

CONNECTICUT

WINNING RESULTS: LOIS Attorney Prevails on a Nuanced Coverage Issue Involving a PEO



Lois Law Firm successfully challenged and won on a coverage argument that seldomly comes before the Board. Attorney, Meisha Powell was able to bring attention to the file very early on in the case, that there was a possible coverage issue, involving a “leased employee” who was injured on a site covered by our client’s wrap-up (OCIP) policy. The claimant in this case suffered injury to the back, leg, and ankle when he slipped and fell at the jobsite. Prompted by the claimant’s own prehearing conference statement, which listed a PEO company as an “interested party” to this litigation, attorney Powell asked that the Carrier for the PEO be placed on notice. She argued that the claimant may be a leased employee and based on our knowledge of a previous case we were successful in defending against coverage, we requested development on the record on this coverage issue. The Carrier for the PEO was placed on notice, and at a subsequent hearing vehemently denied coverage for the claim, arguing that the wrap up policy must cover the claim! At that hearing, the Law Judge directed all policies to be submitted to the file, a memo of law from both parties on the issue of coverage, and case law supporting said argument(s).

Attorney Powell successfully argued that merely because a site is covered by a wrap up policy, does not automatically equate to coverage for every single accident that occurs at the job site. She argued that in this case, there was no question that the claimant was an employee of the PEO company. Furthermore, the PEO company had an active service agreement with the employer. Even though the employer was enrolled in the OCIP policy, the fact that the PEO was in place, had workers’ compensation coverage, and there were no exclusions in the service agreement for the OCIP, the carrier for the PEO must cover this accident. Proofs were submitted to the board file before the hearing, including case law and the statute governing PEOs, which persuaded the Judge to find that the PEO and their Carrier were indeed the proper carrier for this claim.

Our success in defending this claim was not only in our arguments made to the Law Judge, but attorney Powell also communicated

with the Carrier for the PEO on numerous occasions leading up to the hearing, in an effort to persuade him that they should accept coverage. During those conversations, she was also able to gather what their defenses were for not accepting the claim, which helped to prepare her to successfully argue for the discharge and removal of our client from coverage for this claim.

In issuing her decision, the Judge noted that she was persuaded by our arguments, and the record indicated a valid agreement between the employer and the PEO. She found that the claimant was a leased employee, and as such, the coverage for the accident would be placed under the PEO policy and with the PEO employer.

Most coverage issues that come up in workers’ compensation cases can be straight forward, but there are also many instances where a legal determination based on a set of facts must be made. Recognizing these sorts of nuanced issues is what sets us apart and leads us to winning on coverage.



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