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Minnesota Supreme Court Provides Clarification Regarding Genuine Claim Disputes and Attorney Fee Awards

Lagasse v. Horton, WC21-6412 (Minn. 2022)

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On November 30, 2022, the Minnesota Supreme Court published an important opinion in the world of Minnesota workers' compensation. *Lagasse v. Horton* defined what constitutes a "genuine dispute" to trigger an award of contingency attorney's fees; established that the standard to be applied in awarding subdivision 7 fees is distinct and separate from the standard to be applied in awarding contingency fees; and clarified the standard of review used by the Workers' Compensation Court of Appeals (WCCA) on appeal.

Case Summary

The employee, Larry Horton, was injured during his employment with the employer, Aspen Waste Systems. He suffered multiple severe injuries as a result of being run over by a garbage truck. The employer and insurer admitted primary liability and paid workers' compensation benefits. The employee sought permanent partial disability (PPD) and was provided a permanency rating by his treating provider. The insurer sent a letter to the employee's treating provider, requesting clarification on the permanency rating that the doctor provided.

The employee then retained an attorney to represent him in his workers' compensation claim. The attorney filed a Claim Petition after a failed mediation. The employer and insurer filed an Answer to the Employee's Claim Petition, which admitted liability for some of the asserted injuries, but also contained language denying part of the employee's claim. Specifically, they denied a permanency rating of 64.2%, asserting that the treating provider had made an error in the rating and that the insurer had not received its requested clarification from the treating provider on the rating. After the employer and insurer subsequently obtained an independent medical examination (IME),

which provided for a higher permanency rating than that of the employee's treating provider, they agreed to voluntarily pay PPD pursuant to the IME, once PPD was due. The employee subsequently terminated his legal representation with the attorney.

When the employee's PPD benefits became payable, the employee requested that PPD be paid in a lump sum without withholding any attorney's fees. The attorney then sought contingency fees under Minn. Stat. § 176.081, subd. 1(c), and reimbursement of fees for the employee under Minn. Stat. § 176.081, subd. 7 (subdivision 7 fees).

The parties went to hearing and the compensation judge found that the employee's PPD benefits were "genuinely disputed," that the attorney was entitled to a contingency fee, and that the employee was entitled to partial reimbursement of attorney fees under subdivision 7.

The employee appealed and the insurer filed a cross-appeal solely on the award of subdivision 7 fees to the employee. The WCCA reversed both of the compensation judge's rulings on fees, concluding that no genuine dispute existed over the payment of PPD, and that the attorney did not take any action which resulted in the employee receiving PPD.

On appeal to the Minnesota Supreme Court, the employer and insurer's main argument in opposition to the attorney was that an Answer was insufficient to create a "genuine dispute." The employer and insurer also argued that parties are not entitled to attorney's fees when a dispute resolves by the time benefits are due. The court rejected both of these arguments, citing to the statutory language of Minn. Stat. § 176.081, subd. 1(c), which allows for fees in "genuinely disputed claims or portions of claims," and Minn. R. 1415.3200, subp. 7(H).

The Minnesota Supreme Court ultimately held that the WCCA incorrectly applied the standards for awarding contingency fees and subdivision 7 fees, and incorrectly applied the WCCA's standard of review on appeal. The court held that the compensation judge had also incorrectly applied the standard for subdivision 7 fees. The court reversed the WCCA's decision and remanded the case to the compensation judge for further determination consistent with its opinion regarding the subdivision 7 fees.

Two Key Takeaways from *Lagasse v. Horton*

1. *What is a genuine dispute?*

The court defined genuine dispute to mean a "conflict or controversy that is authentic." This case in particular demonstrated that an Answer to a Claim Petition can serve as the basis for a genuine dispute under Minn. Stat. § 176.081, subd. 1(c), when it creates an authentic controversy between parties, and the employer and insurer had sufficient time and information to take a position on liability. The court explained that the employer and insurer in this case could have requested an extension of time to file their Answer to the Claim Petition. Alternatively, the employer and insurer could have asserted in

their Answer that they had not had sufficient time and/or were without sufficient information to make a liability determination on any part of the asserted claim.

2. *What is the standard for awarding attorney's fees?*

The standard applied in awarding additional fees under Minn. Stat. § 176.081, subd. 1(c) is *distinct* from the standard applied in awarding contingency fees under Minn. Stat. § 176.081, subd. 1(c). Thus, each standard must be analyzed *separately*. With regard to contingency fees, the court must specifically determine: (1) is there an *actual conflict* between the parties as to any claim or portion of a claim; and (2) did the employer or insurer have sufficient time and information to take a position on liability. With regard to subdivision 7 fees, the court must specifically determine: (1) did the employer and insurer unsuccessfully resist payment; and (2) did the attorney secure a benefit for the employee.

THE TAKEAWAY: Employers, insurers, and defense counsel should use caution in responsive pleadings filed at the Department of Labor and Industry and the Office of Administrative Hearings in order to prevent unnecessary “genuine disputes” that will result in unwarranted attorney’s fees. There are several actions, and inactions, which could trigger a “genuine dispute” on a claim. Requesting an extension to respond to an employee’s request or pleading, including the details of your investigation, and/or using strategic language in your responsive pleadings may help circumvent unwarranted attorney’s fees. Contact an attorney at Brown & Carlson, P.A., for any questions on your workers’ compensation claims.

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