \$4,000.00 penalty because "[n]one of the reasons cited by the defense for doing so [were] reasonable, appropriate, or *believable*." To reach this conclusion, the workers' compensation judge had to necessarily rely on the testimony introduced by the employer's witnesses in defense of the employer's position that its conduct was not arbitrary or capricious. It is well known that an appellate court will invariably affirm a finding of credibility except in very limited circumstances. This case should not be an exception to that rule.

For the foregoing reasons, I respectfully dissent in part.