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Tri-County Equipment & Leasing v. Klinke, 128 Nev. Adv. Op. No. 33 (June 28, 2012)¹

EVIDENCE – ADMISSIBILITY OF WORKERS’ COMPENSATION BENEFITS

Summary

The court considered whether proof of workers’ compensation payments paid in California could be admitted into evidence in a personal injury action in Nevada. Because both states have statutes governing this issue, the Court decided that the Nevada statute shall govern. Applying Nevada law, the Court concluded that evidence of the actual amount of the benefits paid should be admitted and a clarifying jury instruction should have been given.

Disposition/Outcome

The payments of workers’ compensation benefits in California did not create a conflict of laws issue when the injured party brought suit in Nevada. Nevada Law governed, and therefore, NRS 616C.215(10) applied, and workers’ compensation benefits paid may be admitted into evidence as an exception to the collateral source rule. Furthermore, a jury instruction should be given clarifying how to calculate damages with regards to the actual amount paid to medical providers.

Factual and Procedural History

Respondent Angela Klinke (hereinafter “Klinke”) brought a personal injury claim against appellant Tri-County Equipment & Leasing (hereinafter “Tri-County”) in Nevada. Klinke’s vehicle was struck by a generator towed by a Tri Country truck. At the time of the accident, Klinke was in Nevada. However, she was a California resident, employed by a California company and was acting in the course of her employment.

Klinke received California’s workers’ compensation benefits from her employer. Klinke’s medical providers and workers’ compensation carrier negotiated a deal where the medical providers would accept as full payment for their services an amount less than billed, which is commonly referred to as a “write down.”

Before trial, both parties filed motions in limine regarding the write down and workers’ compensation payments. Klinke sought to exclude the evidence of the payments and the write down under the collateral source rule, which generally renders evidence of a collateral source of payment for an injury inadmissible, and argued that NRS 616C.215² did not apply. Tri-County argued the payments were admissible under NRS 616C.215. The district court found that NRS 616C.215 did not apply because the payments were made pursuant to California law. However, the lower court did not discuss the applicability of California law.

¹ By Daniela LaBounty

² NEV. REV. STAT. 616C.215 governs the admissibility of workers’ compensation payments.

Klinke was awarded damages that totaled \$27,510. That award included \$17,150 for medical expense. Because of the write down, Tri-County moved to have the amount reduced to what was actually paid. The district court denied the motion. Tri-County appealed.

Discussion

Justice Hardesty wrote for the Court sitting en banc. Justice Gibbons wrote a separate opinion with which Justice Cherry concurred. On appeal, Tri-County reasserted its argument that workers' compensation benefits are admissible as an exception to the collateral source rule.³ Because both California and Nevada had an interest in the outcome of the case, the Court addressed whether a conflict of law analysis was necessary.

In order to determine whether there is a conflict of laws, the Court must first determine whether a conflict of laws actually exists.⁴ Klinke's workers' compensation benefits would have been admissible under the laws of either state; therefore, no conflict of laws existed.⁵

Nevada recognizes a limited exception to the collateral source rule for workers' compensation benefits under NRS 616C.215 (10).⁶ NRS 616C.215(10) directs that "[i]n any trial of an action by the injured employee . . . against a person other than the employer or a person in the same employ, the jury must receive proof of the amount of all payments made or to be made by the insurer or the Administrator [of the Division of Industrial Relations]."⁷ A jury instruction then must be given to follow the court's damages instructions without reducing any award by the amount of workers' compensation paid. This instruction benefits both the plaintiff and defendant by preventing the jury from speculating as to any workers' compensation benefits received. NRS 616C.215(10) uses the language "any trial," meaning it is applicable universally in trials involving plaintiff's receiving workers' compensation benefits.

The Court analyzed a similar issue addressed by the Supreme Court of North Carolina. The Supreme Court of North Carolina found that the distinction of which state workers' compensation benefits were paid made no difference. Therefore, the Supreme Court of North Carolina concluded in favor of preserving a universal rule, so workers' compensation benefits paid in another state were admissible in actions against third parties.⁸

In the instant case, the Court found the primary purpose of the statute was to avoid confusing the jury; therefore, the statute should not be construed so narrowly as to only be applied to workers' compensation benefits paid in Nevada. The workers' compensation payments made to an injured employee must be admitted as evidence and the proper instruction regarding the jury's consideration of those payments must be given. Therefore, pursuant to NRS 616C.215(10), the evidence of the amounts actually paid should have been admitted and the clarifying instruction given.

³ Proctor v. Castelletti, 112 Nev. 88, 90, 911 P.2d 853, 854 (1996).

⁴ 15A C.J.S. Conflict of Laws § 30 (2012).

⁵ See NEV. REV. STAT. 616C.215(10) (2011); CAL. LAB. CODE § 3855 (West 2011).

⁶ Cramer v. Peavy, 116 Nev. 575, 580, 3 P.3d 665, 669 (2000).

⁷ Tri-County Equipment & Leasing v. Klinke, 128 Nev. Adv. Op. No. 33 (2012).

⁸ Frugard v. Pritchard, 450 S.E.2d 744 (N.C. 1994).

Because the amount of workers compensation payments actually paid necessarily incorporated the written down medical expenses, the court concluded that it was not necessary to resolve whether the collateral source rule applied to medical provider discounts in other contexts.

Conclusion

Because both California and Nevada have statutes governing the admissibility of workers' compensation benefits, the Court decided that the Nevada statute shall govern. Applying Nevada law, the Court concluded that evidence of the actual amount of the benefits paid should be admitted and a clarifying jury instruction should have been given. The Court reversed the decision of the lower court and remanded for further proceedings.