
PETERSON, LOGREN & KILBURY, P.A.

Attorneys At Law
300 Winsor Office Plaza
1935 County Road B2 West
Roseville, Minnesota 55113

Larry J. Peterson*
Arlen R. Logren
T. Michael Kilbury*
Brent C. Kleffman*†
Beth A. Butler
Bretta I. Hines

(651) 647-0506 • (800) 228-3288
Fax (651) 647-0532
www.plklawfirm.com

Paralegals
Stefanie L. Blommer
Laura R. Wassman
Becca J. McInnis
Joelle A. Beyer

*Also Licensed in Wisconsin

† Also Licensed in Iowa

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RE: Self-funded/Self-insured Disability Plans and Workers' Compensation

Dear Clients:

We are writing to inform you about a recent Minnesota Supreme Court decision regarding self-funded/self-insured disability plans and workers' compensation. The case is *Bruton v. Smithfield Foods, Inc.*, 923 N.W.2d 661 (Minn. 2019).

In this case, the employer maintained a self-funded short term disability plan. An employee was injured and primary liability was initially denied. The employee received benefits under the short term disability plan. Later, primary liability was admitted and workers' compensation benefits were paid. The employer asked for an offset in wage loss benefits due for workers' compensation to account for the short term disability benefits already paid. The court found nothing under the workers' compensation statutes or within the short term disability plan itself that allowed for an offset in this situation. As a result, the employee was able to receive benefits under both plans, thereby obtaining double recovery. It was noted in a concurrent decision that had the employer's short term disability plan contained a claw back provision allowing for the repayment of short term disability benefits in the event the employee also receives workers' compensation benefits, they would have been able to seek reimbursement for the short term disability benefits paid.

The takeaway from this case is that an employer with a self-funded/self-insured short term and/or long term disability plan should have a provision within those plans allowing the employer to recover benefits paid under the disability plan if the employee is also eligible for workers' compensation benefits.

If you have any questions about the case and its potential impact on your self-funded/self-insured benefits plans, Peterson, Logren & Kilbury, P.A. is more than happy to address those questions.

Sincerely,

PETERSON, LOGREN & KILBURY, P.A.