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Teamwork

A Periodical for Providers and Clients of Comp1One®

Comp1One®

Comp1One is a comprehensive case management company located in Huntsville, Alabama with clients across the Southeast. Comp1One and sister company, North Alabama Managed Care, Inc. (NAMCI), are divisions of Premier Health Networks of Alabama, LLC featuring PPO network access for direct medical cost savings in group health and workers' compensation.

Comp1One features 24 hour case management services with Certified Nurse Case Managers and the backing of Board Certified Occupational Health Physicians. Our nurses and physicians are available for pre-certification, utilization management, file reviews, case referrals, peer reviews, and catastrophic injury management.

Comp1One is certified by the state of Alabama Department of Industrial Relations, is licensed and insured, and has been recognized for Best Practices in Injury Management in the state of Alabama.

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Psychological Workers' Compensation Claims in Alabama

The fact that work causes stress is not exactly breaking news. However, it was not until a Michigan court deemed such claims compensable in 1960 that stress became associated with workers' compensation. With the proverbial flood gates now open, other states began to accept such claims and, in California, mental stress claims increased by almost 700% over 8 years. In 1987 alone, California shelled out almost \$1,000,000,000 for medical and legal fees associated with such claims.

On May 19, 1992, the Alabama Legislature took measures to curb this growing and expensive trend when it enacted the Workers' Compensation Reform Bill (Act 92-537). This Bill limited claims for mental stress or disorders to those that are produced or proximately caused by some physical injury to the body. Pursuant to Alabama Code (1975) § 25-5-1(9), a "... injury does not include a mental disorder or mental injury that has neither been produced nor been proximately caused by some physical injury to the body."

Initially, Alabama courts interpreted the language of § 25-5-1(9) strictly. In the case of Goolsby v. Family Dollar Stores of Alabama, Inc., 689 So.2d 104 (Ala.Civ.App. 1996), a retail store was robbed and the store clerk was threatened with death. She was marched to the office with a gun in her back and her purse was stolen. She was then confined to the back of the delivery truck. The employee subsequently injured her back and leg while attempting to jump from the truck. She claimed severe and lasting mental and emotional trauma and post traumatic stress disorder ("PTSD"). At trial, the judge denied the PTSD claim. There was simply no evidence that the PTSD was caused by the physical injury. Justice Roger Monroe

dissented by stating that it was impossible to distinguish between the physical injury and the robbery as the cause of the PTSD.

In order to circumvent the court's strict interpretation of § 25-5-1(9), plaintiffs' attorneys became inventive. Instead of trying to relate the psychological claim to the physical injury, they asserted that the psychological claim was an occupational disease. In the case of Herchenhahn v. Amoco Chemical Co., 688 So.2d 847 (Ala.Civ.App. 1997), the employee was harassed by his supervisor which lead to a nervous breakdown. The employee claimed that his breakdown was an occupational disease pursuant to Alabama Code (1975) § 25-5-110. The Alabama Court of Civil Appeals considered the argument and noted that, to be considered an occupational disease, the disease must be contracted from or aggravated by exposure to a hazard which is recognized as peculiar to the normal working conditions of the employee's particular occupation. As a result, the Court noted that there was nothing peculiar about the claimant's employment as a computer systems administrator that made him more susceptible to harassment by his supervisor. The Court further stated that it was up to the Legislature to make a mental disorder resulting from on-the-job stress or harassment compensable as an occupational disease and not the courts.

In 2000, the Alabama Supreme Court applied a less strict interpretation of § 25-5-1(9) when it considered the case of Ex parte Vongsouvanh, 795 So.2d 625 (Ala. 2000). In that case, an employee was involved in a car accident with a co-employee. The employee was pinned in the



Michael I. Fish

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Huntsville, AL 35804
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256-532-2777
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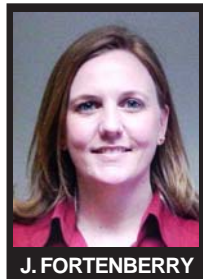
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Legal Brief

In the case of Ford v Carylton Corporation, the employee filed a claim of retaliatory discharge stated he was terminated for filing a worker compensation claim for a work-related injury. The employee was actually terminated by the subsidiary, Video, not the parent corporation of Carylton. There was no evidence that Carylton played any role in the termination of the employee by its subsidiary, Video. Therefore, the parent company was not held liable for the acts of the subsidiary or the termination of the employee by its subsidiary.

Donald R. Rhea
Rhea, Boyd, Rhea, & Coggin
(256) 547-5801
drhea@bellsouth.net

Company News



J. FORTENBERRY

Please join us in welcoming Jennifer Fortenberry, Comp1One Case Manager. Jennifer has over six years of case management experience.

Jennifer will monitor, access and evaluate injured workers from point of injury to return to work.

Sherree Clark, Executive Director of Comp1One, received a certificate of recognition from the National Children's Advocacy Center at an awards ceremony on April 11th. Comp1One was nominated for its commitment to helping employees maintain a balance between work and family life.



SHERREE CLARK

Psychological WC Claims (cont.)

vehicle for hours and suffered hand and ankle injuries. The co-employee died. At trial, the judge held that the physical injuries were not the proximate cause of the employee's mental disorders. The Court of Civil Appeals affirmed the trial court but the Alabama Supreme Court reversed the Court of Civil Appeals. In support of the reversal, the Court stated that the trial court should have applied the "contributing-cause" standard in a situation where the worker's mental disorders originated from both physical and emotional factors.

Although the "contributing cause" test made it easier

for plaintiffs to prevail on psychological claims, it was still necessary to prove that an accident had, in fact, occurred. In the case of Eldeco, Inc. v. Romines, 884 So.2d 867 (Ala.Civ.App. 2003), an employee's work related stress aggravated his high blood pressure and caused dizziness, severe head aches, confusion, blurring of vision, and slurring of speech. The issue presented in Eldeco was whether the claimed injury should be classified as a mental disorder/injury or as a physical injury. At trial, the employee prevailed under the non-accidental injury theory. This ruling was reversed on appeal. The Court of Civil Appeals noted that, although stress produced the physical symptoms, no Alabama case had recognized emotional or mental stress that causes a physiological manifestation to be compensable as a non-accidental injury under the Act.

Even though the requirement of proving an accident was still in place, the Alabama Court of Civil Appeals later held that it was not necessary to show significant physical injury. In Jim Walter Resources, Inc. v. Riles, 920 So.2d 1093 (Ala.Civ.App. 2004), the Court held that evidence in a workers' compensation action was sufficient to support a finding that the physical injuries an employee received in a mine explosion, although minimal, contributed to his post-traumatic stress disorder.

"Instead of trying to relate the psychological claim to the physical injury, they asserted that the psychological claim was an occupational disease."

While unsuccessful to date, the argument that psychological claims should be recoverable as an occupational disease continues to be made. As the law currently stands in Alabama, however, a psychological claim is not recoverable without a corresponding accident resulting in injury. Of course, as was demonstrated in Jim Walter Resources, Inc., the physical injury need only be minimal. Once the employee demonstrates such an injury, the courts may apply the "contributing cause" standard set forth in Ex parte Vongsouvanh. It is therefore necessary from a defense standpoint to establish that the physical injury is not, in any way, related to the psychological claims.

Michael I. Fish
Roberts & Fish, P.C.
mfish@rfpc.net
(205) 870-8611

Tip of the Quarter

To prevent eye strain, look away from your monitor frequently and take frequent breaks to rest your eyes.

Primary Contacts:

- Sherree Clark, Executive Director 532-2755
- Beth Couch, Marketing Mgr 532-2766
- Kathy Deganis, Case Mgr Asst 532-2775
- Jennifer Fortenberry, Case Mgr 532-2725
- Candra Fredrick, Data Admin Asst 532-2719
- Marlana Johnson, Case Mgr Asst 532-2798
- Diane McCrary, Case Mgr 532-2774
- Judy Marks, Services Coordinator 532-2767
- Mary Ann McMeans, Case Mgr 532-2771
- Janet Ryan, Case Mgr 532-2768
- Melissa Timberlake, Case Mgr 532-2752



Case Mgmt Team (left to right) Kathy Deganis, Marlana Johnson, Janet Ryan, Mary Ann McMeans, and Diane McCrary. Not pictured: Jennifer Fortenberry & Melissa Timberlake.

Clinical Comments



Shoulder Rotator Cuff Tendonitis In the Industrial Athlete

Shoulder rotator cuff tendonitis (RCT) is extremely common in the industrial athlete. Tendonitis is due to the mechanical compression and/or wear of the rotator cuff tendons. Four tendons make up the rotator cuff and, although they are quite small, are the powerhouse of the shoulder.

Shoulder RCT or Impingement, as it is also known, occurs due to a compromised space available to the rotator cuff. The rotator cuff naturally does not have a good blood supply; therefore it can be easily irritated. Common impingement causes include: weakening/degeneration within the tendon due to aging, formation of bone spurs, and formation of inflammatory tissue.

Common causes of RCT directly are overuse syndrome and traumatic injury. In the Workers Compensation setting these causes need to be understood, Medical personal need to evaluate what happened, why it happened, and how to prevent this tendonitis from occurring again.

A clear health history and physical evaluation are key in the diagnosis of shoulder RCT. Symptoms include pain, stiffness, catching, popping, weakness, loss range of motion, and decreased performance. Proper history questions should include overhead activity pain, night pain, and differentiation between shoulder and neck pain.

Physical evaluation should take into account age and sex of the patient, symmetry, tenderness, active and passive range of motion, strength, and instability. Tests include impingement

tests, which intend to recreate the painful impingement symptoms. Again, a careful neuromuscular and cervical exam is important to rule out problems not associated with the rotator cuff.

Diagnosis of RCT is aided by the use of radiographs, which look for bony lesions, spurs, arthritis, and fractures. MRI's can also be helpful, although not necessary in evaluating rotator cuff tears, bony lesions, and labral tears. MRI's are helpful when the history and physical evaluations are confusing or contradictory.

"The rotator cuff naturally does not have a good blood supply; therefore it can be easily irritated."

There are three main stages of RCT. Inflammation of the rotator cuff, partial tearing of the rotator cuff, and full-thickness tearing of the cuff. Usually, the history and physical evaluation can lead the physician to the severity of the rotator cuff damage.

Treatment for RCT is multifactorial. Preventive maintenance is possible and this includes, conditioning, flexibility, and strengthening. Avoidance of overuse if KEY!!!!!! Nonoperative management is the mainstay of treatment with the majority of industrial athletes. Rest, activity modification, ice/heat, NSAIDS, physical therapy with modalities, and subacromial cortisone injections are all acceptable modes of conservative management.

Surgery does play an important role in the management of the industrial athlete. Indications include: chronic disability, failure

of conservative management, abnormal bone morphology, rotator cuff tear, and pathologic instability. Surgery will often include EUA arthroscopy, extensive debridement, subacromial decompression, AC joint resection, and rotator cuff debridement or repair.

As a sports surgeon and a physician with a large Workman's Compensation patient population, the successful treatment goals are similar. Accurate diagnosis and speedy, safe return to activities are critical for the athlete and industrial athlete. An accurate history including mechanism of injury and previous injury are imperative. Care should be made to clearly differentiate between shoulder RCT and cervical abnormalities.

There are many successful nonoperative and operative treatment options for shoulder RCT. The key to successful treatment of the industrial athlete is to accurately diagnose the problem and initiate a treatment game plan that restores the patient back to their previous work status, in a timely manner.

John J. Greco M.D.
Orthopaedic Sports Surgeon
The Orthopaedic Center
539-2728



John J. Greco, M.D.