

Spring 4-7-2016

Poremba v. S. Nev. Paving; and S&C Claims Servs., Inc. 132 Nev. Ad. Op. 24 (April 7, 2016)

Baylie Hellman
Nevada Law Journal

Follow this and additional works at: <http://scholars.law.unlv.edu/nvscs>

 Part of the [Business Organizations Law Commons](#), [Civil Law Commons](#), and the [Workers' Compensation Law Commons](#)

Recommended Citation

Hellman, Baylie, "Poremba v. S. Nev. Paving; and S&C Claims Servs., Inc. 132 Nev. Ad. Op. 24 (April 7, 2016)" (2016). *Nevada Supreme Court Summaries*. Paper 967.
<http://scholars.law.unlv.edu/nvscs/967>

This Case Summary is brought to you by Scholarly Commons @ UNLV Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact david.mcclure@unlv.edu.

BUSINESS LAW: WORKERS' COMPENSATION BENEFITS

Summary

The Court considers an appeal from a district court order. The Court clarified that medical treatment is not the only expense on which a workers' compensation claimant is permitted to exhaust his or her settlement funds. Reversed and remanded with instructions.

Background

Appellant worked as a construction driver for Southern Nevada Paving. Appellant sustained injuries while on the job. Appellant filed a worker's compensation claim which Southern Nevada Paving, through S&C Claims, accepted. The claim was eventually closed with instructions on how to reopen it should appellant's condition worsen. Appellant also sued the at-fault driver and his employer; that suit result in a settlement. While most of the settlement went towards medical expenses, some of it was spent on appellant's personal living expenses. Appellant sought to reopen his claim, which was denied, and then administratively appealed. Respondents filed a motion for summary judgment, arguing that *Chandler* precluded appellant from reopening his claim because he spent settlement funds on expenses other than medical costs. An administrative appeals officers granted the motion. Appellant then petitioned the district court for judicial review; the district court denied the petition. Appellant finally brought the case before the Nevada Supreme Court.

Discussion

Nevada law provides that an injured employee's workers' compensation benefits must be reduced if the employee also recovers damages from the responsible party.² An insurer may refuse to pay additional funds until the claimant demonstrates that he or she has exhausted the third-party settlement funds.³ Workers' compensation is a limited-scope benefit, meant to cover medical costs, but personal injury recoveries are designed to not only pay for medical bills but to also compensate for pain and suffering in addition to providing for lost wages.⁴ *Chandler* allows for an insurer to withhold payment of medical benefits until the claimant has exhausted third-party settlement funds.⁵ *Chandler* only states that the claimant must exhaust his settlement proceeds, it does not specify how he must exhaust them. Respondents argued that N.R.S. 616C.215 is meant to prevent a double recovery by a claimant, believing that a double recovery means to recover from two sources for the same injury. This is incorrect. A worker should not receive funds from two sources to pay for the same lost wages or the same medical treatment. The worker should be permitted to use workers' compensation funds for some medical treatments, and settlement funds for other medical treatments and/or reasonable lost wages expenses. Double recovery prevents the claimant

¹ By Baylie Hellman.

² NEV. REV. STAT. § 616C.215(2)(a) (2010).

³ *Emp'rs Ins. Co. of Nev. v. Chandler*, 117 Nev. 421, 23 P.3d 255 (2001).

⁴ Restatement (Second) of Torts § 924 (1979).

⁵ *Chandler*, 117 Nev. At 426, 23 P.3d at 258

from receiving compensation from the insurer and “retain[ing] the portion of damages which would include those same elements.”⁶ The term compensation is not limited to medical benefits.⁷

Regarding review of the administrative agency’s decision, the court defers to the agency’s finding of fact but reviews legal issues de novo.⁸ The Court determined that the appeals officer failed to issue findings of fact or conclusions of law, in addition to precluding Appellant from introducing relevant evidence. For this reason, the Court was unable to review the facts on appeal. The judgment was reversed and remanded to the district court with instructions to remand to the appeals officer for a new hearing and determination consistent with the Court’s opinion.

Conclusion

N.R.S. 616C.215 and *Chandler* do not require that a workers’ compensation claimant use third-party settlement funds exclusively for medical expenses.

⁶ Tobin v. Dep’t of Labor & Indus., 187 P.3d 780, 783 (Wash. Ct. App. 2006).

⁷ Valdez v. Emp’rs Ins. Co. of Nev., 123 Nev. 170, 177, 162 P.3d 148, 152 (2007).

⁸ Taylor v. State, Dep’t of Health & Human Servs., 129 Nev. Ad. Op. 99, 314 P.3d 949, 951 (2013).