



JUGE NAPOLITANO

GUILBEAU RULI FRIEMAN APLC

Freeman Harris v. Maritime Services

Harris (claimant) broke his leg in an accident on March 18, 2008, while employed temporarily through a work release program. Two fractures in his left leg were treated by his chosen orthopedist who released him to full duty work on July 10, 2008.

The claimant also began complaining of back pain, but the treating orthopedist was equivocal as to whether his claim of a back injury was related to the accident and whether his back complaints and request for medical treatment, which were nowhere mentioned in the contemporaneous medical reports by the treating orthopedist and not reported until after he had retained an attorney following discharge from the original treating orthopedist.

Additionally, several months after the accident and following medical discharge and release from the work release program, the claimant went to work at a local restaurant. At a formal hearing, the claimant contended that he could not perform the work and that is why the job ended. The employer records, submitted by the defense, revealed that the claimant was actually terminated for causes having nothing to do with his injury and more to do with his insubordination and public cursing at his supervisor.

Following a formal hearing, the ALJ agreed with the defense that claimant was not entitled to any additional weekly benefits of any type. The ALJ did find that claimant's back complaints were accident related.

The original treating orthopedist testified in her deposition that although she did not make a record of the complaints at the time, she did recall (from a year previously) that claimant had complained of back pain but she did not necessarily attribute them to his injury but rather his overall deconditioning caused by lack of activity in supporting her recommendation for physical therapy/work hardening.