

SUPREME COURT OF OKLAHOMA

Upton v. City of Tulsa

2018 OK 69 (Okla. 2018) · No. 115557; companion cases 115558 and 115717 · Decided September 18, 2018

OPINION

COMBS, J.

UPTON v. CITY OF TULSA Skip to Main Content Accessibility Statement Help Contact Us e-payments Careers Home Courts Decisions Programs News Legal Research Court Records Quick Links OSCN Found Document:UPTON v. CITY OF TULSA Previous Case Top Of Index This Point in Index Citationize Next Case Print Only UPTON v. CITY OF TULSA2018 OK 69Case Number: 115557; Comp. w/115558; 115717Decided: 09/18/2018THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2018 OK 69, __ P.3d __ NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION.

UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. JARED UPTON, Petitioner, v. CITY OF TULSA and THE WORKERS' COMPENSATION COMMISSION, Respondents. MEMORANDUM OPINION COMBS, C.J.: ¶1 This is an appeal of an Order Affirming Decision of Administrative Law Judge by the Oklahoma Workers' Compensation Commission En Banc, on November 17, 2016. Petitioner suffered a compensable injury after the effective date of the Administrative Workers' Compensation Act (AWCA) (Title 85A).

The Administrative Law Judge awarded Petitioner Permanent Partial Disability (PPD). Petitioner challenged the constitutionality of several sections of the AWCA which mandate the exclusive use of the latest edition of the American Medical Association's Guide (AMA Guide) to evaluate and award PPD.

The ALJ found the use of the AMA Guide to be constitutional. The Oklahoma Workers' Compensation Commission En Banc affirmed. The dispositive issue on appeal concerns the constitutionality of the sections of the AWCA which mandate the use of the AMA Guide. This cause was assigned to this office on March 28, 2018. ¶2 Upon review of the record and briefs of the parties, this Court has determined the issues raised in this appeal have already been decided in our recent opinion, *Hill v. American Medical Response*, 2018 OK 57, __P.3d__, 2018 WL 3121718.

In *Hill* this Court held the required use of the AMA Guide in the AWCA was constitutional. The Order of the Oklahoma Workers' Compensation Commission En Banc is affirmed. ¶3 Combs, C.J., Winchester and Darby, JJ., concur; ¶4 Kauger and Edmondson, JJ., concur by reason of stare decisis; ¶5 Gurich, V.C.J. and Reif, J., dissent; ¶6 Colbert and Wyrick, JJ., recused.

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