The Court Archive:
Influenza Epidemic of 1918-1919

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The 1918-1919 Influenza Epidemic was one of the worst in recorded history, affecting approximately 500 million people worldwide and causing 50 million deaths. In the United States, nearly 675,000 people died, which is a larger death toll than World Wars I and II, Korea, Vietnam, Afghanistan, and Iraq combined. Since the law is a reflection of society, there were several lawsuits filed that relate to the Influenza epidemic. At least three ended up at the Illinois Supreme Court.

Gladys Phelps v. School District No. 109, 302 Ill. 193 (1922)

Gladys Phelps was a school teacher in Wayne County and employed by the school district to teach at a salary of $50 per month. The Illinois State Board of Health closed the school for two months due to the influenza epidemic, and the school district refused to pay Phelps $100 for those two months. Phelps sued to recover her salary, and the Wayne County Circuit Court ruled for Phelps. The school district appealed to the Illinois Supreme Court, and the only question to be determined was whether Phelps was entitled to compensation when prevented from teaching because of the school being closed because of a public epidemic, while Phelps was "ready, able, and willing to teach." The district argued that since the Board of Health closed the school (and not the school board), the district was released from liability to pay. Justice William Farmer affirmed the Wayne County Circuit Court judgment. Farmer noted that the contract stipulated reasons why the district could be released from liability and "the protection of lives and health of the community against the spread of a contagious epidemic" was not in the contract as a reason. Farmer concluded that the courts "will not insert by construction, for the benefit of one of the parties, a condition which they have omitted from their own contract." Chief Justice Clyde Stone dissented but did not provide a written opinion as to why.

Interesting side note: Justice Stone got the flu in October 1918, when it was at its peak in Illinois and the country, but he recovered and returned to the Court for the February 1919 term.

Wasson Coal Company v. Industrial Commission et al., 296 Ill. 217 (1921)

Frank Smith died while working in a coal mine in Saline County in November 1918. His administrator applied for and received compensation from the Wasson Coal Company for an accidental death for touching an electric wire. The claim was allowed by the Industrial Commission and affirmed by the Saline County Circuit Court, before its appeal to the Supreme Court. The coal company argued that Smith did not touch the wire but died from heart failure due to effects from the flu. Witnesses and doctors testified that Smith had been suffering from flu and that the flu caused "impairment of the nervous system, heart, respiration, and circulation, and when the attack was severe, was liable to produce paralysis of the heart and sudden death." The Supreme Court affirmed the award. Justice Farmer reasoned that since there was no autopsy, there was no proof to show exactly whether Smith died from the flu or from touching the wire. As a result, the Supreme Court "cannot weigh the evidence and determine which side it preponderates," but that it was a "reasonable inference that [Smith's death] arose out of the employment."

The Court reached the opposite conclusion in *Madison Coal Corporation v. Industrial Commission*, 320 Ill. 298 (1926), when Michael Tishkan died in November 1918 while working in a coal mine in Montgomery County due to excessive smoke. The administrator of the estate filed a claim to recover compensation for his death, and the Industrial Commission and Montgomery County Circuit Court approved and confirmed the claim. The coal company argued that Tishkan died from effects of the flu and appealed to the Supreme Court, which reversed the judgment and set aside the award. Justice Frederic DeYoung ruled that the evidence clearly showed that Tishkan died from the flu and not from excessive smoke in the mine.