



2007 Worker's Compensation Settlement Upheld on Appeal

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The injury law firm Schoen, Walton, Telken & Foster is proud to report a recent Appellate Court decision in favor of firm partner Ron Foster's client, Mr. Mauri Rose.

Mr. Rose, a resident of Bunker Hill, Illinois, was an employee of Landreth Lumber Company from 1982 until June 1, 2007 when his neck, back, leg, tail bone, arm and foot were injured when Mr. Rose fell while carrying a window for Landreth.

Mr. Foster filed a worker's compensation claim against Landreth Lumber on behalf of Mr. Rose on August 17, 2009. Over the next two plus years Mr. Rose underwent several treatments for his lower back which included epidural injections, a spinal fusion and eventually a stimulator. The employer had agreed to pay for all the medical treatment to Mr. Rose's lower back.

However, the employer refused to pay for any treatment related to Mr. Rose's neck. As a basis it cited that Mr. Rose did not have sufficient evidence to claim his neck injury was related to his June 1, 2007 accident and refused to pay for medical treatment and temporary total disability benefits (TTD) related to his neck injury. It was on this basis that a hearing was held.

On January 25, 2011, following a trial before a Worker's Compensation Commission arbitrator, the arbitrator ruled Mr. Rose's neck injury was in fact related to the June 1, 2007 accident. Mr. Rose was awarded temporary total disability (TTD) benefits of \$550.09 per week for 26 4/7 weeks, as well as past and future medical expenses. Shortly thereafter Landreth appealed the Arbitrators decision to the Illinois Industrial Commission who agreed with the Arbitrator and upheld his original decision. Landreth then appealed to the Circuit Court of Macoupin County who also upheld the Commission's decision. After the Macoupin County Circuit Court upheld the Commission's decision, Landreth then appealed to 4th District Appellate Court who agreed with the Circuit Court of Macoupin County and upheld their ruling.

“I’ve had no doubt since the beginning that Mr. Rose suffered both a neck and lower back injury while he was at work for Landreth. The Arbitrator agreed with us, the Illinois Industrial Commission agreed with us, the Circuit Court of Macoupin County agreed with us and now the Appellate Court has agreed with us. After more than four years of working this case, we are glad to see Mr. Rose can move on in his life and get the treatment he needs for his neck” said his attorney Ron Foster.

Landreth appealed the decision on the grounds there was not a causal relationship between the neck injury and Mr. Rose’s fall at work in June 2007. In striking down Landreth’s argument the Appellate Court found Mr. Rose had testified that he had neck and arm pain immediately following the accident and that the pain continued on after the accident. In this case Landreth also sent Mr. Rose to see a doctor they chose for an independent medical examination. Landreth had chosen Dr. Wilke for this independent medical exam. Mr. Rose’s treating surgeon was Dr. Purvines. Both Dr. Wilke and Dr. Purvines testified in this case. Dr. Purvines had testified that Mr. Rose neck injury was related to the June 1, 2007.

In its decision, the Appellate Court noted the Arbitrator originally found Dr. Purvines’ opinion “to be more persuasive than those of Landreth’s witness (Dr. Wilke) who refused to look at the neck because he was not paid to do so”.

The Appellate Court ruled that “Dr. Purvines had a contrary opinion (from that of Dr. Wilke) which was supported both by medical evidence (in the form of the June 2007 MRI) and by the claimant’s (Mr. Rose) testimony. The function of the commission is to decide questions of fact, judge the credibility of witnesses, and resolve conflicting evidence. The Commission did just that in this case and determined the claimant’s theory of the case was more credible than Landreth’s...For the foregoing reasons, we affirm the judgment of the circuit court, which confirmed the Commission’s decision.”