

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Department of Employment Services**  
**Labor Standards Bureau**

Office of Hearings and Adjudication  
Administrative Hearings Division



(202) 671-2233-Voice  
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In the Matter of )  
)  
TERRY LEWIS, )  
)  
Claimant, )  
)  
v. )  
)  
CLARK CONSTRUCTION GROUP )  
)  
and )  
)  
AIG, )  
)  
Employer/Carrier. )

AHD No. 07-406A  
OWC No. 637841

**ORDER**

On March 5, 2008, the Administrative Hearings Division (AHD) issued an order compelling the attendance of Claimant for an independent medical examination (IME). As a result of the order, Employer scheduled Claimant for an examination with Dr. Louis Levitt on April 29, 2008. AHD previously conducted a formal hearing on March 11, 2008. The Administrative Law Judge stated the record would remain open for the submission of the IME report.

Employer scheduled an IME with Dr. Louis Levitt for April 29, 2008. On May 2, 2008, Counsel for Employer advised Dr. Levitt was unable to complete the examination. While Claimant did attend the examination, Dr. Levitt indicated Claimant engaged in hostile behavior which prevented him from performing the examination. In his statement dated April 29, 2008, Dr. Levitt indicated Claimant complained about the questioning when he began to take medical history, and Claimant indicated he would not put up with an interrogation. Dr. Levitt reported Claimant had a hostile demeanor causing him to terminate the examination.

In response to the letter of May 2, 2008, Counsel for Claimant argued Claimant cooperated with the examination request. Counsel reported Claimant had to wait a long time before the doctor would see him, and stated "Mr. Lewis asked the doctor to just go ahead and examine him rather than a lengthy interrogation." Counsel did not object to a fair and independent examination.

At this time, AHD cannot issue a compensation order to address the issues set forth in the March 11, 2008 hearing without the benefit of an IME report. Therefore, Employer shall schedule another IME.

Claimant shall participate in the examination without interfering with the need to take medical history, and the physician shall conduct the examination in a timely manner without unnecessary delays. This Office will await the results of the IME before issuing a decision in this matter. Alternatively failure to cooperate may result in a suspension of Claimant's benefits. Despite the formal hearing, the parties are encouraged to resolve this matter without the need for a compensation order.

It is hereby ordered that Claimant submit to another IME as soon as possible or within 30 days.

It is So Ordered



GERALD D. ROBERSON, ESQUIRE  
Administrative Law Judge

May 20, 2008

Date

Parties Served:

Joseph H. Koonz, Jr., Esquire  
Jeffrey W. Ochsman, Esquire  
Terry Lewis, Claimant

cc: Mohammad R. Sheikh, Acting Assistant Director  
Michael Perritt, AHD  
Patricia Clinton, AHD