

**Case:** *Dan Reeder vs. Municipality of Anchorage, Alaska Workers' Comp. Appeals Comm'n Dec. No. 116 (September 28, 2009)*

**Facts:** Dan Reeder (Reeder) received injury leave payments under his union contract during the same timeframes that he was also receiving workers' compensation disability payments for work-related injuries. Reeder eventually settled his workers' compensation claims with his employer, the police department, in a board-approved agreement in August 2007. In December 2004, the Municipality and union reached a Memorandum of Agreement regarding the calculations of the injury leave amounts. In January 2008, the police department audited Reeder's pay and determined that under the Memorandum of Agreement it had overpaid Reeder injury leave. The department began taking money out of his paychecks to recover the overpayment. Reeder argued the settlement agreement barred any claim the Municipality had to recover the overpayment and petitioned the board to enforce the agreement. The board concluded that it lacked jurisdiction because the employee's claim was one for benefits related to his employment contract, rather than for workers' compensation.

**Applicable law:** Subject matter jurisdiction is "the legal authority of a court to hear and decide a particular kind of case." *Alaska Public Interest Research Group v. State*, 167 P.3d 27, 47 (Alaska 2007).

AS 23.30.012, provided at the time of the parties' agreement:

**Agreements in regard to claims.** (a) At any time after death, or after 30 days subsequent to the date of injury, the employer and the employee or the beneficiary or beneficiaries, as the case may be, have the right to reach an agreement in regard to a claim for injury or death under this chapter, but a memorandum of the agreement in a form prescribed by the director shall be filed with the division. Otherwise, the agreement is void for any purpose. Except as provided in (b) of this section, an agreement filed with the division discharges the liability of the employer for the compensation, notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245, and is enforceable as a compensation order.

(b) The agreement shall be reviewed by a panel of the board if the claimant or beneficiary is not represented by an attorney licensed to practice in the state, the beneficiary is a minor or incompetent, or the claimant is waiving future medical benefits. If approved by the board, the agreement is enforceable the same as an order or award of the board and discharges the liability of the employer for the compensation notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245. The agreement shall be approved by the board only when the terms conform to the provisions of this chapter, and, if it involves or is likely to involve permanent disability, the board may require an impartial medical examination and a hearing in order to determine whether or not to approve the agreement. A lump-sum settlement may be approved

when it appears to be to the best interest of the employee or beneficiary or beneficiaries.

8 AAC 45.160(c)(7) requires settlement agreements to include a written statement from all parties that

(A) the agreed settlement contains the entire agreement among the parties;

(B) [t]he parties have not made an undisclosed agreement that modifies the agreed settlement;

(C) the agreed settlement is not contingent on any undisclosed agreement; and

(D) an undisclosed agreement is not contingent on the agreed settlement;

....

A settlement agreement is a contract interpreted like any other contract. *Williams v. Abood*, 53 P.3d 134, 139 (Alaska 2002).

"The primary goal of contract interpretation is to give effect to the parties' reasonable expectations." *Aviation Assocs. v. TEMSCO Helicopters, Inc.*, 881 P.2d 1127, 1130 n.4 (Alaska 1994).

*Martech Constr. Co. v. Ogden Env'tl. Servs. Inc.*, 852 P.2d 1146 (Alaska 1993) interpreted the scope of a general release broadly because the broad language was "repeatedly used throughout the release," so that all claims arising out of the disputed transaction, not explicitly reserved, were included in the settlement.

*Cameron v. Beard*, 864 P.2d 538, 546 n.11 (Alaska 1993) noted that "the party relying on the release must show that the release 'was given with an understanding of the nature of the instrument.'" Then the burden "shifts to the releasor to show by clear and convincing evidence that the release should be set aside." In *Cameron*, the court did not interpret a release, worded similar to the one at issue in *Reeder*, as applying to the employee's claims against the employer for constructive discharge.

**Issues:** Does the workers' compensation settlement agreement bar the employer from seeking repayment of an employee's injury leave benefits? Does the board have jurisdiction?

**Holding/analysis:** The commission concluded that the settlement agreement concerned only claims that could arise under the Alaska Workers' Compensation Act; *Reeder* failed to demonstrate that the Municipality waived a claim for repayment of injury leave in the settlement agreement. The language of the agreement repeatedly referred to the Alaska Workers' Compensation Act:

The settlement agreement states the "intent of this agreement is to compromise all past non-medical benefits and claims for reimbursement *which might be due employee pursuant to the terms of the Alaska Workers' Compensation Act.*" The settlement provides that the "disputes

between the parties with respect to any claim for past non-medical benefits *which might otherwise be due under the Alaska Workers' Compensation Act*" are resolved by the agreement and the employer's payment of \$41,750. The agreement states the employee accepts the money in full settlement of "all past compensation and non-medical benefits . . . to which employee might be *presently due pursuant to the terms and provisions of the Alaska Workers' Compensation Act.*" Injury leave was not a benefit to which appellant was due under the Alaska Workers' Compensation Act; appellee had no claim for reimbursement of injury leave overpayments under the terms and provisions of the Alaska Workers' Compensation Act. The only sentence that describes "claims of any nature whatsoever" without specific limitation to workers' compensation claims is the phrase appellant relies upon, but even that sentence begins with a reference to "their disputed claims referred to above." Dec. No. 116 at 14.

In addition, Reeder did not demonstrate that the Municipality understood that it was releasing a claim for overpayment of injury leave against him when the agreement was signed. Reeder admitted he knew nothing about the injury leave overpayment claim when he signed the agreement. In addition, while Reeder demonstrated that some employees of the Municipality knew about a potential claim for reimbursement against him before the agreement was negotiated, he failed to demonstrate that the parties who negotiated the release were aware of the potential claim, or that any employee knew that Reeder specifically had been overpaid under the new method of injury leave calculation. "Because appellant had no knowledge of a potential claim at the time the release was signed, and the injury leave calculation method was not a disputed issue, he cannot have had a 'reasonable expectation' that the Municipality was giving up that potential claim against him based on a disputed issue when the release was given." *Id.* at 16.

However, the commission held that the board had jurisdiction to direct the Municipality to provide an accounting of the compensation payments made to him, so that he may determine if the withheld amount is correct. "Appellant asked the board to 'declare what control you have over [the dispute].'" While the board correctly determined it lacked legal authority to order the Municipality to cease the withholding of overpayments that appellant sought, the board erred to the extent the board failed to declare that it had authority to require appellee to provide a record of workers' compensation payments to appellant, so that he could pursue his remedies in other forums. However, because there is no record that appellant ever requested the board to order such discovery from the employer, the error is harmless." *Id.* at 19-20.

**Note:** An appeal of this case to the Alaska Supreme Court was dismissed.