SUPREME COURT OF ALASKA

State, Division of Workers' Compensation v. Titan Enterprises, LLC

338 P.3d 316 (Alaska 2014) · No. S-15166 · Decided November 28, 2014

SUMMARY

The Alaska Supreme Court held that a non-claimant party may be awarded fully compensatory and reasonable attorney's fees under AS 23.30.008(d) when successful on a significant issue in an appeal to the Alaska Workers' Compensation Appeals Commission. When two non-claimant parties both prevail on significant issues, the Commission must consider the relative success of both parties rather than award full fees to only one. The court reversed the Commission's fee award to Titan Enterprises and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Chief Justice Fabe; Justice Winfree; Justice Stowers; Justice Bolger
JURISDICTION	Alaska
DECIDED	November 28, 2014
DOCKET	S-15166
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Division petitioned for review of an Alaska Workers' Compensation Appeals Commission decision awarding Titan approximately $50,000 in fully compensatory attorney's fees after partially reversing and remanding the Workers' Compensation Board's penalty decision. The Alaska Supreme Court granted review and reversed the fee award.
STANDARD OF REVIEW	The court applies its independent judgment to questions of law that do not involve agency expertise, including statutory interpretation. Statutes are interpreted according to reason, practicality, and common sense, with consideration of statutory language, legislative history, and purpose.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion; precedential
PARTIES	State of Alaska, Division of Workers' Compensation v. Titan Enterprises, LLC, Titan Topsoil, Inc., CCO Enterprises, Todd Christianson

TOPICS

appellate procedure · statutory interpretation · administrative law · corporate veil piercing · standard of review

PRACTICE AREAS

workers' compensation · administrative law · appellate procedure · statutory interpretation · attorney's fees

QUESTIONS PRESENTED

1. Whether a successful party that is not a workers' compensation claimant may receive attorney's fees and costs under AS 23.30.008(d).
2. How attorney's fees should be awarded under AS 23.30.008(d) when two non-claimant parties each prevail on a significant issue in an appeal.

HOLDINGS

1. A litigant who is not a workers' compensation claimant may receive fully compensatory and reasonable attorney's fees and costs under AS 23.30.008(d) when the litigant is a successful party in an appeal to the Commission, subject to the statutory protection against fee awards against an injured worker when the worker's position was frivolous or unreasonable or taken in bad faith.
2. When two non-claimant parties each prevail on a significant issue in a Commission appeal, the Commission must consider the success of both parties in determining attorney's fees. It may conclude that neither party is truly successful and award no fees, or it may consider both parties' fees and relative success and offset competing fee awards.

KEY QUOTATIONS

> "*We hold that litigants other than claimants are entitled to attorney's fees and costs in a Commission appeal.*" (at 8)

> "*If two non-claimants both succeed on significant issues in an appeal, the Commission must weigh the success of both parties when it considers a motion for attorney's fees.*" (at 13)

FACTUAL BACKGROUND

Titan and related businesses operated for substantial periods without statutorily required workers' compensation insurance, including a lapse from March 2006 until October 2007 and another lapse beginning in January 2008. The Board found 563 uninsured calendar days and 6,399 uninsured employee workdays, along with a history of prior insurance violations and work-related injuries. It imposed a penalty exceeding $6 million and pierced the corporate veil to hold Todd Christianson jointly and severally liable. On appeal, Titan prevailed on aspects of the penalty calculation, while the Division prevailed on the veil-piercing issue.

PROCEDURAL HISTORY

The Workers' Compensation Board fined Titan more than $6 million for operating without required workers' compensation insurance and held Christianson individually liable through piercing the corporate veil. The

Appeals Commission affirmed the veil-piercing determination but reversed portions of the penalty calculation and remanded for further findings. The Commission then awarded Titan full attorney's fees as the successful party on appeal without considering the Division's success on the veil-piercing issue. The Supreme Court reversed and remanded for reconsideration of the fee award.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Alaska Workers' Compensation Appeals Commission for further proceedings consistent with the opinion, including reconsideration of the attorney's-fee award in light of the relative success of both non-claimant parties.

CASES CITED

- Lewis-Walunga v. Municipality of Anchorage, 249 P.3d 1063 (Alaska 2011)
- Humphrey v. Lowe's Home Improvement Warehouse, Inc., Op. No. 6960, 2014 WL 5305861 (Alaska Oct. 16, 2014)
- Shehata v. Salvation Army, 225 P.3d 1106 (Alaska 2010)
- Monzulla v. Voorhees Concrete Cutting, 254 P.3d 341 (Alaska 2011)
- State, Department of Commerce, Community & Economic Development, Division of Insurance v. Alyeska Pipeline Service Co., 262 P.3d 593 (Alaska 2011)
- Schultz v. Wells Fargo Bank, N.A., 301 P.3d 1237 (Alaska 2013)
- Chambers v. Scofield, 247 P.3d 982 (Alaska 2011)
- Pavone v. Pavone, 860 P.2d 1228 (Alaska 1993)
- Wise Mechanical Contractors v. Bignell, 718 P.2d 971 (Alaska 1986)
- Wien Air Alaska v. Arant, 592 P.2d 352 (Alaska 1979)
- Fairbanks North Star Borough School District v. Crider, 736 P.2d 770 (Alaska 1987)
- Hulsey v. Johnson & Holen, 814 P.2d 327 (Alaska 1991)
- McShea v. State, Department of Labor, 685 P.2d 1242 (Alaska 1984)
- Rose v. Alaskan Village, Inc., 412 P.2d 503 (Alaska 1966)
- Alaska R & C Communications, LLC v. State, Division of Workers' Compensation, AWCAC Dec. No. 088 (Sept. 16, 2008)