

08/16/2019 - By Chris Celichowski

Minnesota Supreme Court Tackles When Statute of Limitations is Satisfied in Gillette Injury Cases

Former Viking Failed to Prove Employer, by Providing Minimal Medical Treatment, Accepted Responsibility for Subsequently Diagnosed Gillette Injury

On July 31, 2019, the Minnesota Supreme Court ruled that medical care provided to an employee prior to the employee's Gillette injury was not a "proceeding" and therefore did not toll the statute of limitations for bringing a Minnesota workers' compensation claim. The Court's decision overturned the Workers' Compensation Court of Appeals (WCCA) and compensation judge's determinations that prior medical care satisfied the statute of limitations.

Noga played defensive line for the Minnesota Vikings from 1988-1992. After leaving the Vikings, Noga played for two other NFL teams in 1993 and 1994 and subsequently played in the Arena League until 1999. During his Vikings' career Noga suffered from headaches and claimed they were a result of head injuries he sustained while playing football. Noga additionally testified that Vikings staff would provide him with Tylenol or Advil and tell him to "sleep off" his headaches.

In 2001, Noga filed a claim against the Vikings for orthopedic injuries he sustained while playing. In connection with this claim, Noga underwent a medical examination by Dr. Fruean. Dr. Fruean's report noted his extensive history of orthopedic injuries but also noted Noga suffered from blackouts due to concussions and headaches. Noga's claims for his orthopedic injuries were settled in 2004, and Dr. Fruean's medical report was attached to the stipulation for settlement. In 2014, Noga was diagnosed with dementia. The physician's diagnosis determined that the brain injuries and concussions Noga incurred while playing football for the Vikings were significant contributing factors to his dementia. Following this diagnosis, Noga filed a claim for workers' compensation benefits.

After reviewing all the evidence, the compensation judge determined Noga sustained a Gillette injury of "head trauma, brain injury and/or dementia" that culminated in 1992 and that he was permanently, totally disabled. The Vikings appealed, and the WCCA remanded the case for further determinations. On remand, the compensation judge again determined that Noga suffered a Gillette injury in the nature of dementia, finding Noga's work activities for the Vikings were a significant contributing factor to his dementia. The compensation judge also found that the 2004 medical report fell within the statutory notice period because it was apparent at that time that Noga was suffering a disabling cognitive disability. Finally, the compensation judge concluded that the care provided by the Vikings medical staff qualified as an action or proceeding, therefore tolling the statute of limitations. In a 3-2 decision, the WCCA affirmed the compensation judge's decision.

The Minnesota Supreme Court reversed the

WCCA's ruling, concluding Noga failed to satisfy the statute of limitations under Minn. Stat. 176.151 and thus denying his claim. The Court noted the Workers' Compensation statute of limitations may be satisfied if an employer pays medical bills for a work-related injury, even under a group health plan, or furnishes treatment for an injury. However, citing precedent, the court also observed that "the mere provision of any form of care or assistance to an employee who may be injured is not, by itself, sufficient to establish that a proceeding occurred for the purpose of the statute of limitations..." A proceeding "that satisfies the statute limitations must arise out of the employer's awareness of an obligation for the benefits provided."

The court found that the evidence in the record did not support the conclusion that the "Vikings knew or should have known that Noga was at an increased risk of developing a compensable Gillette injury in the form of dementia when the Vikings staff provided Advil and Tylenol for the headaches and wooziness Noga experienced following play." The court expressed concern that allowing an employee to think that an employer's initial payment of medical expenses or provision of medical care for what is later determined to be Gillette -type work-related injury, when the employee and/or the employer may yet not know a Gillette injury has occurred, could lull the employee into a false sense of security and dissuade him from formally asserting a claim within the statute of limitations. There are cases, the court observed, when an employer should be aware that an employee's repetitive stress injuries sustained on the job could lead to a compensable Gillette injury and the employer's provision of medical treatment prior to a Gillette injury may constitute a "proceeding" that tolls the statute of limitations. This means that determining whether a "proceeding" that tolls the statute of limitations has occurred will focus on the employer's intent – the employer's "conscious sense of obligation" – in providing the treatment. Whether a "proceeding" has occurred will be determined by the facts and made on a case-by-case basis.

COMMENT: Noga may ultimately not turn out to be groundbreaking due to its unique facts. It remains to be seen whether the Minnesota Supreme Court, by introducing intent into the equation, opened a door for employers and insurers to more aggressively pursue statute of limitations defenses in Gillette cases. However, Noga highlights the importance of evaluating statute of limitations defenses in Gillette injury cases. The court reinforced its position that "a proceeding that satisfies the statute of limitations must arise out of the employer's awareness of an obligation for the benefits provided." The court found that while the care the Vikings staff provided indicated acceptance of responsibility for Noga's headaches and related symptoms, it did not indicate a "conscious sense of obligation" for his subsequently diagnosed dementia and did not toll or satisfy the statute of limitations for his claimed Gillette injury of dementia.