

COURT WATCH

FROM THE OFFICES OF FLAHERTY, SENSABAUGH & BONASSO, PLLC.

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Brooks v. Galen of West Virginia, Inc., No. 33207.

Appeal from the Circuit Court of Greenbrier County to the West Virginia Supreme Court of Appeals

TOPIC: Whether the trial court erred by taking judicial notice of the findings of the Social Security Administration?

Brooks v. Galen of West Virginia Inc. was originally reported on in the February 21, 2007 edition of Court Watch. In *Brooks*, the plaintiff brought a medical malpractice suit against the defendant hospital claiming that the hospital improperly inserted an I.V. into the plaintiff's hand, causing the plaintiff to suffer Chronic Regional Pain Syndrome ("CRPS"). Prior to the trial, the plaintiff sought disability benefits from the Social Security Administration ("SSA"). The SSA found that the plaintiff suffered from somatoform disorder, but not CRPS. At trial, the defendant requested that the Circuit Court take judicial notice of the plaintiff's SSA award. The Circuit Court granted the defendant's request. The plaintiff claimed that the trial court improperly took of judicial notice his SSA award and appealed the Circuit Court's decision.

On April 19, 2007, the West Virginia Supreme Court of Appeals rendered its decision, finding that the Circuit Court properly took judicial notice of the plaintiff's SSA award. The Court noted that the plaintiff received a favorable ruling from the SSA and did not appeal that ruling. Furthermore, the Court noted that the SSA award substantiated the defendant's theory of the case and, therefore, was relevant evidence. Thus, the Supreme Court found that the Circuit Court was correct in taking judicial notice of the plaintiff's SSA award.