

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

GERALD TRAVIS GRUBBS, JR.,	)	No. ED94568
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of the St. Francis County
vs.	)	
	)	Honorable Sandra Martinez
STANDARD INSURANCE COMPANY,	)	
	)	
Appellant.	)	FILED: November 30, 2010

Plaintiff Gerald Grubbs, Jr. (Claimant) filed a declaratory judgment action against Defendant Standard Insurance Company (Standard) seeking a determination of benefits coverage under a group long-term disability policy. In particular, Claimant sought a ruling that Standard was not entitled to offset Claimant's disability benefits by the amount Claimant received in settlement of his workers' compensation claim. Standard appeals the trial court's summary judgment order in which the trial court concluded that Standard may not offset Claimant's long-term disability benefits by the amount of the compromise settlement reached by the parties in Claimant's workers' compensation claim.

REVERSED.

Southern Division Holds: The Missouri Supreme Court opinion in Sheldon v. Board of Trustees of Police Retirement System, 779 S.W.2d at 555-56, provides that workers' compensation benefits for physical injury, such as the benefits Claimant received here, are divided into only two categories: wage-loss payments based on the concept of disability, and payment of hospital and medical expenses from a work-connected injury regardless of wage loss or disability. Id. Because the parties here have expressly agreed that the amount paid to Claimant pursuant to the Stipulation for Compromise Settlement was not for medical expenses, we find under Sheldon, the workers' compensation compromise payment must have been wage-loss payments, or "lost wages." Because the express provisions of Standard's group disability policy allow a set off of any amount received by Claimant for lost wages under the workers' compensation laws, we reverse the trial court's judgment.

Opinion by: Kurt S. Odenwald, J. Roy L. Richter, C.J., and Gary M. Gaertner, Jr., J., Concur.

Attorney for Appellant: Richard J. Pautler

Attorney for Respondent: Kenneth A. Seufert

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