Weber ◻
Gallagher

Machiaverna v City of Newark A-5848-11T3

FACTS:

Petitioner, a city firefighter from 1988 through 2009, filed an occupational orthopedic claim for his left leg, knee, and hip. Claim was denied and taken to trial after permanency evaluations on January 10, 2011. It was determined that petitioner failed to disclose all of his prior medical history involving his left leg/knee and lied about having no prior injuries. Two experts testified for each side.

HOLDING:

At the conclusion of the trial, the WCJ determined that petitioner lied to the evaluating physicians making their reports inaccurate due to false information. The judge dismissed the claim and also held that petitioner committed fraud under the provisions of the NJ statute by lying about his past medical history. ON APPEAL:

Petitioner through counsel argued:

Court violated his due process rights by holding he committed fraud without first giving notice of the decision and allowing the parties an opportunity to be heard on this issue;

Erred in dismissing claim for

failure to sustain burden of proof;

Erred in finding that petitioner committed fraud based on insufficient evidence.

The Appellate court held WCJ did have sufficient credible evidence for all of her decisions. More specifically, the Court held that with regards to petitioner's due process argument, same was "without merit" pursuant to Rule 2:11-3 (e)(1)(E).

This is a significant "win" for the Respondent's bar for two reasons: (1) it sent a message that in order to be entitled to benefits, the petitioner must make a reasonable effort to provide an accurate past medical history; (2) the Court is willing to take adverse action for petitioner's failure to do so. We also believe that this decision can be used by the Respondent's bar to show that discovery into petitioner's past medical history is a relevant inquiry even when petitioner informs his own counsel that he/she had no prior problems.

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