

CERTIORARI

Journal of Consumer Advocacy

CONSUMER INFORMATION FOR THE CLIENTS AND FRIENDS OF FRASIER, FRASIER & HICKMAN, LLP

Page 2:

Employers Bend Termination Rules

Page 3:

Review of Affairs a Good Idea

Frasier, Frasier & Hickman, LLP
Attorneys at Law

1700 Southwest Boulevard
Tulsa, Oklahoma 74107
918-584-4724 or
1-800-522-4049

World Wide Web Address:
<http://www.frasierlaw.com>

E-mail Address:
frasier@tulsa.com

Thomas Dee Frasier
1924-2001

James E. Frasier

Steven R. Hickman

John W. Flippo

J.L. Franks

Frank W Frasier

George M. Miles



● **CASE FILE**

Condemnation Cases Compensate Landowners

Over the years, Frasier, Frasier & Hickman, LLP, has done quite a bit of condemnation work – situations where the government or a utility is taking private property and the amount of compensation to the landowner needs to be determined.

Certainly, the condemning authority has its lawyers and its appraisers and others who will try to low-ball any purchase. The landowner needs the same protection to make sure he is treated fairly.

Recently, Frasier, Frasier & Hickman, LLP, represented the Veterans of Foreign Wars in Sapulpa which had a state highway construction project taking a part of its land. In addition to that, the State utilized the VFW parking lot to park its vehicles, destroying the asphalt surface, something for which the State refused to pay. They also damaged the underground plumbing, so that the building leaked and got moldy. The State did not want to pay for that, either. Since the VFW was represented, we could go to Court and the Court ordered the State to compensate for those damages.

Another recent condemnation case involved the operator of an oil well lease in the old Glenn Pool field. The lease has been producing almost continuously for over a hundred years and generating a tidy sum for the family operating it over that period of time. The



State, in widening a U.S. highway, took a portion of the surface of the lease, but also wanted one of the lease's injection wells. As a result, almost a quarter of the oil left in the ground was no longer accessible. The State offered only a pittance for what it took. The evidence established, however, that the two or three barrels of oil per day that were being produced, at current oil prices, was worth more than \$100,000 per year – maybe not much for the State of Oklahoma, but a significant sum for the family operating the lease.

Ultimately, we were able to convince the State to pay the value of what was taken – 40 times the original offer.

If you or someone you know is facing a taking by a government or utility, they should certainly get legal representation. And Frasier, Frasier & Hickman, LLP, is here to help.

● CONSUMER

Employers Bend Termination Rules

By Frank Frasier

Too often, employers are willing to bend the rules to settle a personnel issue. Some companies may see this as a pocket book issue because they think that following the rules is too costly.

But in two recent cases, the tables were turned when workers fought back, with the help of Frasier, Frasier and Hickman, LLP, and were compensated for the bad acts of their former employers.

In the first example, an employee with a construction firm was ordered to take a drug test. This worker informed his employer and the drug testing firm that he was a cancer patient undergoing chemotherapy. Not surprisingly, the drug screen detected a variety of substances.

The worker sought assistance from Frasier, Frasier & Hickman,

LLP, and a lawsuit was filed in Tulsa County District Court alleging he was wrongfully terminated due to a violation of the Oklahoma Standards for Workplace Drug and Alcohol Testing Act. The Act provides for specific protocols in performing drug testing – and is routinely violated.

The construction company sought a settlement before trial, and the worker was compensated for his loss of wages.

The Legislature and Governor have since changed the law to protect employers who illegally drug test.

In another recent case, a truck driver was ordered to jury duty in Mayes County and performed his civic obligation. After the worker was excused from jury duty, the trucking company he worked for ordered him to hit the road and

make an interstate delivery.

The trucking company's own rules, along with federal trucking regulations, required the driver to have at least eight hours of rest before taking the wheel. The trucking company agreed but several days later reversed this decision and terminated the driver. State law prohibits retaliation for jury duty.

Later, the trucking company cited a variety of reasons for the driver's termination – including "insubordination." The driver applied for unemployment benefits and during a hearing on the matter, it was evident the company was trying to construct a justification for terminating the driver.

Frasier, Frasier & Hickman, LLP, sought a mediation in this case. The result was a financial settlement with the driver.

● WORKER

Firefighters Should Consider Workers' Compensation Insurance

Most firefighters work on a 24-hours-on, 24-hours-off schedule and many of them have a second career, often where they are self-employed. There is a good reason for anyone in such circumstances to carry Workers' Compensation insurance on himself.

The law provides that the owner of a company is not required to have Workers' Compensation insurance; however, he can obtain it if he desires.

Most health insurance policies provide that they do not cover medical expenses if a person is injured at work. For most people this is okay and there is no gap: if they get hurt at home, their health insurance covers it; if they get hurt at work, Workers' Compensation covers it. But for a person who is self-employed in a second job, there is a gap. If the person gets hurt at the second job, the health insurance will not cover it

and the person is left to fend for himself.

It is an expensive lesson when, for approximately \$1,000, the person could have covered himself with Workers' Compensation insurance. The Workers' Comp policy would not only have paid 100 percent of the medical bills, but would have paid the person a weekly benefit while he was off, and would have given him a settlement if he were permanently injured.

Workers' Compensation insurance is a deal that is hard to beat. Not only is it a deal that is hard to beat, but the financial devastation of an injury that is not covered by any insurance is hard to bear.

In short, Frasier, Frasier & Hickman, LLP, strongly recommends that firefighters (or others) who have a second career where they are self-employed carry Workers' Compensation insurance on themselves.



Oklahoma's judiciary is independent and non-partisan. And, in my opinion, that is a good thing for the average worker and their family. Everybody gets an equal shot at justice.

Sure, the corporate giants have their legions of lawyers and experts. But there are plenty trial lawyers around who will represent anyone who walks in the door and seeks their help – like our firm.

But the Oklahoma system that has rendered independent and non-partisan justice is under attack. Big time. Our state's independent, non-partisan judges apparently are not working for the big business interests that want to run Oklahoma. So, as far as big business and the lawmakers they control are concerned, it's time for a change.

Arbitrators and administrators are seen as better for business. So they are the flavor of the day.

More and more "simple" contracts are not simple at all and bind the parties to complicated arbitration procedures that prevent a wronged person



"The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

**–Franklin D. Roosevelt
January 20, 1937**

from seeking justice from the courts. Read the fine print on credit card agreements and other documents you might not otherwise give a second thought and you might be shocked.

Oklahoma's new and reformed Workers' Compensation system has eliminated judges and now relies on administrators who will do the bidding of their bosses, instead of following the law. The State Chamber of Commerce heavily promoted this change as a way to reduce insurance rates for business – not that it was more effective or fair for workers. And it was this argument that won the day at the State Capitol.

Non-partisan judicial elections will be this year. Every district judge and associate district judge in the state will be up for election. Races with three or more candidates will be on the June 24 primary election ballot; the general election will be November 4.

Oklahoma workers should pay special attention to these judicial elections. Vote in them. Tell your friends and coworkers to vote in them. And let your lawmakers and other elected officials know that you want to continue to vote for independent, non-partisan judges.

– Jim Frasier

● CONSUMER

Springtime Review of Affairs a Good Idea

Springtime is a good time for cleaning up your home – and for reviewing your important personal papers and affairs.

Homeowners Insurance: Most of us, if we own a home with a mortgage, are required to maintain homeowners insurance. You should review your homeowners insurance policy and determine what coverages are available to you, including the amount and what items are and are not covered.

This is also a good time to conduct a review of the contents in your home. Listing, videotaping, or photographing your property in your home and buildings is a good idea. In the event of a casualty loss such as a fire or tornado, it is hard to recall all of the items of property so you can collect your insurance.

Uninsured Motorists Coverage: In reviewing your automobile insurance needs, uninsured motorists coverage should be considered. Uninsured motorists covers the losses incurred as a result of the at-fault



driver who has no insurance or not enough insurance to cover the loss. Liability coverage protects others against you; uninsured motorists coverage protects you from other drivers.

Often, the cases we handle result in an uninsured or under-insured situation. With the current cost of medical treatment, the minimum liability limit of \$25,000 (if they even have insurance) does not go far. No one expects to be involved in an automobile accident, but everyone expects to be compensated for their loss if they are. Protect yourself.

Automobile Insurance – Medical Payments: Medical payments benefits under an automobile insurance policy allow you to recover for medical expenses incurred as a result of an accident, regardless of fault. In reviewing your insurance needs, you should make sure you have medical payments coverage.

Medical payments coverage compensates you for your medical bills without having to wait for a final settlement.



CERTIORARI

Journal of Consumer Advocacy

PRSR-STD
U.S. Postage
PAID
Tulsa, OK
Permit #2146

● SPRING 2014

Frasier, Frasier &
Hickman, LLP

1700 Southwest Blvd.
Tulsa, Oklahoma
74107

**RETURN SERVICE
REQUESTED**

● WORKER

You Can Still File Workers' Comp Claims

The Workers' Compensation laws in Oklahoma changed as of Feb. 1. Even though the new law covering workplace injuries is pathetic, any person hurt on the job after Feb. 1 should still file a claim.

For persons who were injured prior to Feb. 1, 2014 (or became aware of a wear and tear injury prior to that date), the old law still applies, notwithstanding the legislative changes. Accordingly, if you were injured before Feb. 1, 2014, or became aware of a wear and tear injury prior to that date, you can still file a claim and it will still be governed by the old law.

We know this is confusing, and we are here to help. Feel free to contact us and we will help you get what the law allows.

certiorari, (ser-she-eh-ra-re) noun [Latin, to be informed]; to be informed as a means of gaining appellate review; a common writ.

When at least four of the nine U.S. Supreme Court justices vote to hear a case, the court issues a writ of certiorari.

● EDUCATION

Scholarship Apps Now Available

The Julia Fredin Frasier Foundation is accepting scholarship applications from high school seniors preparing to continue their education. The Foundation also is accepting renewal applications for those students who have previously received scholarships.

Applications for new and renewal scholarships may be obtained by calling, writing or coming into the office of Frasier, Frasier & Hickman, LLP. The application deadline is June 1, 2014.

Julia Fredin Frasier passed away in 1996. She was married for 50 years to the firm's founding partner Tomy Dee Frasier. The Foundation was organized in recognition of her great interest in the education of young people. Annually, the Foundation gives between 30 and 40 scholarships, renewable for four years, at \$1,000 per year.