

LOUISIANA COURT OF APPEAL, FOURTH CIRCUIT

Johnson v. Holden Springs, Inc.

811 So. 2d 1123 (4th Cir. 2002) · Decided February 27, 2002

SUMMARY

The Louisiana Court of Appeal reviews the dismissal of Dr. Maria Carmen Palazzo’s claim for unpaid workers’ compensation medical benefits on prescription grounds. The court concludes that the record lacked admissible evidence establishing prescription and that the claim was not facially prescribed, reverses the judgment, and remands for further proceedings.

CASE DETAILS

COURT	Louisiana Court of Appeal, Fourth Circuit
WRITING FOR THE COURT	David S. Gorbaty
JURISDICTION	Louisiana
DECIDED	February 27, 2002
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a judgment of the Office of Workers' Compensation sustaining an exception of prescription and dismissing a claim for unpaid medical benefits.
STANDARD OF REVIEW	The appellate court reviewed the prescription ruling based on the record and applicable burden-of-proof principles governing a peremptory exception of prescription.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Dr. Maria Carmen Palazzo v. Louisiana Workers' Compensation Corporation

TOPICS

- workers compensation
- statute of limitations
- evidence
- appellate procedure

PRACTICE AREAS

- workers compensation
- employment law
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the workers' compensation claim for unpaid medical benefits was prescribed under Louisiana law.
2. Whether the record contained sufficient admissible evidence to sustain the exception of prescription.
3. Whether the claim remained timely if unpaid bills were resubmitted on or before July 8, 1999.

HOLDINGS

1. The exception of prescription could not be sustained on the existing record because the party asserting prescription failed to introduce admissible evidence establishing when the bills were last submitted or otherwise proving that the claim was prescribed.
2. When medical payments have been made in connection with a workers' compensation claim, prescription does not run until three years after the last payment of medical benefits; if the claimant resubmitted bills on or before July 8, 1999, the claim filed in April 2000 was not prescribed.

KEY QUOTATIONS

“Allegations made in memoranda are not evidence.” (1125)

“LWCC cannot wait until after a prescription date to deny payment, and then urge an exception of prescription.” (1126)

FACTUAL BACKGROUND

Dr. Maria Carmen Palazzo, a psychiatrist, claimed that she provided treatment to Robert Johnson and was owed approximately \$18,000 in medical benefits. She acknowledged that the last payment made to her was on or about July 8, 1996, but argued that later requests for payment and medical utilization review preserved her claim. The record contained no documentary or testimonial evidence establishing when bills were resubmitted or supporting the workers' compensation carrier's assertions about the handling of the bills.

PROCEDURAL HISTORY

Dr. Maria Carmen Palazzo filed a disputed claim for compensation seeking approximately \$18,000 in unpaid medical treatment. The Louisiana Workers' Compensation Corporation filed an exception of prescription, and the Office of Workers' Compensation sustained the exception after determining that more than three years had elapsed since the last payment and request for utilization review. Palazzo appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded for proceedings not inconsistent with the opinion.

CASES CITED

- Spott v. Otis Elevator Co., 601 So. 2d 1355 (La. 1992)

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