

Michael A. Sebastian

Shareholder

MASebastian@mdwcg.com

Scranton – 570.496.4601



Michael concentrates his practice on defending workers' compensation claims. He represents employers, insurance carriers and third-party administrators, working together with his clients to achieve their desired result.

With more than 20 years of experience, Michael has appeared on behalf of his clients before many local judges, the Workers' Compensation Appeal Board, the Commonwealth Court and the Supreme Court of Pennsylvania. In addition to litigating claims, Michael counsels clients on implementing risk management strategies that focus on lowering workers' compensation costs and avoiding liability exposure.

Michael is a member of the Lackawanna County Bar Association.

Education

- Widener University Delaware Law School (J.D., 1991)
- University of Scranton (B.S., 1988)

Admissions

- Pennsylvania, 1991
- U.S. District Court Middle District of Pennsylvania

Honors & Awards

- The Best Lawyers in America®, Workers' Compensation Law - Employers (2023-2027)

Associations & Memberships

- Lackawanna County Bar Association

Practices

- Workers' Compensation Defense

Classes/Seminars Taught

- *Protecting Against Unreasonable Medical Expenses and Fee Reviews*, Marshall Dennehey Workers' Compensation Seminar, October 27, 2022
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Results

Successfully Defended a Multinational Food Corporation in a Workers' Compensation Matter

We successfully defended a multinational food corporation in a workers' compensation case. We filed a suspension petition based upon the claimant's employment prior to being taken out of work. The claimant filed a reinstatement petition for a right carpal tunnel syndrome (CTS) claim and a claim petition for the left CTS claim. The claimant also filed UR petitions related to her treatment with Dr. Mercado and Dr. Patel. Prior to the decision, we accepted left-sided CTS as work related. The issue to be decided by the workers' compensation judge was whether the claimant was entitled to a reinstatement of benefits because the job required her to work in a cold environment. In the decision, the judge noted that when the claimant was working she did not have to touch the cold meat which was on a conveyor belt. She also wore gloves and cold weather clothing while performing the position. The judge noted that Dr. Martinez did not know the temperature of the claimant's hands with gloves on nor did he know the temperature of the plant. He also noted that Dr. Martinez testified that if the claimant's hand temperature with gloves on was between 70-80 degrees, that should be acceptable. The judge noted that the employer's witness testified to an experiment measuring hand temperature with gloves on: her hand temperature with the glove on was initially 87 degrees and after roughly 3 hours on the floor, it was 75 degrees. Dr. Talsania testified that cold temperature does not affect CTS. The judge found the claimant's testimony and Dr. Martinez's testimony not credible. The judge found the employer's witness and Dr. Talsania credible in all respects. She also found the UR reports credible concerning the claimant's treatment. The judge suspended the claimant's benefits effective May 23, 2024, finding she was capable of performing the quality monitor position in the cold environment.

Claim Petition Denied in a Case Involving Work-Related Cervical Injury

We received a decision denying a claim petition that alleged the claimant suffered a work-related cervical injury on June 29, 2023. The claimant testified that he felt a snap but did not feel the pain right away and continued to work until July 17, 2023. He then went to the emergency room and subsequently had surgery on July 20, 2023. During cross-examination, the claimant agreed he only suffered a cervical injury, not a low back injury. He further noted he had a prior low back injury on October 19, 2022, for which he filled out an accident report and was sent to a doctor and received treatment. However, the claimant first reported the June 29, 2023, injury on September 1, 2023, and at that time could not recall a specific event that occurred on June 29, 2023. However, he did confirm he heard a snap in his back when the injury did occur. The claimant also agreed he worked full duty, without reporting the incident, until July 17, 2023. Dr. Martinez, the

claimant's expert, testified the claimant was a partial quadriplegic in the upper and lower extremities. Dr. Henderson, our expert, found no evidence of a work-related injury on June 29, 2023, and that the claimant's symptoms are consistent with cervical stenosis with myelopathy, which is a degenerative condition. The workers' compensation judge found the claimant to be not credible to the extent he testified he suffered a work-related injury on June 29, 2023, or any disability related to it. He noted his demeanor during the hearing was not credible and his testimony was called into question based upon the employer's policy that you must immediately report injuries, as he had in the past. The judge also noted that subsequent treatment notes indicate the injury or condition pre-dated the June 29, 2023, work injury date.

Favorable Decision Dismissing Claim Petition Involving an Alleged Work From Home Injury

We received a favorable decision dismissing a Claim Petition involving a claimant who alleged injuries from working at home on the couch. Mike submitted the claimant's testimony from third-party litigation demonstrating conflicts with her testimony in the workers' compensation case to impact her credibility. He also emphasized the claimant's pre-existing condition, even though she told her medical expert that she was asymptomatic, as the claimant had been receiving chiropractic care for 38 years. The judge found that the history relied upon by the claimant's medical expert was based upon what the claimant told him, which he found not credible. The judge ultimately found that the claimant did not meet her burden of proving that she suffered a work-related injury.

Successful Defense of Claim Petition

We defended a Claim Petition, successfully proving that a claimant's injury was not work-related. After a thorough investigation and review of the medical records, we were able to present witnesses and evidence that confirmed that the alleged injury had gone unreported and was inconsistent with the mechanism of injury. The Workers' Compensation Judge found our witnesses credible that the claimant did not report his knee condition as work-related. Their testimony was supported by the medical records, which indicated that for six months after the alleged injury, the claimant had nine office visits with five doctors but never indicated that he had suffered a work-related injury. In addition, the claimant never told his own expert that he suffered a work-related injury until several months later. Finally, the judge believed our expert that the knee condition was inconsistent with the mechanism of injury.