

December 20, 2004

District Court Lacks Jurisdiction to Review an Arbitrator's Discovery Order Absent an Award.

On December 7, 2004, the Minnesota Court of Appeals held, in State Farm Mutual Automobile Ins. Co. v. Ahmed, File No. CX-03-8878, District Courts do not have jurisdiction to review an arbitrator's discovery Order when the Order does not include an Award.

The case stems from a claim for No-Fault benefits by State Farm insured, Ahmed, who was injured in an automobile accident. State Farm denied benefits because Ahmed failed to attend two independent medical examinations. Ahmed then filed a petition for arbitration seeking reimbursement of medical expenses. An arbitration date was set and State Farm scheduled another IME. Ahmed failed to attend the third scheduled IME and State Farm requested the claim be dismissed for failure to attend an IME. The arbitrator, however, determined the failure to attend was justified, and ordered Ahmed to attend the next scheduled IME. A fourth IME was scheduled. Ahmed was unable to attend because she had not yet returned to the country after dealing with a family emergency abroad. After the hearing, the arbitrator ordered Ahmed to attend the next scheduled IME, and warned that failure to attend the exam would result in an award of costs against her. The arbitrator continued the hearing for a second time. State Farm then sought relief in the District Court from the arbitrator's first order requiring attendance at the IME, alleging the arbitrator exceeded his powers under Minn. Stat. § 572.19, subd. 1(3), and should have dismissed the case. The District Court vacated the order, dismissed Ahmed's claim, and awarded State Farm its costs.

The issue before the Court of Appeals was whether an arbitrator's discovery order is subject to District Court review under Minn. Stat. § 572.19 prior to the completion of the arbitration proceedings and the issuance of an Award. The Court determined the statute allows a District Court to review an arbitrator's Order only after issuing an Award. The term "award" indicates the arbitration matter is final. Only at that point can the decision be reviewed to determine if an arbitrator exceeded his/her authority. State Farm could not obtain judicial review of the arbitrator's discovery Order because it was not an Award. The decision does not mean no discovery order can be appealed. It merely indicates that the Award must be made prior to review by the District Court.

We will continue to follow this case in the event of an appeal and other cases interpreting the Minnesota No-Fault Act. Please contact us regarding this case and other legal issues.

Sincerely,

JOHNSON & CONDON, P.A.

Timothy J. Leer
Direct Dial: (952) 806-0420
TJL@Johnson-Condon.com
507956.wpd

B. Jon Lilleberg
Direct Dial: (952) 806-0451
BJL@Johnson-Condon.com

Paul S. Hopewell
Direct Dial: (952) 806-0432
PSH@Johnson-Condon.com

Matthew M. Johnson
Direct Dial: (952) 806-0484
MMJ@Johnson-Condon.com