

SPRING 2010

CERTIORARI

Journal of Consumer Advocacy



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

Frasier, Frasier &
Hickman, LLP

1700 Southwest Blvd.
Tulsa, Oklahoma
74107

**RETURN SERVICE
REQUESTED**

CONSUMER

Social Security, Workers' Comp claims different

By Frank Frasier

Quite often our office is asked whether or not we handle Social Security cases. The unequivocal answer is that we do and we have for some time! In fact, we have a member of our staff dedicated to these cases on a full-time basis.

With claims for Social Security disability there are several pitfalls that must be avoided. First, there is natural interaction between an application for Social Security disability and Workers' Compensation benefits. Please understand that Social Security disability and Workers' Compensation disability or total disability are two completely different things! The standards are completely different and there are different laws that apply. With that in mind, an applicant needs to be careful so that benefits are maximized under both Workers' Compensation and Social Security. The only sure way to maximize a return on both Workers' Compensation and Social

Security is to have the same law firm help you with both.

The other pitfall is knowing when you need a lawyer. Quite often, people contact us with clear-cut cases for Social Security disability asking us to help. The truth is that you do not need a lawyer to apply for Social Security disability benefits and only need one when you have been denied twice. The first stage is the denial; the second is a denial upon the reconsideration. After an applicant is denied on reconsideration, then they may seek a hearing before an administrative law judge of the Social Security Administration.

It is then, and only then, that you really need to have an attorney help you with the application because of the advocacy that is required before the ALJ.

As with any right or need always feel free to contact this office and we will be more than happy to assess your situation and help you when required.

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.

**Jury finds
for landowner
Page 2**

**Medical license
status on-line
Page 2**



SPRING 2010

CERTIORARI

Journal of Consumer Advocacy

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

CASE FILE

Firefighter Vindicated in Whistleblower Case

When a former chief of the Berryhill Fire Department planned a burning exercise on his own property, firefighter Steven King became suspicious about the project and concerned about the danger to surrounding properties.

It was April 2001, and King complained that former Chief Jim Downing was trying to use department resources for personal gain and

Oil, Ashland Oil, and the Williams Pipeline tank batteries. No water hydrants were available except across a busy arterial street, which would require the street to be closed down for the exercise.

King was offended that public service would be used for private benefit and he reported the proposed burn to the Tulsa Fire Department.

The jury verdict was vindication after a long, eight-year legal odyssey for King.

reported an illegal burning exercise to the Tulsa Fire Department. For his trouble, the firefighter was fired from his job.

Recently, King won a wrongful termination lawsuit in Tulsa County District Court and was awarded \$150,000 by the jury. The court still has under consideration the issue of whether King is to be reinstated or whether damages for future lost wages should be awarded.

But the jury verdict was vindication after a long, eight-year legal odyssey for King. After being fired, King sought assistance from Frasier, Frasier & Hickman, LLP. The firm conducted an investigation that found that King had blown the whistle on a potentially disastrous training exercise.

In early 2001, Downing decided to conduct a fire training exercise on property he owned in West Tulsa. The site was surrounded by Sun

Representatives of the Tulsa department showed up at the site of the Berryhill training exercise and prevented it.

King's case lingered in the legal system for years before finally coming to trial earlier this year. At trial, evidence indicated that Downing was mad at having the exercise stopped and the Berryhill Fire Department began to create a paper trail so as to justify King's termination.

"The department gathered complaints against King from a number of independent sources and it appeared that the sources were actually collaborating together and with help from Downing," said attorney Steve Hickman.

"It would have been easy for Mr. King to have lost hope and given up. But his persistence in pressing his case paid off, in the long run," Hickman said.



Hickman

**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

Laurie J. Phillips

Daniel M. Phillips

Jury Finds for Landowner in Condemnation Case

When Tulsa Community College wanted to expand its Northeast Campus to build a fire training center, it threatened to take 10 acres of land owned by Deborah Hampton next to the school. And when Hampton would not accept the school's offer to buy her property, TCC began condemnation proceedings.

Hampton believed the school's offer was too low and, later, would not agree to a commissioners' award of \$150,000 by a panel of appraisers. Sticking to her guns, Hampton decided to fight the system and turned to Frasier, Frasier

& Hickman, LLP, for assistance. The firm investigated Hampton's case and defended her position in a March trial in Tulsa County District Court.

After several days of testimony, a jury found that the college and appraiser panel had undervalued Hampton's property. The jurors returned a verdict awarding her more than \$516,000 – more than three times the original commissioners' award.

Because the jury verdict exceeded the commissioners' award by more than 10 percent, Hampton



Frasier

also was awarded pre-judgment interest and TCC has to pay her attorney and witness fees.

"It would have been easy for Ms. Hampton to take the school's offer and walk away," said Jim Frasier. "But she knew the value of her

property and wasn't going to accept an offer significantly less than what the land was worth. Ultimately, she was rewarded for her patience and persistence."

"This case demonstrates the power and importance of the right to trial by jury," Frasier said.

CONSUMER

Medical License Status Available On-line

The Oklahoma Board of Medical Licensure and Supervision which has jurisdiction over medical doctors (MD) and a number of other allied health professionals operating in Oklahoma provides useful resources and information for patients and consumers.

The Board maintains a website on which the public may search a database listing all doctors and other profession-

arians and other health professionals under its jurisdiction. They include Medical Doctors (MD), Physician's Assistants (PA), Physical Therapists (PT), Physical Therapy Assistants (TA), Occupational Therapists (OT), Occupational Therapy Assistants (OA), Anesthesiologist Assistants (AA), Athletic Trainers (AT), Registered Electrologists (RE), Respiratory Care Practitioners (RC),

The Oklahoma Board of Medical Licensure and Supervision can be accessed by clicking www.okmedicalboard.org

als it governs. The searchable database provides information about an individual practitioner's license status, degrees and specialties, and disciplinary action, if any.

The website also contains several resources that may be useful to consumers, including laws and regulations that govern Oklahoma physicians and other medical professionals.

The Board also investigates complaints against physi-

Licensed Dietitians (LD), Pedorthists (LPED), Orthotists/Prosthetists (LO/LPR), and Radiologist Assistants (RA), Podiatrists (DPM) and Perfusionists (LP).

The complaint forms are available on the website. Also, there are links to state agencies with jurisdiction over other health professionals not governed by the Oklahoma Board of Medical Licensure and Supervision.

To access the website, click www.okmedicalboard.org.



“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**

Last fall we told you how one person can make a difference. Tom Hardgrave, a realtor in the Sand Springs area, stood up to the bullying tactics of state Rep. Rex Duncan. Hardgrave was first persecuted and later vindicated by the Oklahoma Ethics Commission.

You might remember that Duncan, a Republican who represents House District 35, led his former neighborhood in a fight against a landfill expansion – and then quit the fight after the landfill bought his house. There was ample evidence that Duncan sold his house at an inflated price, after threatening to use his legislative power against the eventual buyer. The Ethics Commission got wind of the deal and investigated, but later dropped the case without comment.

Meanwhile, Duncan filed a complaint against Hardgrave after the realtor confirmed to newspaper reporters that he had been questioned by the Ethics Commission about the matter. Duncan claimed his constituent had breached an arcane commission rule barring anyone from discussing an Ethics Commission investigation. Hardgrave, with the assistance of this office, sued and the Ethics Commission later withdrew the onerous rule.

Although Duncan’s case was dismissed, the deal has continued to emit a curious odor; but not enough to slow down the ambitious politician.

Not satisfied with just making the laws of Oklahoma, Duncan now wants to enforce those laws and has announced he is running for district attorney in Osage County. This would be laughable, if it was not so deadly serious. A proven vote-getter, Duncan has enjoyed the backing

of the state Republican Party and is a genuine contender to be the top lawman in Oklahoma’s largest county.

Voters in Osage County will get to make a choice in the upcoming elections. Do they want law enforcement controlled by someone who uses his office for personal profit?

Tom Hardgrave had to stand up to abusive authority. Now Osage County voters can prevent it.

—Jim Frasier

EDUCATION

Scholarship Applications 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.

married for 50 years to the firm’s founding partner, Tomy Frasier. The Foundation was organized in recognition of her great interest in the education of young people.

During her life, Julia Frasier financially helped many students and encouraged many more to continue their

The application deadline is June 1, 2010.

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, 2010.

education. She set an example that the Foundation aspires to continue.

Annually, the Foundation gives between 30 and 40 scholarships, renewable for four years, at \$1,000 per year.

Julia Fredin Frasier passed away in 1996. She was