

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

JUNE 25, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-3552

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

RICE LAKE WEIGHING SYSTEMS, INC.

Plaintiff-Appellant,

v.

**LABOR AND INDUSTRY
REVIEW COMMISSION and
TRAVIS J. HARRINGTON,**

Defendants-Respondents.

APPEAL from an order of the circuit court for Barron County:
EDWARD R. BRUNNER, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Rice Lake Weighing Systems, Inc., appeals a trial court order that dismissed its complaint for judicial review of a worker's compensation decision of the Labor and Industry Review Commission. The trial court concluded that it lacked jurisdiction under § 102.23(1)(b), STATS.; Rice Lake had failed to serve an authenticated copy of its summons on the parties

within thirty days of LIRC's decision. Section 102.23(1)(b) requires service of an authenticated copy of the summons. On appeal, Rice Lake Weighing claims that its service of an unauthenticated copy was a technical, nonjurisdictional defect.

We reject Rice Lake Weighing's argument. The trial court correctly based its decision on *American Family Mut. Ins. Co. v. Royal Ins. Co.*, 167 Wis.2d 524, 481 N.W.2d 629 (1992). The *American Family* court held that the summons' authentication was an essential element of personal jurisdiction for a lawsuit commenced under § 801.02(1), STATS. See *American Family*, 167 Wis.2d at 535, 481 N.W.2d at 633. We agree with the trial court that the same rationale should apply to the service of a summons in a § 102.23 worker's compensation review proceeding; we do not believe the legislature intended the authentication requirement to have different consequences in different statutes. Like the *American Family* litigant, Rice Lake Weighing's failure to have the summons authenticated deprived the trial court of personal jurisdiction. As a result, the trial court correctly dismissed Rice Lake Weighing's complaint.

By the Court. – Order affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.