

PART IV

ADMINISTRATIVE PROCESSING OF CLAIMS, POWERS AND DUTIES OF THE ADMINISTRATIVE LAW JUDGE

D. EVALUATION AND WEIGHING OF EVIDENCE

4. MEDICAL REPORTS

g. Opinions Contrary to the Revised Regulations

DIGESTS

The Seventh Circuit held that in weighing the evidence at 718.202(a)(4), the ALJ permissibly accorded less weight to Dr. Tuteur's opinion that, "on rare occasions the inhalation of coal mine dust in the absence of cigarette smoke can produce a clinical situation similar to the picture of [COPD]," as inconsistent with the prevailing view of the medical community, cited by DOL when it adopted the revised regulations. The court noted that in promulgating the revised regulations, DOL had reviewed the medical literature on this issue and found that there was a consensus among scientists and researchers that coal dust-induced COPD is clinically significant, and that the DOL report does not indicate that the causal relationship between coal dust and COPD is merely rare. The court also rejected employer's argument that Dr. Tuteur's opinion could be interpreted as being consistent with the proposition that coal dust exposure *can* cause COPD in rare cases. The court held that Dr. Tuteur's statement led to the logical conclusion that he categorically excludes obstruction from coal-dust-induced lung disease and would not attribute any miner's obstruction, no matter how severe, to coal dust. ***Consolidation Coal Co. v. Director, OWCP [Beeler]***, 521 F.3d 723, BLR (7th Cir. 2008).

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