

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF  
INDUSTRIAL ACCIDENTS**

**BOARD NO. 000456-94**

Regina Morin Brancheau  
Bowes, Inc.  
Liberty Mutual Insurance Company

Employee  
Employer  
Insurer

**REVIEWING BOARD DECISION**  
(Judges Fabricant, Horan and Harpin)

The case was heard by Administrative Judge Koziol.

**APPEARANCES**

Rickie T. Weiner, Esq., for third party claimant,  
James N. Ellis & Associates, at hearing  
James N. Ellis, Esq., for third party claimant,  
James N. Ellis & Associates, on appeal  
Richard C. Hyman, Esq., for third party claimant Yellin and Hyman, P.C.  
John F. Trefethen, Jr., Esq., third party claimant, pro se  
William R. Trainor, Esq., for the employee on appeal

**FABRICANT, J.** This case is before us on remand from the Massachusetts Appeals Court following our decision in Brancheau v. Bowes, Inc., 23 Mass. Workers' Comp. Rep. 339 (2009). The claim began as a dispute between three attorneys, Trefethen, Hyman, and Ellis, over the distribution of an attorney's fee resulting from the employee's lump sum settlement with the insurer. Id.

The only remaining issue in dispute is whether Hyman is entitled to the \$5,250 fee awarded to him, or whether any, or all, of that fee should instead be awarded to Ellis. Brancheau's Case, 78 Mass. App. Ct. 1116 (2010) (Memorandum and Order Pursuant to Rule 1:28). Consistent with the decision of the Appeals Court, this case must be recommitted for a quantum meruit analysis of this issue. See Zurawski v. Atlas Box and Crating Co., Inc., 28 Mass. Workers' Comp. Rep. \_\_ (May 16, 2014)(and cases cited).

**Regina Morin Brancheau**  
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Because the judge who originally heard this case is now a member of this board, we transfer the case to the senior judge for reassignment to an administrative judge for a hearing consistent with the decision of the Appeals Court.

So ordered.

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Bernard W. Fabricant  
Administrative Law Judge

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William C. Harpin  
Administrative Law Judge

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Mark D. Horan  
Administrative Law Judge

Filed: **August 12, 2014**