

Qld Workers' Compensation request for medical examinations still going ahead despite Covid-19. Where travel restrictions apply the court can order examinations to be held by video conference.

Source: *Tyndall v Kestrel Coal Pty Ltd* [2020] QSC 56

Date: 1 April 2020

Abstract:

Where the defendant made an application to have the plaintiff undergo a further medical examination pursuant to s 282 of the *Workers' Compensation and Rehabilitation Act 2003* (Qld).

Held:

The Plaintiff Tyndall, lodged a claim and statement of claim alleging he suffered vibration-induced white finger syndrome as a result of operating equipment over a period of years at one of the Defendants mines. The Defendant, Kestrel Coal Pty Ltd requested that the Plaintiff undergo examination by a vascular surgeon and a rheumatologist.

Justice Crow of the Rockhampton court ordered that the plaintiff attends an appointment with a rheumatologist for the purposes of a medico-legal report. In circumstances where the plaintiff is personally unable to attend the examination due to COVID-19 travel restrictions, the assessment is to be undertaken by video conference and the plaintiff is to submit to any pathology requested by the rheumatologist. The same order was made in relation to obtaining a report from a vascular surgeon.

This is one of the first decisions where a variation has been made to how medico-legal reports are obtained as a result of the COVID-19 measures. It is still uncertain as to what the precedent will be (if any) in relation to medico-legal assessments but this decision demonstrates that it is likely going to be judged on a case by case basis depending on the condition that needs to be assessed and whether physical examination is critical or not.