Virginia Inn of Court—Workers’ Compensation

Case Law Update

23 June 2021

**ADDENDUM**

The many cases outlined by Commissioner Rapaport—included within your materials—offer a sweeping reach. Commissioner Rapaport has expertly summarized those decisions shaping all corners of our arena. The outline provides an excellent resource.

Yet time remains limited (just one hour for our presentation).

So we will focus our discussion through ten decisions, all reached by the reviewing courts during the first half of 2021. They offer a rough framework. While many are already within the outline, several recently arrived. And these ten decisions fall within ***two general categories***. The first category addresses ***broader concepts***, the core elements and evidentiary burdens shaping Virginia workers’ compensation litigation. There are six such decisions. The second category concerns ***medical provider claims***, an area of concentrated focus. There are four such decisions. Here is a list of the cases we will discuss:

**Broader Concepts**.

1. ***Merck & Co. v. Vincent***, \_\_\_ Va. \_\_\_\_ (2021) (addressing permanent total relief under Va. Code § 65.2-503(C)(1)).
2. ***Alexandria City Pub. Sch. v. Handel***, No. 1582-18-32021 (Va. Ct. App. May 11, 2021) (discussing ***injury***—the need for a mechanical or structuralchange).

1. ***Reynolds v. Falletta Enterprises***, Record No. 0796-20-3 (Va. Ct. App. Jan. 26, 2021) (resisting an invited inference).
2. ***CJ Designs Inc. v. Williams***, No. 1251-20-4 (Va. Ct. App. June 15, 2021) (overcoming challenges raised, an accident ***arising out of work***).
3. ***Loudoun County Public Schools v. Hernandez***, No. 0870-20-4 (Va. Ct. App. Jan. 12, 2021) (recognizing an exacerbation as an ***injury*** and the worker’s reasonable marketing efforts).
4. ***Ligon v. CPS II, Inc.***, No. 1190-20-4 (Va. Ct. App. April 6, 2021) (analyzing burdens of production and persuasion).

**Medical Provider Claims.**

1. ***Atlantic Orthopaedic Specialists v. City of Portsmouth***, 73 Va. App. 157 (2021) (applying Va. Code § 65.2-605.1(F), barring a medical provider’s claim).

1. ***Summit Pharmacy, Inc. v. Costco Wholesale***, 73 Va. App. 96 (2021) (holding a pharmacy qualifies as a “health care provider” under Va. Code § 65.2-605.1(F)).
2. ***Va. International Terminals, LLC v. Neurosurgical Specialists, Inc.***, No. 1077-20-1 (Va. Ct. App. April 6, 2021) (endorsing the Commission’s standard—medical bills represent prima facie of the prevailing community rate).
3. ***Petsmart, Inc. v. Miles***, No. 0765-20-4 (Va. Ct. App. Jan. 12, 2021) (addressing the scope of Va. Code § 65.2-6051(F), and appellate waiver/alternative holdings).