**Workers’ Compensation Remedies**

An employee’s ability to recover damages from work-related injuries and/or illnesses outside of benefits provided by the North Carolina Workers’ Compensation Act is extremely limited.  It has been long standing that workers’ compensation benefits are the *exclusive*remedyfor work-related injuries and/or illnesses.

The *exclusive* remedy position was altered, however, by the 1991 North Carolina Supreme Court decision in the case of *Woodson v. Rowland.*In this landmark decision, the court held that where an employer intentionally engages in conduct, knowing that such is certain to cause an employee to suffer serious injury or death, the employee or its representatives may pursue actions against an employer in civil court.  Such actions, if successful, can result in monetary damages that far exceed those awarded in workers’ compensation claims.

Claimants and their attorneys have not been successful in pursuing *Woodson*claims due to high legal hurdles.  Subsequent court decisions have ruled that claimants or their representatives must be able to establish that the employer’s dangerous or hazardous conduct was substantially certain to occur, adding that the activity or conduct in question was inherently dangerous.

Although most *Woodson*claims have not made it to trial, the exception does still exist.  Any time an employee is involved in a work-related accident that results in serious injury or death there is the possibility that an aggressive claimant’s attorney will pursue theexclusivityexception established by the North Carolina Supreme Court’s decision in *Woodson v Rowland.*

There are several lessons that you can take-a-way from the Woodson ruling, which include:

* Occupational safety must be a top priority for today's business, particularly those in industries such as construction, utilities, mining, etc.
* Providing training to new employees and appropriate "refresher training" to all employees as appropriate is critical.  This is especially true for employees who work in remote areas and out in job site environments, where poor local decision making can have catastrophic consequences.  Employees must know that when it comes to safety, short-cuts will not be tolerated for the sake of completing a job.
* When safety issues are raised in your business, they must be addressed and acted upon appropriately.  Courts will examine how a business handled a specific safety situation that may have given rise to an employee's injury or death, as well as how the business handles safety issues in general.

If you have any questions pertaining to your workers compensation or safety program(s) call Catapult’s Advice Team at

919-713-5267. To review a detailed article published about this North Carolina Supreme Court decision, go to: <http://scholarship.law.campbell.edu/cgi/viewcontent.cgi?article=1235&context=clr>.

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