

CERTIORARI

Journal of Consumer Advocacy

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

Page 28
The Power
of Eminent Domain

Page 2
Pitfalls, Practical Advice
for Injured Workers

**Frasier, Frasier
& Hickman, LLP**
Attorneys at Law

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

Internet site:
<http://www.frasierlaw.com>

E-mail Address:
frasier@tulsa.com

Thomas Dee Frasier
1924-2001

James E. Frasier

Steven R. Hickman

John W. Flippo

Frank W Frasier

George M. Miles

Kathryn H. Black

Maureen M. Johnson

Adam R. Burnett



● CASE FILE

Unusual Traffic Injury Case Settled in Federal Court

In October 2020, a 45-year-old woman was waiting for a green light to cross U.S. 69 in Chouteau. The light changed and she headed through the intersection and slammed into a semi-trailer truck traveling the highway that failed to stop for a red light.

The car was badly damaged and the woman injured. She was flown by helicopter ambulance to a hospital in Tulsa where it was discovered she had suffered a heart attack.

Meanwhile, at the crash scene, investigators were trying to figure out who was at fault. The truck driver said the last time he observed the stoplight it was green. In fact, he said, he never saw a yellow light.

But a security camera at a nearby restaurant showed otherwise. The stoplight was yellow for 3.5 seconds before turning red. The trucking company terminated the truck driver for "distracted driving."

Although the facts of the wreck were

clear, the woman's medical condition was complicated by the effects of the heart attack, which was a result of the wreck. Fluid built up around her heart, which subjects her to another heart attack if she finds herself in a stressful situation.

The truck company and truck driver had insurance, but the insurer balked as to the cause and effects of the woman's medical condition. A lawsuit was brought and transferred by the insurer to federal court.

But Frasier, Frasier & Hickman LLP had conducted a thorough investigation of the wreck and the medical facts. When the case went to mediation before trial, a settlement was finally reached.

"Our client's life was changed forever through no fault of her own," said Jim Frasier. "Her life will never be the same because of a distracted driver. At least we were able to help her be compensated for her losses and future costs."



● WORKER

Pitfalls and Practical Advice for Anyone Injured on the Job

By Kathryn Black

Our Big Business governor and legislators do not care about you! In their efforts to take care of employers at the expense of workers, they have included numerous pitfalls in the law to help insurance carriers defeat your claim.

FRAUD

Any person who makes any material false statement or representation or who willingly and knowingly omits or conceals any material information for the purpose of: (1) obtaining any benefit or payment, (2) increasing any claim for benefit or payment, or (3) obtaining workers' compensation coverage, shall be guilty of a felony. A materially false statement or misrepresentation includes, but is not limited to, attempting to obtain treatment or compensation for body parts that were not injured in the course and scope of employment.

ADVICE: Give any treating or examining medical providers

as accurate a history of present complaints AND pre-claim complaints/conditions as possible. Do not deny past medical treatment to an injured body part if you have received past treatment.

(Notice that nothing prohibits the employer/insurer from lying or concealing information to defeat or decrease your benefits.)

MISSING APPOINTMENTS

If an employee misses two or more scheduled appointments for treatment, he or she shall no longer be eligible to receive benefits, unless the absence was: 1) Caused by extraordinary circumstances beyond the employee's control as determined by the Commission; or 2) The employee gave the employer at least two (2) hours' prior notice of the absence and had a valid excuse. Inability to get transportation to or from the appointment is not considered extraordinary circumstances nor a valid excuse for the absence.

ADVICE: Do not miss an appoint-

ment for treatment without a very good reason, which cannot include inability to get transportation.

(Notice there are no consequences for an employer/insurer that refuses to or delays authorizing necessary medical treatment for an injured worker.)

TIME FOR FILING

A claim for compensation must be filed with the Workers' Compensation Commission within one (1) year from the date of the injury or, if the employee has received benefits, including medical treatment, six (6) months from the date benefits were provided.

ADVICE: It is not two years anymore. If you know of a family member, friend, or co-worker who has been injured and received treatment or other benefits, you should warn that person that a claim must be filed with the Commission within one year of the injury or within six months after benefits were provided.

● CONSUMER

The Power of Eminent Domain

The government has the power to take anybody's property. But, in doing so, it is required to pay "just compensation" for what is taken. This is called the power of "eminent domain" or "condemnation".

For example, when the city or state is widening a street, it may take all or part of the land adjacent to the street. This occurred with the widening of the Turner Turnpike, of I-44 through Tulsa, and the extension of the Osage Expressway. It may well also occur as the Turner Turnpike is further widened.

Some companies in the private sector also have this power, including railroads, utilities (electric, water and so forth), or pipeline companies. Although they have the right to take a person's property, they also must pay just compensation.

Takings could be of an entire property, a portion of a property, or an easement (or right-of-way) across a property. Each of these gives rise to an obligation to pay just compensation.

Frasier, Frasier & Hickman, LLP, has recently resolved a couple of cases where there were takings of property and the government made low-ball offers, claiming as "just compensation" an amount that was wholly inadequate. As a result of standing up for their rights, the landowners have received what they were entitled to.

If you or someone you know has land or property rights being taken through condemnation, feel free to call Frasier, Frasier & Hickman, LLP, for a consultation.



“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

The American Association for Justice, the association for lawyers representing injured people, is celebrating its 75th anniversary this year. And the Frasier law firm has been an active, supporting member for almost the entire time.

The organization was formed by plaintiffs' attorneys in 1946. After several name changes it emerged in 1971 as the American Trial Lawyers Association. In 2006, the name was changed to the current American Association for Justice.

AAJ promotes justice and fairness for injured persons, safeguards victims' rights - particularly the right to trial by jury, and strengthens the



AMERICAN
ASSOCIATION *for*
JUSTICE

civil justice system through education and disclosure of information critical to public health and safety.

When the firm's founder, Tomy Dee Frasier, entered the legal profession in the early 1950s, he became a member and represented Oklahoma's trial lawyers on the national association's board.

Later, Jim Frasier took Tomy's place in the leadership of the na-

tional association. And, for the past decade Frank Frasier has served on the AAJ Board of Governors on behalf of the membership of the Oklahoma association.

The values of Frasier, Frasier & Hickman, LLP are those of the AAJ - to protect the rights of victims and injured persons, particularly their right to jury trial. The efforts of AAJ and its members have made the world a safer place in which to live, work and play.

We salute AAJ's advocacy and continuing support for trial lawyers and the teams that support them.

–Frank Frasier

● CASE FILE

Collision Victim Compensated Despite Previous Injuries

A man and his wife were driving along Highway 67, between Bixby and Glenpool, in their SUV, in November 2019. He was at the wheel and she was in the passenger seat, wearing her seat belt.

Suddenly, a pickup truck pulled out from a side road, intending to turn onto the highway, and slammed into the side of the SUV. The SUV was thrown violently into the center median.

Fortunately, both drivers were able to walk away from the collision. But the woman, who had been riding in the passenger seat, suffered injuries that required her to be transported by ambulance to the hospital. The collision had caused enough force to her back that she incurred joint damage - and aggravated previous serious back injuries incurred in another auto collision

seven years earlier.

The woman injured in the SUV sustained substantial medical expenses, along with loss of work. To avoid more surgery, she incurred intensive treatments through injections, massage and therapy.

As the expenses added up, the couple contacted Frasier, Frasier & Hickman, LLP for help in covering their losses and a lawsuit was filed. Recently, the case was settled in pre-trial mediation.

“The collision was not in question, but the insurance company wanted to use the woman's previous injuries as a reason to minimize her just compensation for losses and costs due to this incident,” said Jim Frasier. “However, we were able to show that complications from previous injuries were caused by the most recent collision.”



CERTIORARI

Journal of Consumer Advocacy

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

● WINTER 2021

Frasier, Frasier & Hickman, LLP

1700 Southwest Blvd.
Tulsa, Oklahoma
74107

RETURN SERVICE REQUESTED

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.

