

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF HUMAN RIGHTS**

Ryan Anderson,

Complainant

**ORDER
ON MOTIONS IN LIMINE**

vs.

U.S. Steel, Minnesota Ore Operations,

Respondent.

On October 18, 1999, the Respondent, U.S. Steel, Minnesota Ore Operations, filed three motions in limine, seeking to preclude the Complainant, Ryan Anderson, from producing certain kinds of evidence at the hearing. The first motion in limine seeks to prohibit Mr. Anderson from introducing into evidence any expert opinions of Alan J. Sill, M.D. relating to the issue of whether U.S. Steel had a discriminatory motive or intent. The second seeks to prohibit introduction of any opinions by Dr. Sill relating to the issue of Mr. Anderson's impairments. And the third seeks to preclude Mr. Anderson from introducing into evidence any reference to protected conduct on his part or alleged adverse action taken against him. On November 9, 1999, the parties addressed the first two motions in limine by tendering as evidence a stipulation about what Dr. Sill's testimony would be if he were to appear as a witness at the hearing.^[1] The parties agreed that the ALJ could give any appropriate weight to that stipulated testimony. Also on November 9, 1999, Mr. Anderson filed a memorandum opposing U. S. Steel's third motion in limine.

Stephen J. Snyder, Craig S. Krummen, and Ingrid N. Nyberg, Winthrop & Weinstine, P.A., 3200 Minnesota World Trade Center, 30 East Seventh Street, St. Paul, Minnesota 55101, represent Complainant Ryan Anderson in this motion. Joseph J. Roby, Jr. and Laura J. Schacht, Johnson, Killen, Thibodeau & Seiler, 811 Norwest Center, 230 West Superior Street, Duluth, Minnesota 55802, represent Respondent U.S. Steel in this motion.

Based upon the record, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

ORDER

The Administrative Law Judge HEREBY ORDERS that:

(1) U. S. Steel's first and second motions in limine are DENIED, in accordance with the understandings of the parties set forth or implicit in the Stipulation that they filed on November 9, 1999; and

(2) U. S. Steel's third motion in limine is also DENIED for the reasons stated in the accompanying Memorandum but without prejudice to U. S. Steel's right to raise objections on grounds of relevance at the hearing to the admission of any evidence that Mr. Anderson might tender relating to protected conduct on his part or alleged adverse action that may have been taken against him.

Dated this 10th day of November, 1999.

BRUCE H. JOHNSON
Administrative Law Judge

MEMORANDUM

This contested case proceeding involves a disability discrimination claim that Mr. Anderson has brought against his former employer, U.S. Steel, under the Minnesota Human Rights Act (MHRA). Mr. Anderson claims that U. S. Steel committed disability discrimination when it declined to hire him as an agglomerator utilityman at its Minntac facility. Mr. Anderson also alleged that at the time U.S. Steel revoked a job offer, the company told him that he would be the top candidate for any other position as soon as one became available, but that it has refused to consider him for other employment. He argued that those particular allegations formed the basis for a reprisal claim under the MHRA.^[2] But Mr. Anderson subsequently voluntarily agreed to dismiss that reprisal claim.^[3]

Two of U. S. Steel's motions in limine were directed toward excluding expert medical opinions that Mr. Anderson proposed to offer as evidence at the hearing. The parties were subsequently able to reach an understanding about what medical testimony U. S. Steel would consider unobjectionable, and they have tendered as evidence stipulated medical testimony that reflects that understanding. What remains to be decided is U. S. Steel's third motion in limine in which it seeks to prevent Mr.

Anderson from tendering any evidence of “alleged protected conduct or alleged adverse action.” U. S. Steel argues that since Mr. Anderson has agreed to voluntarily dismiss his reprisal claim, any evidence of protected conduct or adverse action taken against him is irrelevant. In his response to the third motion in limine, Mr. Anderson argues that even though he may have dismissed his reprisal claim, evidence that he may have tendered to prove that claim could also be potentially relevant to other claims that are still at issue.

Motions in limine to exclude evidence on grounds of relevance usually tend to be evidentiary objections in the abstract. They must therefore be approached with caution because they lack the benefit of an evidentiary record and context that usually provide clearer and more concrete insights into questions of relevance. The problem here is ascertaining what evidence of “alleged protected conduct or alleged adverse action” might be. And the ambiguity and potential breadth of the proposed exclusion makes it difficult now to determine whether particular testimony or other evidence might also be relevant to other claims that are still at issue. It is for these reasons that the ALJ is denying U. S. Steel’s third motion in limine but without prejudice to its right to raise objections on grounds of relevance at the hearing to particular evidence that Mr. Anderson might seek to tender.

B.H.J.

^[1] Although U. S. Steel has not formally withdrawn the first and second motions in limine, the ALJ accepts the stipulation as an agreement by U. S. Steel that those motions may be denied upon condition that Mr. Anderson not tender any further opinion evidence from Dr. Sill.

^[2] Minn. Stat. § 363.03, subd. 7 (1998) (Unless otherwise specified, all references to Minnesota Statutes refer to the 1998 edition.).

^[3] Complainant’s Memorandum in Opposition to Summary Disposition filed on September 3, 1999, at 35.