

**THE SUPREME COURT OF TENNESSEE REVERSES TRIAL COURT, ISSUES OPINION FAVORABLE TO EMPLOYER AND INSURANCE CARRIER IN WORKERS' COMPENSATION CASES**

May 8, 2017 / By Thomas J. Dement II, Esq. and Jordan T. Puryear, Esq.

On April 10, 2017, the Tennessee Supreme Court unanimously held that an Employer's Insurance Carrier is not required to pay workers' compensation death benefits if an Employee dies from an accidental overdose caused by the Employee's failure to take medication as instructed. [Thomas J. Dement](#) and [Jordan T. Puryear](#) of Leitner, Williams, Dooley & Napolitan in Nashville, Tennessee, argued the case at the appellate level, while Mr. Dement and [Nancy R. Steer](#) handled the case at the trial-court level. The style of the case is *Judy Kilburn v. Granite State Insurance Company, et al.*

The accident giving rise to the workers' compensation claim occurred in 2008 when the Employee was injured in a car accident while working for the Employer. The Employer accepted the claim as compensable, and, for nearly two years, the Employee received medical treatment in the form of various medication, surgical intervention, and physical therapy—all paid for by the Employer's Insurance Carrier. However, in early 2010 the Carrier and the Employee's authorized-treating physician disagreed as to whether a recommended surgery was reasonable and necessary.

The Carrier also became concerned that the Employee was not complying with his treatment plan regarding his use of opioids: he was taking more than the recommended dosage and mixing the opioids with alcoholic beverages. In late January of 2010, the Employee died. His death was determined to be caused primarily by accidental overdose due to mixing his medications with alcohol.

In addition to the Employee's original claim, the Employee's wife filed suit in Williamson County Chancery Court seeking death benefits from the Carrier and arguing that the overdose was a natural consequence of the work injury. In support of her argument, she cited a Tennessee case which held that workers' compensation death benefits were payable when an Employee's original work injury aggravated a pre-existing condition of alcoholism, which, in turn, lead to fatal kidney failure.

The Employer and Carrier argued that the present case was distinguishable from the case cited by the Plaintiff because the Employee here had not suffered from the disease of alcoholism before or after his original work injury. The Employer and Carrier also argued that the Employee's failure to abide by the doctor's instructions regarding his use of opioid/narcotics for pain management, and the Employee's mixing alcohol with knowledge that doing so could cause serious harm or death, constituted an independent-intervening cause of death.

After a Bench Trial, the Williamson County Chancery Court ruled in favor of the Plaintiff, finding that the overdose was a natural consequence of the original work injury. The Employer and Carrier appealed the case to the Tennessee Supreme Court Special Workers' Compensation Panel. The Panel, on its own Motion, transferred the case to the full Supreme Court of Tennessee, and oral argument was held in November of 2016 in Jackson, Tennessee.

The Tennessee Supreme Court found that it was undisputed that the Employee died because of his taking his medication in direct contravention of his prescribing physician's instructions. Therefore, the Supreme Court reversed the judgment of the Williamson County Chancery Court and declared the Employer of the prevailing party.

The Tennessee Supreme Court's opinion provides clarity regarding when an Employer's Insurance Carrier is responsible for paying workers' compensation death benefits when the death was caused by an accidental overdose. Essentially, in order for an Employer's insurance carrier to be required to pay for workers' compensation death benefits when the death is caused by accidental overdose, the overdose must have stemmed from either: (1) the original work injury's aggravation of a pre-existing condition of clinical alcoholism or substance abuse; or (2) clinical alcoholism or substance abuse which developed as a result of the original work injury.