



James R. Waldhauser	Whitney L. Teel	Emily L. Johnson
Thomas P. Kieselbach	Natalie K. Lund	Parker T. Olson <sup>¶</sup>
Mark A. Kleinschmidt	Thomas F. Coleman	Scott G. Ferriss
Richard W. Schmidt	Craig A. Larsen*	Bryan M. Wachter
Lisa F. Kinney*†	Michael R. Johnson	Megan M. Oliver
Jennifer M. Fitzgerald	Elizabeth R. Cox‡	Ronnie Santana

Attorneys at Law – Minnesota, \*Wisconsin, †Michigan, ‡California  
‡Certified Medicare Secondary Payer Professional

## **Issue: INTEREST, PENALTIES, COSTS & DISBURSEMENTS**

*Oseland v. Crow Wing Cnty.*, No. A18-1550 (Supreme Court – May 29, 2019)

**Issue:** The primary issue was determining the date that interest begins to accrue for an underpayment of permanent total disability benefits (“PTD”).

**Holding:** Interest accrued on the date that each underpayment is made at a variable interest rate in effect at that time.

**Facts:** In this case, the employee sustained an admitted injury, and the employer/insurer began paying benefits. The employee was eventually found to be permanently and totally disabled, and began receiving PTD benefits. Then, Employee began receiving retirement benefits from Public Employee’s Retirement Association, and the employer/insurer began deducting the amount of said benefits from PTD. This action was supported by case law precedent at that time. This benefit rate (PTD rate less retirement benefit) continued until employee passed away in 2013.

In 2014, the Supreme Court decided *Ekdahl v. Independent School District #213*, 851 N.W. 2d 874 (Minn. 2014), and *Hartwig v. Traverse Care Center*, 852 N.W. 2d 251 (Minn. 2014). Both cases held that the Workers’ Compensation Act does not allow insurers to reduce the amount of PTD benefits paid by the amount of public employee retirement benefits employees receive.

Thereafter, employee’s heirs filed a Claim Petition seeking underpaid benefits and interest. The employer and insurer denied that any interest was owed due to the change in precedent. At Hearing, the compensation judge found that the heirs were entitled to interest at a variable rate starting from the date of the initial underpayment of PTD benefits. On appeal, the WCCA overturned this and found that no interest was owed because there was no accrual of interest until the obligation to pay is both “fixed and ascertainable.” The case was appealed to the Minnesota Supreme Court.

**Minnesota Supreme Court Analysis:** The question of whether interest accrued on the underpaid benefits hinges on when those benefits were “due” under Minn. Stat. § 176.221, subd. 7. This Court agreed with the compensation judge that the benefits deducted were “due” when each reduced benefit payment was made. The employer and insurer argued that the underpaid benefits did not become “due” until *Ekdahl* and *Hartwig* were decided. The Court held that employee’s offset benefits were due under Minn. Stat. § 176.221, subd. 7, **on the date of each underpayment, and therefore, bear interest from those dates.** In determining the rate of interest accrued, the court found that the right to a particular interest rate does not vest until there has been an underpayment, thus, the applicable interest rate should be the rate in effect on the date of the underpayment. The Court denied penalties and costs.