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Turning Denial Into Victory for a Sheriff's Deputy



“The course and scope of your employment”—seven words that can carry quite a punch...particularly when they are used in the context of denying a Workers' Compensation claim. Such was the case for a Ventura County Sheriff's Deputy who was injured while *voluntarily* participating in work-related training that she was told was vital for reaching her goal of becoming a K-9 handler.

However, Adam Dombchik, a partner in the law firm of Gordon, Edelstein, Krepack, Grant, Felton & Goldstein, LLP (GEK), turned that denial into a victory by presenting effectively the substantive facts of the case over the course of a two-day trial.

Hearing about a position opening in the K-9 unit, GEK's client set out to best prepare herself for the job. This included not only learning about pertinent policies and case law, but also—at the advice of multiple past and present K-9 officers—participating in handlers' training. Her supervisors did not tell her that she shouldn't participate.

The training involved wearing protective gear so she could take bites from the training dog. She also received verbal and visual dog-training instruction. On the day of her injury she was acting out a scenario in which a dog attacks a criminal. She was playing the part of the criminal. The result: torn ligaments in her right knee that required surgery and the need to be off work for months during the recovery, without the benefit of Labor Code 4850 full-salary payments.

The initial denial of her claim stated that “you were off duty at the time of the incident and not in the course and scope of your employment.”

The case proceeded to trial. “Because the training was partially paid for by the County of Ventura, we were able to prove that our client was injured in an employer-sponsored event,” explains Dombchik. “In addition, since two supervisors of the K-9 unit were present at the training and neither told her she couldn't participate, we proved implied consent.”

Furthermore, facts were presented at trial to prove the benefit to the employer as a result of a candidate's participation in this training.

After Dombchik presented his case, the judge opined that, “There can be no doubt that the voluntary participation in a canine training session by an employee of the County of Ventura Sheriff's Department... constitutes a service growing out of and incidental to the applicant's employment...” In addition, in referencing Labor Code Section 3600, that deals with “course of employment,” the judge ruled that because the applicant was “actually playing the part of a criminal being attacked by a canine...the injury, which arose out of employment also occurred in the course of employment since it was proximately caused by the employment activity.”

It took an experienced, knowledgeable attorney to prove that the deputy sheriff was entitled to Workers' Compensation benefits in this instance. Each case is different, and often times the outcome will turn on the facts of the case. This case is another example of why it is imperative for injured workers to have skilled legal counsel on their side to analyze the facts and prepare the case in a manner to ensure they receive the full range of benefits to which they are entitled.

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Pursuant to Labor Code Section 5432(a), making a false or fraudulent workers' compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.