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MINNESOTA COURT OF APPEALS OPINES ON INCOME-LOSS BENEFITS FOR SOLE SHAREHOLDERS

In Neutgens v. Westfield Group, 724 N.W.2d 311 (Minn. Ct. App. 2006), the Minnesota Court of Appeals held income-loss benefits under the Minnesota No-Fault Automobile Insurance Act includes compensation for salary loss of a person who is the sole shareholder of the employing corporation and not based on proof of the corporation's loss of gross business income.

Plaintiff Kenneth Neutgens was injured in a November 2002 automobile accident. His No-Fault claim went to Arbitration and Neutgens presented evidence of his income-loss through his medical records and W-2 income tax forms. Plaintiff, who owned and operated an incorporated excavation business, testified his injuries prevented him from performing the responsibilities he had previously performed for the corporation, which included bidding, general office work, as well as grading, excavating, repairing and transporting equipment and parts. Accordingly, he stopped drawing his usual salary from the corporation. The insurer, Westfield Group, denied the income-loss benefits because Neutgens would not submit income tax records for the corporation, and argued Plaintiff, as the sole shareholder of the corporation, was required to prove a gross business loss in order to claim income-loss benefits. The arbitrator rejected the insurer's argument and awarded the full \$20,000 in income-loss benefits. The Arbitrator's decision was confirmed by the Hennepin County District Court. The insurer appealed to the Court of Appeals.

The Court of Appeals held the No-Fault Arbitrator did not exceed his/her authority and affirmed the Award. In doing so, the Court of Appeals rejected the argument that Plaintiff was similarly situated as a self-employed business owner who, under Rotation Eng'g & Mfg. Co. v. Secura Ins. Co., 497 N.W.2d 292 (Minn. Ct. App. 1993), must prove an overall decrease in the business' gross profits in order to recover income-loss benefits. The Rotation decision focused on the self-employed owner's lack of proof of salary or wage paid, and the No-Fault Act's provision, at Minn. Stat. § 65B.43, subd. 6, that proof of "other earnings from work" can be used to show income-loss if the typical documentation is not available. In this case, Neutgens drew a salary from the corporation and his income-loss was plainly calculable, and reliance on the "other earnings" language is not necessary. The Arbitrator acted within his/her discretion by awarding benefits based on proof of missed salary.

We will follow this case in the event of an appeal to the Minnesota Supreme Court. If you have any questions regarding this case or other automobile-related issues, please contact any member of our Motor Vehicle Practice Group at (952) 831-6544. This letter, and other Minnesota Appellate Court opinion updates, are now available in .pdf form on the News and Resources page of our Firm's website: www.johnson-condon.com.

Sincerely,

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