

Total Disability Definition Construed by New York Federal Court

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A federal court in New York recently construed the meaning of a total disability definition where the insurance policy language includes residual disability coverage. The January 3, 2020 decision came from the U.S. District Court for the Southern District of New York, and the case involves an orthopedic surgeon who claimed to be "totally disabled." The plaintiff-claimant surgeon and the defendant insurance company disagreed over whether the surgeon was totally disabled. Both parties filed motions for summary judgment. In the decision *Sternberg v. Paul Revere Life Insurance Company*, 2020 U.S. Dist. LEXIS 1718, Judge Andrew L. Carter, Jr. granted the insurance company's motion and denied the surgeon's motion. White and Williams LLP represented the insurance company on the case.

The court examined whether the surgeon's ability to perform some of the important duties of his occupation, while being "unable to perform open surgery or take call in the emergency room," qualified the surgeon for total disability benefits. To qualify for benefits the total disability definition required that the surgeon be "unable to perform the important duties" of the occupation he had prior to commencement of his disability.

The court held that under New York's legal standard claimants are "able to perform the 'important duties' of their occupation if they can perform duties of a 'position of the same general character as the insured's previous job, requiring similar skills and training, and involving comparable duties.'" This functional approach to interpretation of the contract language "looks at the professional activities that occurred before and after the onset of the disability." In this case, while the claimant surgeon argued that performing surgery was integral to his pre-disability practice, he "spent more than half of his pre-disability time in clinics as a non-operating physician." That clinical work "was a significant and essential part of his occupation before his disability." Despite him adding "more clinical time to compensate for his inability to perform open surgery, his work was of the same general character, required similar skills and training, and involved comparable duties—namely, he saw the same patients, in the same facility and clinics, and continued to perform non-operative orthopedic therapies." Accordingly, the insurance company's summary judgment motion was granted.

If you have any questions or would like further information about this case or disability insurance litigation, please contact Rafael Vergara (vergarar@whiteandwilliams.com; 212.631.4416), Robert Wright (wrightr@whiteandwilliams.com; 212.631.4402) or Zaara Nazir (nazirz@whiteandwilliams.com; 973.604.5681).

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