



2020 Tennessee Workers' Compensation Case Law Update

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Estate of Turnage v. Dole Refrigerating Co.

- Tennessee Workers' Compensation Panel, February 12, 2020
- Facts: Employee died as a result of work accident. He had an illegitimate child who was found to be a conclusively presumed dependent child entitled to death benefits. However, the employee had two other illegitimate children with another woman. Before his death, the employee had surrendered his parental rights to the two illegitimate children and they were adopted by his mother.



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Estate of Turnage v. Dole Refrigerating Co.

- Issue: Are the two illegitimate children entitled to death benefits?
- Holding: No. They do not qualify as conclusively presumed dependent children because they were no longer “his children” at the time of death. They did not qualify as partial dependents because the employee had failed to provide any support to the children during the four months preceding his death.



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Tchankpa v. Ascena Retail Group, Inc.

- 6th Circuit Court of Appeals, March 6, 2020
- Facts: Employee was a database manager who suffered serious shoulder injury while transporting laptops for work. Employee requested to work from home, and the employer asked for medical documentation supporting the request. When none was provided, the employer denied the request to work from home. Employee asserted violation of Americans with Disabilities Act for failure to provide reasonable accommodation.



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Tchankpa v. Ascena Retail Group, Inc.

- Issue: Did employer discriminate based on a disability by refusing the work-from-home accommodation?
- Holding: No. The employee bore two burdens: he needed to (1) show that his work-from-home request was reasonable and (2) provide the employer with medical documentation supporting the accommodation's necessity. He did neither.



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Washington v. UPS Ground Freight, Inc.

- Tennessee WCAB, April 8, 2020
- Facts: Employee was struck in the head by a metal bar while loading a trailer at work. Employee was wheelchair-bound, and he requested that the employer provide medical transportation services.



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Washington v. UPS Ground Freight, Inc.

- Issue: Is Employer obligated to provide medical transportation services?
- Holding: No. For medical transportation expenses to be compensable, there must be sufficient evidence that travel is reasonably required as being therapeutic in itself or that it is necessary to enable the employee to acquire a reasonably required medical, surgical, dental or nursing service. In this case, the employee provided no such evidence, only his own assertion that he was unable to drive because of the work injury.



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Barnes v. Jack Cooper Transport Co.

- Tennessee WCAB, April 9, 2020
- Facts: Employee hurt knee while climbing at work, but he had prior history of knee issues. Panel given, but chosen doctor declined to treat. Employee told to pick a doctor from remaining two on list, and picked Dr. Garside. Dr. Garside opined that the work injury did not cause more than 50% of current issues or need for surgery. Employee sought opinion from Dr. Jones, who said the pre-existing condition was exacerbated.



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Barnes v. Jack Cooper Transport Co.

- Issue #1: Was the medical panel valid?
- Holding #1: No. When the first doctor declined to treat, the employee should have been given another doctor as a replacement – rather than being forced to choose from the remaining two. Therefore, Dr. Garside's opinion is not entitled to statutory presumption of correctness.



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Barnes v. Jack Cooper Transport Co.

- Issue #2: Did the work accident result in a compensable aggravation of the pre-existing knee condition?
- Holding #2: No. Even without the statutory presumption, Dr. Garside's opinion outweighed that of Dr. Jones. Mere increase in pain is not enough without medical evidence that the work accident advanced the severity of the condition, caused an anatomic change, or that the pain was disabling.



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Hudgins v. Global Personnel Solutions, Inc.

- Tennessee WCAB, April 17, 2020
- Facts: Employee injured her hand and right knee. Claim was accepted, panel was given, and knee surgery was authorized. Subsequently, Employee started complaining of pain in hip and lumbar spine, which was caused by walking with a limp – according to ATP.



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Hudgins v. Global Personnel Solutions, Inc.

- Issue #1: Is the hip/back injury compensable?
- Holding #1: Yes. ATP's causation opinion was not refuted. Employer also argued the Employee failed to prove hip/back injury was primarily caused by specific incident that was identifiable by time and place of occurrence. True, but this is not required under the Direct and Natural Consequences Rule – when the primary injury is work related, every natural consequence that flows from the injury is also work related.



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Hudgins v. Global Personnel Solutions, Inc.

- Issue #2: Is Employee entitled to TTD benefits past the date she was placed at MMI for the knee?
- Holding #2: Yes, because Employee had not yet been placed at MMI for the hip and back injury, and she was unable to work because of the hip and back injury.



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Mollica v. EHHI Holdings, Inc.

- Tennessee WCAB, April 21, 2020
- Facts: Employee sustained compensable back injury. Dr. Musick was ATP chosen from pain management panel. Employee subsequently developed depression, which Dr. Musick opined was due to Lyrica he prescribed. Dr. Musick referred Employee to Dr. Sandvi for psych eval and treatment, which Employer denied.



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Mollica v. EHHI Holdings, Inc.

- Issue: Must Employer authorize the psych referral to Dr. Sandvi?
- Holding: Yes. Dr. Musick was the ATP, and Employer was deemed to have accepted the referral since no new panel was given. Employer argued that Employee's depression was personal and pre-existing, but offered no medical evidence to refute Dr. Musick's opinion.



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Rosasco v. West Knoxville Painters, LLC.

- Tennessee WCAB, August 18, 2020
- Facts: Employee suffered serious injuries when a tree fell on him as he exited a portable toilet. Employer denied the claim on the grounds that the injuries resulted from a non-compensable "act of God."



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Rosasco v. West Knoxville Painters, LLC.

- Issue: Did the employee's injuries arise primarily out of the course and scope of employment?
- Holding: No. The injury was the result of an "act of God," and the employee failed to prove that the injury was caused by an increased risk peculiar to the nature of employment and not a hazard common to the general public.



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Nickerson v. Knox County Government

- Tennessee WCAB, September 2, 2020
- Facts: Employee worked as a forensics technician until 2011, and during this time she viewed certain crime scenes that she alleged caused a mental injury. Employee was not diagnosed with PTSD until May 7, 2018. PBD was filed April 29, 2019.



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Nickerson v. Knox County Government

- Issue: Does the Court of WC Claims have subject matter jurisdiction over the claim?
- Holding: No. The date of injury was 2011, as that was the date of the identifiable work-related events resulting in a sudden or unusual stimulus. The CWCC has jurisdiction over injuries on or after July 1, 2014.



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