

Occu-News

Florida Appellate Court Determines Roofer, Not PEO, Is Liable

Florida's 1st Court of Appeals ruled that the Porto & Garcia Roofing, was injured by an employee in *Crum v. Lopez*, No. 410, 3/6/08.



District Appeal employer, Garcia Roofing, was liable for suffered employee Services 1 D 0 7 -

The roofing company who had hired Ruben Alberto Soto Lopez on the spot in May 2005, and offered him \$80 per day. Porto & Garcia Roofing uses a professional employment organization named Crum Services, which provides workers' compensation coverage and payroll services for the roofer. The contract between the two requires each new employee to sign a variety of documents, which never occurred in Lopez's case.

On the third day of his employment, Lopez fell from a ladder and broke his ankle. A supervisor from the roofing company took Lopez to the hospital. Lopez was unable to return to work until September 2005.

A judge of compensation claims had ruled that the PEO was Lopez's employer, but the appellate court reversed and remanded this ruling. The Court of Appeal noted that the roofing supervisor "offered claimant a job on the spot with P&G Roofing to perform manual labor on a roofing job at the rate of \$80 per day."

The appellate court explained how the contract between the PEO and the roofer helped it determine who was liable:

"In fact, the contractual agreement entered into between P&G Roofing and Crum specifically states that Crum's services will be provided to any employee of P&G Roofing who qualifies as a 'leased employee.' In order to qualify as a leased employee, the agreement states that an employee must complete an employment application, W-4 withholding form, and Form I-9, and that these

DID YOU KNOW?

Workers Comp Savings

Lost wages and other hidden costs, including litigation, can **ADD UP TO FIVE TIMES THE INITIAL COST** OF A WORKERS COMP MEDICAL CLAIM. Recent research results indicate dealing with occupational Health facilities **CAN SAVE EMPLOYERS BETWEEN 10% - 40% ON WORKERS COMPENSATION MEDICAL COSTS PLUS, ANOTHER 15% - 25% ON WAGE REPLACEMENT OR DISABILITY PAYMENTS.**

Trinity Occupational Health understands workplace injuries and the disability rating system. Our physicians and staff are dedicated to helping your employee heal quickly and return to work as soon as is safely possible

(Roofer not PEO Cont.)



forms 'must be delivered to us (Crum) before the employee commences employment.' Furthermore, the agreement specifically provides that P&G Roofing 'assume(s) full responsibility for workers' compensation claims of other parties hired by or working for you, whether as an employee, independent contractor, or in any other status.'"

"It is often the last key on the ring which opens the door"

DISABILITIES LAW NOW COVERS SEX DISORDERS?...

COURT RULES THAT EMPLOYEE'S SEXUAL IMPAIRMENT IS COVERED BY 1973 REHABILITATION ACT

[As reported by OHR - Posted 08/01/2008]

The US Court of Appeals for the DC Circuit has expanded the definition of "disability" for federal employees protected under the 1973 Rehabilitation Act to include the inability to have sex. The ruling reversed a district court dismissal of a claim that the State Department had discriminated against an employee with a history of breast cancer by denying her medical clearance to serve in the Foreign Service. The district

court concluded that the employee's cancer did not qualify as a disability because it was neither long-term nor permanent.

However, the appellate court ruled that the employee's treatment for the disease (removal of her breasts, ovaries, and fallopian tubes), did qualify because the employee could show that it limited a major life activity, i.e., her ability to enter into romantic relationships.

Employment lawyers expect the ruling to lead to a multitude of new claims.

To view entire Article go to:
<http://www.law.com/jsp/article.jsp?id=1202423325316&rss=newswire>

CHOOSING A COMPANY DOCTOR

Fraudulent worker's comp claims costs businesses in the billions each year, both in lost man-hours, medical payments and increased premiums.

Your company's first line of defense should be the physicians providing initial injury treatment. Choose a provider who employs an

Early Treatment, Early Intervention and Early Return To Work approach – this model produces better outcomes for the patient, the employer, and the payor alike.

Try to avoid using family doctors offices. Most doctors

offices are strong patient advocates and have little knowledge or training in occ-med. You will typically see a higher rate of follow-up visits and time off work, than you will when using an Occupational Health facility.

DOT MODIFIES URINE COLLECTION PRIVACY RULES

DOT will require employees who are undergoing directly observed collections to raise their shirts, blouses, or dresses/skirts, as appropriate, above the waist and lower their pants and underpants to show the observer, by turning around, that they do not have a prosthetic device on their person.



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