



## *Ekdahl & Hartwig* Decisions

September 27, 2017

### The Cases

- *Ekdahl v. Independent School District #213, et al.*, N.W.2d 874 and *Hartwig v. Traverse Care Center, et al.*, 852 N.W.2d 251
- Minnesota Supreme Court
- August 13, 2014

## The Decisions & Implications

- The reduction against Employees' Permanent Total Disability (PTD) Benefits under M.S. 176.101 subd. 4 for "old age and survivor insurance benefits" refers only to their social security benefits
- PTD benefits cannot be reduced by retirement pension benefits under PERA and TRA

## The Confusion

- Prior WCCA decisions were contrary, dating back decades
- Employers offset/reduced PERA, TRA, MSRS retirement benefits from PTD Benefits for decades and DLI Special Compensation Fund agreed to this
- The *Ekdahl & Hartwig* cases considered to apply retroactively by DLI Special Compensation Fund – September 29, 2015

## What was at stake?

- Supplementary Benefits were paid on PTD cases after the offset of PERA, TRA and MSRS retirement benefits (dates of injuries prior to 10/1/1995)
- Based on *Ekdahl & Hartwig*, the offsets should not have taken place resulting in a higher PTD payment by employer
- Supplementary Benefits are/were the financial responsibility of the DLI Special Compensation Fund
- Decades of supplementary benefits had been paid totaling millions of dollars

## The Compromise

- M.S. 176.1292, passed into law May 31, 2017
- Forbearance of amounts owed by employers to DLI Special Compensation Fund through date of decisions
  - *State of MN = \$4.4 million*
- Employers recalculate PTD payments back to start date and pay employees any additional benefits due
  - *State of MN = \$675K*
- Reduction of Employees' PTD by government retirement benefits (other than social security retirement) not allowed
  - *State of MN = \$3.8 million (total, over 15-20 years)*
- No reduction of MSRS retirement benefit going forward on new PTD cases
  - *State of MN = Unknown*

## How Far Back Does This Apply?

- All claims except if the employee died before January 1, 2008 or if the employee's last PTD benefit was paid before January 1, 2000
- Where court allowed the retirement offset or where a court-approved stipulation for settlement explicitly allowed the retirement offset or completely closed out all benefits

## Timelines, timelines ...

- Legislation became law May 31, 2017
- Within 150 days, recalculated PTD amount must be paid
- Within 210 days, past underpayment of PTD benefits must be paid
- Within 270 days, employees' dependents or legal heirs must be paid any past underpayments

## Forms, forms ...

- DLI has set procedures and forms that employers must follow
  - <http://www.doli.state.mn.us/WC/EkdahlLaw.asp>
- Affected employees and agencies will be notified of additional PTD benefit payments by form at time of payment
- Adjusted PTD benefit payments will be invoiced to agencies

## Agencies Affected

- DHS
- DNR
- DOC
- DOT
- Trial Courts
- Economic Security
- Education
- Minnesota State
- MN.IT
- State Auditor
- Veterans Homes
- WCCA

## Moving Forward

- If employees are agreed or found to be PTD, there is no reduction allowed against their benefits for their MSRS retirement pension benefit
- Reduction continues to be allowed for MSRS disability pension benefit
- When disability pension benefit converts to retirement pension benefit, the reduction ends

## Questions/Contact

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