

# 10.29.19

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## The Appellate Court Recognizes the Workers' Compensation Court's Discretion in Handling Issues of Medical Treatment and Temporary Disability

In the matter of Orellana V. Chabad Jewish Center, decided by the Appellate Court October 9, 2019, the Respondent took an appeal from an Order for Medical and Temporary Disability Benefits entered against Rabbi Eliezer and his wife Chanie Zaklikovsky. Counsel is arguing that due process was not followed and the Respondents were not afforded the right to adequately defend the allegations.

The Petitioner was an illegal alien, paid in cash. She took care of the children of the Rabbi and his wife. She claims a slip and fall at their home on August 23, 2017.

Multiple claims were filed against several parties since it was determined at the time of the injury that the Chabad Jewish Center did not have workers' compensation insurance. The Petitioner sought treatment but was unable to obtain it as there were arguments being presented as to who the petitioner worked for and who should be responsible for her treatment. The proceedings were delayed while the various parties were sorted out. On March 5th, the Judge refused the adjournment request of the Respondent's counsel and expedited the case for further hearing to March 12th, to address the petitioner's need for treatment and temporary disability. On March 12th, there was no appearance by the Respondent's counsel.

The petitioner testified on March 26th, noting a request for treatment made to Mrs. Zaklikovsky was denied, and Mr. Zaklikovsky allegedly raised the petitioner's illegal immigration status when advised about the petitioner seeking benefits. The Zaklikovsky's failed to appear on April 26, 2018, despite an agreement among the parties that they would. The Court entered an Order for Medical Treatment and Temporary Disability against the Center, with further proceedings to take place on May 7, 2018.

On Appeal, counsel raised several issues as to why the Court should vacate the prior Order due to violations of Due Process.

The Appellate Court found that the lower Court did not err in accelerating the pre-trial conference into a Motion for Medical and Temporary disability benefits. There was no due process violation as all parties had notice of all hearings and were represented by counsel, sufficient evidence was presented without opposition and the respondents relinquished their right to control treatment.

**Comment:** The Workers' Compensation Statute is geared to provide benefits to a petitioner and when those benefits are being held up or denied without a reasonable defense to do so, the Court has shown that it will step in and take action on behalf of the petitioner. That is what took place in this matter. The Court has the power and authority to resolve issues of treatment and temporary disability quickly. Failure to present witnesses and a defense despite being given the opportunity to do so will result in the court taking action against the Respondent and as we see in this case, the Appellate Court will not overturn the decision.

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