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Workers' Compensation – Ankle Sprain – Reflex Sympathetic Dystrophy Syndrome – \$175,000 Settlement

Brief Statement of Claim: The plaintiff, a 31-year-old delivery driver, sprained his ankle while unloading a truck. He subsequently developed reflex sympathetic dystrophy syndrome.

Principal Injuries (in order of severity): Grade I-II ankle sprain; RSD

Special Damages: Compensation rate of \$174 per week

Tried or settled: Settled

County where tried or settled: Wake

Case Name and number: *Springer v. CHRM, Inc.*

Date Concluded: March 20, 1998

Name of Judge: n/a

Amount: \$175,000

Insurance Carrier: Riscorp

Expert Witnesses and areas of expertise: Dr. Kern Carlton, physiatrist, Charlotte

Attorneys for plaintiffs: John M. McCabe, White Law Offices, P.A., Raleigh

Other Useful Info: Carrier admitted compensability, but refused to pay any indemnity benefits because, shortly after the accident, the employer offered the plaintiff a job within his work restrictions. However, because of his injured foot, the plaintiff could not drive and thus was unable to get to work. Plaintiff advised the carrier that he would accept the job if transportation could be provided, but the carrier refused this request.

Plaintiff's counsel subsequently requested a hearing. While waiting for the hearing, a dispute arose as to whether the carrier was entitled to direct plaintiff's medical treatment since it was not paying indemnity benefits. Just prior to hearing, the carrier agreed to pay all past and future indemnity payments in exchange for plaintiff's agreeing to allow the carrier to direct medical treatment.

Dr. Carlton ultimately provided a 95 percent permanent partial disability rating, which entitled plaintiff to only \$23,800 under G.S. Sect. 97-31. The case ultimately settled for \$175,000.



By
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Most Important Opinions

1. **Criminal Practice – Abusive Boyfriend Convicted of Murder One**
: The 4th Circuit affirms defendant's first-degree murder in the fatal shooting of his ex-girlfriend after a day of fishing and a fish fry on the reservation of the Eastern Band of Cherokee Indians; the trial court properly admitted evidence of defendant's prior violent acts and death threats against the victim, and



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defendant "invited error" by refusing to allow a jury instruction on a lesser-included offense.

2. Administrative – Black Lung – Evidence – Disability – Rebuttal

Mingo Logan Coal Co. v. Owens An administrative law judge did not improperly limit a coal mining company's ability to rebut a presumption of black lung benefits for a claimant who had spent at least 15 years in an underground mine and had become totally disabled from breathing difficulties, and the 4th Circuit affirms the award of benefits.

3. Administrative – 'Market Rate' Debate in Black Lung Fee Award

Eastern Associated Coal Corp. v. Director, OWCP In this black lung benefits case, claimant's lawyers had sufficient market-based evidence to support their hourly rates of \$175 to \$300 and their quarter-hour billing did not lead to billing excessive hours, but the 4th Circuit said the record did not support some fees for legal assistants; the court affirms the award of over \$32,000.

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