

COMP CONNECTION

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Court of Appeals Bars Claim as Res Judicata

Holbrook v. OhioHealth Corp., 2015-Ohio-2354 (10th Dist. June 11, 2015) In 2007, the claimant sustained a work injury, which was allowed for right knee contusion, patellar tendonitis, and right medial meniscus tear. After a short period of disability following surgery, the claimant returned to work. Later the claimant experienced pain again and moved the Commission to additionally allow substantial aggravation of pre-existing tricompartmental degenerative joint disease, which condition the Commission disallowed. The claimant appealed to the trial court, which granted summary judgment in favor of employer.

disallowed the condition on the basis of res judicata, finding the condition disallowed twice before. On appeal,

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§ “ It has long been the law in Ohio that ‘an existing final judgment or decree between the parties to litigation is conclusive as to all claims which were or might have been litigated in a first lawsuit ”

§ Thereafter, the claimant filed a second second motion with the Commission for acceleration of disability due to tricompartmental degenerative joint disease. Again, the condition was disallowed, but the claimant filed no subsequent appeal .

A year later the claimant filed a third motion requesting the additional allowance of osteoarthritis of the knee. The Commission

the trial court granted summary judgment in favor of the employer on the basis of res judicata.

The claimant appealed to the court of appeals arguing the osteoarthritis was caused by the knee surgery, not by the work incident. Because the theory of recovery was different, the claimant argued res judicata did not control the outcome of the claim. The court of appeals disagreed, upholding summary judgment. The court of appeals noted the medical evidence showed degenerative disc disease, arthritis, and osteoarthritis were all the same condition. More importantly, the claimant, himself, admitted this fact. Therefore, res judicata barred the claim for osteoarthritis.

Res judicata remains an effective defense in litigation of workers' compensation claims. Employers should be mindful to utilize this defense where claimants pursue substantially similar conditions more than once in a claim.

Court of Appeals Enforces Settlement in State Fund Claim

In [*Stringer v. Dep. of Health-Ohio, 2015-Ohio-2277*](#), the 8th District Court of Appeals held R.C. 4123.65 does not apply to judicial settlements arising out of R.C. 4123.512 appeals which involve state fund claims. Consequently, a court may enforce settlement of a state fund claim as it would any other non-workers' compensation settlement.

In this case, the parties agreed orally to settlement during mediation. The claimant voluntarily dismissed the case with prejudice on the basis of the settlement. However, the same day, the claimant reneged her agreement to settle, prompting the employer to file a motion to enforce settlement. The court granted the motion to enforce settlement and

entered judgment accordingly.

The claimant appealed, arguing, among other things, settlement was unenforceable because she did not sign a settlement agreement and was within the 30 day cooling off period of R.C. 4123.65(C). The court of appeals found R.C. 4123.65(C) inapplicable. The court relied on Supreme Court precedent, which held the permissive language in R.C. 4123.65 does not control state fund settlements, which arise in court and not under R.C. 4123.65. By contrast, R.C. 4123.65 applies to self-insured settlements regardless of whether such settlements occur in court or in the Commission.

Stringer is an important case for state fund employers who wish to enforce judicial settlements of claims. However, self-insured must follow the prescriptions of R.C. 4123.65 for such settlements to be effectual.

Injury Caused by Untied Shoelace Found Not Compensable

In [*Lafon v. Iron Tiger Logistics, 2015-Ohio-2428*](#) the claimant injured his shoulder when he tripped over his untied shoelaces while boarding a company shuttle bus. The commission disallowed the claim, finding the injury did not arise out of employment. The claimant appealed to the trial court, which entered summary judgment in favor of employer. On further appeal, the court of appeals upheld the lower court's order, finding there was not a sufficient causal connection between the injury and the employment.

Although the injury occurred at work, the court of appeals reasoned the injury was not logically related to or incidental to the employer's business. The claimant's untied shoelaces caused him to fall, not a hazard of employment.

Lafon illustrates that the mere fact an injury occurs at work does not mean it is compensable. Employers should not accept claims where there is some doubt about the causal connection to the workplace.

If you have any questions concerning any of the topics in this issue of *Comp Connection*, please contact a member of our Workers' Compensation practice group at (419) 244-6788.

COMP CONNECTION is not intended to provide legal advice, but is intended as a service to the clients of Bugbee & Conkle, LLP and to alert them to recent developments affecting the employment relationship, with a particular emphasis on the perspective of the employer.

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