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The Employer
Advisory

Employment Case Analysis You Can Use

COURT REFUSES TO COMPEL DISCOVERY IN WORKERS' COMPENSATION CASE

Shawn Walton was employed as a field technician for Illinois Bell Telephone Company ("the employer"). Walton filed a Workers' Compensation claim for a work-related fall. A physician performed an IME and determined Walton was disabled and required surgery. The employer conducted videotaped surveillance of Walton. The IME physician reviewed the videotape and then concluded the plaintiff was not disabled. Walton filed an equitable bill of discovery in the circuit court to compel the employer to give him a copy of the videotape. Walton contended that no mechanism for obtaining the videotape existed under Workers' Compensation law. The employer moved to dismiss the bill of discovery. The circuit court granted the motion, holding that parties may not expand the scope of discovery available under the procedural rules of Workers' Compensation.

The Appellate Court affirmed. The bill of discovery was created to remedy the shortcomings of the old common-law rule that parties could not be compelled to produce documents for litigation. Although the bill of discovery is still used in some judicial proceedings, a Workers' Compensation claim is an administrative rather than a judicial proceeding. The Workers' Compensation Act expressly grants the Industrial Commission authority to establish procedural rules. A party may not circumvent an explicit legislative command that Commission administrative procedure be followed. The Commission's procedure promotes its goal of providing swift and summary resolution of Workers' Compensation claims. The Commission has provided very limited rules for pretrial discovery. Allowing parties to obtain discovery through separate judicial proceedings would circumvent the Commission.

An employee may not bring a separate court case to compel production of discovery to use in a Workers' Compensation claim.

Walton v. Illinois Bell Telephone Co., 2004 Ill. App. LEXIS 1371 (2d. Dist. November 15, 2004). Copyright 2004 Schiff & Hulbert. This employer newsletter is for information purposes only and is not intended to constitute or be a substitute for legal advice. If you have a question about a particular situation, please contact us. DLS.