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The Compensability of Unexplained Falls in the Workplace

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Earlier this year, the South Carolina Supreme Court (SCSC) clarified its position regarding the compensability of unexplained falls. Both in*Nicholson v. South Carolina Department of Social Services* and B*arnes v. Charter 1 Realty*, a claimant tripped and fell on a carpeted hallway at work. Specifically, the SCSC clarified its position regarding what qualifies as an idiopathic fall and whether an unexplained fall is compensable. While the definition of "idiopathic" could include the word "unexplained," the two words are distinct when determining whether an injury is compensable under the Act.

In *Barnes*, the SCSC noted that an idiopathic fall arises from an internal breakdown personal to the employee, negating any causal connection between the employment and the accident, reiterating that the reasoning behind the decision in *Crosby v. Wal-Mart Store, Inc.* is still followed. Importantly, in *Crosby*, the court did not find the cause of the fall was unknown, but found it was a result of an internal and personal condition specific to the claimant, thus, it was not compensable. Common examples of idiopathic falls could include a heart attack, stroke, seizure—things that could happen to the worker at any place and time, but just happened to have occurred at work.

Significantly, in *Barnes*, the SCSC noted that determining that a fall is idiopathic is not warranted simply because the claimant is unable to point to a specific cause of her fall, whether or not the carpet or hallway was defective. In other words, since there was no evidence that the claimant's "leg gave out" or "she suffered some other internal breakdown or failure," the fall was not considered idiopathic. Thus, the SCSC confirmed that idiopathic falls are not compensable, but the accidents in Barnes and Nicholson were not idiopathic because they were not peculiar to the claimant.

Next, in *Nicholson and Barnes,* the SCSC addressed whether the injuries arose out of the employment. For an accidental injury to be compensable, it must "aris[e] out of and in the course of employment." S.C. Code Ann. § 42-1-160(A) (Supp. 2013). For the injury to "arise out of" employment, the injury must be proximately caused by the employment. An injury arises out of employment when there is a causal connection between the conditions under which the work is required to be performed and the resulting injury.

In *Barnes*, the SCSC simply explained that walking down the hall was a work task, clearly establishing a causal connection between the employment and the injuries the claimant sustained.

The lower court, in *Nicholson*, focused on the whether the carpet was a hazard that caused or contributed to the alleged injury. Even though the claimant was carrying ten case files weighing approximately fifteen pounds at the time of her fall, she testified that the files did not cause her to fall, but rather the friction from the carpet and her foot caused her to fall.

The lower court in *Nicholson* ultimately held that the claim was not compensable because the carpet was not a hazard that caused or contributed to the alleged injury as it was very common and not peculiar to the work. Its reasoning was primarily based on the case of Bagwell v. Ernest Burwell, holding that a claimant must demonstrate some danger or hazard caused the fall.

However, the SCSC explained that the lower court's interpretation of *Bagwell* was misplaced and noted that in *Bagwell* the court inquired whether there was a work-related hazard only after concluding the injury was not otherwise compensable. Thus, according to the SCSC, if an idiopathic fall occurs at work, only then should a court look to whether a hazard increased the severity of the injury, bringing it into the ambit of coverage under the Act. As a result, the SCSC noted that the claimant "was not contending the carpet caused her to sustain a more serious injury, but she was simply arguing that she suffered a non-idiopathic fall that was proximately caused by the performance of her employment." As a result, the SCSC held that "**because Nicholson's fall happened at work and was not caused by a condition peculiar to her, it was causally connected to her employment.**"

Significantly, as Justice Costa M. Pleicones indicates in his dissenting opinion in *Barnes*, it appears the court no longer requires a claimant to present evidence that the employment was a proximate cause of the fall in order to prove the injury is compensable. These cases illustrate that it will certainly be an uphill battle to dispute the compensability of unexplained falls under the Act. However, if applicable, the employer/carrier can still present evidence of an internal breakdown or failure to demonstrate a fall is idiopathic in its defense of a claim.

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