

# IN THE SUPREME COURT OF TEXAS

---

---

No. 98-0314

---

---

DORA BENAVIDEZ, PETITIONER

v.

TRAVELERS INDEMNITY COMPANY OF CONNECTICUT, RESPONDENT

---

---

ON PETITION FOR REVIEW FROM THE  
COURT OF APPEALS FOR THE THIRD DISTRICT OF TEXAS

---

---

## **Per Curiam**

This case presents two issues: (1) when is a party, who seeks judicial review of a Texas Workers' Compensation Commission Appeals Panel decision, required to file a copy of its petition with the Commission under Texas Labor Code section 410.253; and (2) whether untimely notice to the Commission under section 410.253 deprives the trial court of jurisdiction over the judicial review action. The court of appeals held that section 410.253 requires a party seeking judicial review to file a copy of its petition with the Commission within forty days of the date the Appeals Panel files its decision with the Commission. The court of appeals also held that this requirement was mandatory and jurisdictional. Accordingly, the court of appeals affirmed the trial court's judgment dismissing the judicial review action for untimely notice to the Commission. 960 S.W.2d 422.

Today, in *Albertson's, Inc. v. Sinclair*, \_\_\_ S.W.2d \_\_\_ (Tex. 1999), we hold that section 410.253 requires a party seeking judicial review to file a copy of its petition with the Commission on the same day that it files its petition in the trial court. We also hold that timely filing with the Commission is mandatory but not jurisdictional. Accordingly, without hearing oral argument, we

grant this petition for review, reverse the court of appeals' judgment, and remand this case to the trial court for further proceedings. *See* TEX. R. APP. P. 59.1.

OPINION DELIVERED: February 4, 1999.