

Legal Brief

In *Blackmon v Safeco*, the court found for the employer. The case was brought by an adjuster who alleged that his job stress brought about a cardiac problem. But when does the job stress become so bad that it rises to the level of a full blown workers' compensation claim? According to the Alabama Court of Civil Appeals, the answer is never, unless there is a physical injury to the body that causes the stress disorder.

In *Eldeco v Romines*, 12 ALW 36-8 (2020278), the court reversed a permanent and total award to find for the employer on the issue of compensability in a job stress case. Here, the plaintiff was a salaried construction manager. He supervised several large projects, endured construction delays...and endured several other stressful factors. He eventually "went to pieces" and was awarded Social Security benefits. Although his job produced physical symptoms, there was no proof that he suffered from a physical injury to the body to allow for a compensable claim. Any such claim for mental anguish, anxiety or stress must be accompanied by a physical injury to the body in order to be compensable.

Ben Pugh, Attorney: 205-822-2006

Community News

CompOne welcomes Dr. Saranya Nadella, M.D. as the new physical and rehabilitation physician at The Spine Center at SportsMED. Dr. Sara Nadella is a specialist in Physical Medicine and Rehabilitation and spinal injection procedures. She is also certified with the American Board of Independent Medical Examiners.

Company News



We are pleased to welcome Marlana Johnson to the CompOne team of healthcare professionals. Marlana has over ten years experience in practice administration, communications, and billing. She will be assisting with case management and injury intakes.

Teamwork is published quarterly by Comp1One, a division of Premier Health Networks, LLC. All submissions, sponsorship inquiries and information regarding publication should be addressed to

bethc@compone.org.

Editor/Photographer: Beth Couch

Work Injury Surveillance (cont.)

ued the intermittent surveillance. The investigator continued the surveillance until the week of the trial when the claimant was documented on consecutive days writing checks for purchases and driving her children to school in a vehicle she purchased in anticipation of the settlement or court award. After reviewing the video tape evi-

dence, the Judge found in favor of the insured.

David Palmer
Corporate Special Services, Inc.
800-239-2774
Email: dpalmer@cssi.net

Top Five Workers' Comp Cases of 2002

The workers' compensation system faced many legal challenges in 2002 that could have significant implications for risk managers and claims professionals in 2003 and beyond.

1. Bankruptcy Petition Doesn't Stop Claim

Details: An injured employee can receive workers' comp benefits from her employer, even though the employer filed for bankruptcy after the injury. (*Blue Chip Co. v. Workers' Compensation Appeal Board*, No. 515 C.D. 2001 Pa. Commw. Ct. 03/26/02).

Why it made the list: An employer's bankruptcy petition doesn't always halt an employee's benefits claim.

2. Home Office Accident Doesn't Trip Up Worker's Claim for Benefits

Course of Employment: An employee who works out of his home could receive benefits for injuries he suffered while retrieving mail from his home mailbox. (*Bentzv. Liberty Northwest, et al.*, 57 P.3d 832 (Mont. 2002).)

Why it made the list: Traditional workers' comp rules don't easily apply to today's telecommuters.

3. Supreme Court Decides Employee with Carpal Tunnel not Disabled Under ADA

Disability Laws: The American with Disabilities Act didn't protect a factory worker who developed carpal tunnel syndrome. (*Toyota Motor Mfr., Kentucky Inc. v. Williams*, 122 S.Ct.581 (U.S. 2002).)

Why it made the list: The decision helps prevent run-of-the-mill injury cases from turning into ADA claims.

4-1. Fraud Conviction Not Enough To Trip Benefits

Employee Misconduct: An employee, who pleaded guilty to workers' comp fraud in connection with a work-related accident, could still receive benefits (*Continental Fire Sprinler Co v. Van Hooland*, 2002 WL 700977 (Iowa Ct. App. 2002).)

Why it made the list: In some states, even a conviction for workers' comp fraud is not enough to strip a claimant of his right to benefits.

4-1. Company's Failure To Warn Worker of Danger Equals Intent To Harm

Employer Liability: A maintenance worker could sue his employer in court for failing to warn him that fumes in his workplace could be dangerous. (*Swope v. Columbian Chemicals Co.*, et al., 281 E2d 185 (5th Cir. 2002)).

Why it made the list: The worker's comp exclusive remedy provision is increasingly under attack as personal injury attorneys seek new sources of recovery for injured workers.

Leslie W. Lake
Workers' Compensation Report 1051-4775



ERGONOMICS (cont.)

Finally, to disrupt repetitive tasks that place tremendous strain on muscles, tendons, and joints, frequent and regular stretching throughout the day is essential, simple, and brief. Three simple stretches include the following:

A. Standing back bends - repeat five times every hour.

B. Chin tucks - hold for 30 seconds, one time, every hour.

C. Wrist extensor stretch - hold elbow straight with fist closed. Bend wrist down and turn it out. Hold 10 seconds, one time, every hour.

Robert Catalano, MSPT, Cert MDT
rehabinc@rehabconsultantsinc.com