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Being Hurt "At Work" ≠ A Compensable Claim

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Far too often workers' compensation claims are certified by self-insured employers or allowed by the Bureau of Workers' Compensation simply because the injuries occurred at the workplace or were in some way incidental to employment. This in turn costs employers a significant amount in increased payments of compensation and medical benefits or in increased premiums. However, not every injury that occurs in the workplace or is incidental to a worker's employment is compensable under Ohio's workers' compensation system. Thus, each claim should be scrutinized to determine whether the injury occurred "in the course of" and "arising out of" a worker's employment. The injury must satisfy both of these elements in order for the worker to receive benefits. As discussed more fully in the article "When is an Employee 'at work'?" (see previous article), the determination of whether an injury occurred in the course of and arising out of employment is extremely fact specific. Further, just because an employee is at work does not mean that an injury sustained there arose out of employment. "Unexplained fall" cases show that different facts can produce different results when determining whether an injury occurring at the workplace arose out of employment.

The Ohio Supreme Court has held that a worker must produce evidence eliminating all idiopathic causes for an unexplained fall before any resulting injury can be found compensable. An idiopathic cause refers to a pre-existing physical condition or weakness peculiar to the worker. If the worker can eliminate all

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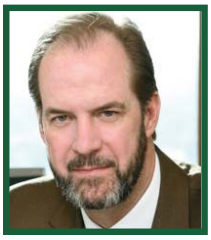
idiopathic causes, a presumption arises that the injury was caused by something in the work environment even though that something cannot be identified. In other words, the presumption is that the injury arose out of the employment. The Court also has held that the worker can establish that the injury arose out of employment even if the fall was caused by an idiopathic condition, but the employment must significantly contribute to the injury by increasing the dangerous effects of the fall. For instance, a worker who faints because of an idiopathic condition and hits his or her head on a piece of machinery in the workplace would be entitled to benefits so long as hitting his or her head on the piece of machinery significantly contributed to his or her injury.

In *Chappell v. Wal-Mart Stores, Inc*., Chappell, a cashier at Wal-Mart, broke her jaw when she fainted and hit her head on the floor after feeling ill for over an hour after beginning her shift. She did not know what caused her to feel ill, but alleged that her injury arose out of her employment because Wal-Mart failed to give her a scheduled break and answer her calls for assistance, causing her illness to escalate to the point that she passed out and fell. The court of appeals agreed that this could be a basis for finding that Chappell's injury arose out of her employment, but concluded that she had failed to submit any medical evidence to support her position. Accordingly, the court determined that Chappell's fall and resulting injury did not arise out of her employment.

There was a different result in *Thomas v. The Timken Company*. Thomas fell backwards off the platform of a forklift striking his head on a cement floor. Afterwards he did not recall anything about the accident. Thomas had a history of migraine headaches and had been diagnosed with epileptic-type seizures, but his doctor believed that in this instance he had a seizure because he hit his head on the floor. The seizure did not precede the fall. The trial court granted summary judgment in favor of the employer, finding that the unexplained fall did not arise out of Thomas' employment because he had failed to eliminate all idiopathic causes for the fall. On appeal, the court of appeals agreed that Thomas had not eliminated all idiopathic causes, but found that summary judgment should not have been granted because a jury could find that Thomas' fall from the forklift platform, a height of only 14 inches, significantly contributed to his injury. Thus, the court determined that a trial was necessary to decide whether Thomas' injury arose out of his employment.

As these cases illustrate, even when an employee is at work, an injury sustained there is not necessarily compensable. The employee has the burden of establishing that the employee's pre-existing condition did not cause the injury. The vigilant workers' compensation practitioner should thoroughly investigate the possibility of an idiopathic cause for any injury resulting from an "unexplained fall."



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