

THOUGHT LEADERSHIP

News

TEXARKANA COURT OF APPEALS UPHOLDS TRIAL COURT JUDGMENT THAT VIAGRA PRESCRIPTION NOT LINKED TO WORKPLACE INJURIES

Newsbrief

05 DEC 2012

In a worker's compensation appeal, the claimant, acting pro se, appealed from a no-evidence summary judgment finding that his Viagra prescription was not linked to his compensable injury. The Texarkana Court of Appeals affirmed the trial court's ruling recently in *Castleberry v. New Hampshire Insurance Co.*, No. 06-12-00059-CV, 2012 WL 5507460 (Tex. App.—Texarkana Nov. 14, 2010) (mem. op.), agreeing that the claimant presented "admissible medical evidence establishing causation between the compensable injury and the disputed erectile dysfunction condition."

The injury in question occurred in January 2009 when the claimant fell from a 10-foot ladder, landing on his back and hips. The insurer covered treatment for pain, and also for prescriptions for antidepressants and Viagra. Eventually, the insurer contested the applicability of the antidepressants and Viagra to treatment of the injury sustained. An appeals panel of the Division of Workers' Compensation sided with the insurer, and the claimant sought judicial review.

The court of appeals reviewed all the evidence provided by the claimant and noted physician reports that included a statement that "I certainly have my suspicions about him, but without direct observation I will probably have to give him the benefit of the doubt ... he is on shaky ground, but without clear evidence otherwise without being able to see him with direct observation, I am going to re-prescribe his medications and give him no second chance or any leeway." The court concluded that the claimant's evidence was insufficient, and failed to show a link of the prescription of Viagra to treatment for the on-the-job injury that the claimant sustained. The court therefore affirmed the summary judgment.