

## Georgia's Supreme Court Reverses Court of Appeals' Prior "Outlier" Workers' Compensation Case in *Frett v. State Farm*

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Georgia's Supreme Court recently resolved conflicting case law regarding the compensability of an injury sustained while on a mandatory lunch break. In *Frett vs. State Farm* (S19G0447), Ms. Frett was injured when she slipped and fell at her place of employment during a scheduled, mandatory lunch break. Ms. Frett was free to do as she pleased during her lunch break, and she was never required to work during a scheduled break.

Georgia's Court of Appeals held that Frett's injuries were beyond the scope of compensability because she was on a regularly scheduled break, where she was free to do as she pleased. This "scheduled break" principle, as established in *Ocean Acc. & Guar. Corp. v. Farr*, conflicted with the "ingress and egress rule," where an injury may be within the scope of compensability if it occurs as an employee is entering the premises of the employer to begin her work or exiting the premises when her work is done.<sup>[1]</sup>

In reviewing the Court of Appeals' decision, Georgia's Supreme Court expressly overruled *Farr*, holding that Frett's injury arose "in the course of" and out of her employment, and thus the activity was within the scope of compensability under the Workers' Compensation Act. The Court explained that each prerequisite to compensation must be satisfied to qualify. The first statutory prerequisite requires that the injury occur "in the course" of employment. For this requirement, the Court looks at whether the injury "occurs within the period of the employment, at a place where the employee may be in performance of her duties and while she is fulfilling or doing something incidental to those duties."<sup>[2]</sup> Frett sustained an injury "in the course of" her employment while preparing to eat lunch on the premises of her employer, and this activity, being "reasonably necessary" to sustain her comfort at work, was incidental to her employment. Thus, the activity was *not* beyond the scope of compensability under the Act.

The Court left open the possibility of a "close case," where lack of payment and freedom to act may be significant factors against compensability by nature of a tenuous connection. The Court noted, however, that this case was not such a close case. Frett was injured "during an ordinary lunch break in the middle of her workday in a breakroom provided by her employer for the use of employees during such breaks."<sup>[3]</sup> Moreover, Frett's break time was used to eat lunch and *not* for a personal errand.

The second statutory prerequisite, dealing with causation, requires that the injury arise out of employment. For this requirement, the Court looks at whether "...a reasonable person, after considering the circumstances of the employment, would perceive a causal connection between the conditions under which the employee must work and the resulting injury."<sup>[4]</sup> Frett slipped and fell on the breakroom floor of her employer's premises. Her injury is "causally connected to the conditions under which she worked, and her injury, therefore, 'arose out of' her employment."<sup>[5]</sup> The Court noted that while consideration of this statutory prerequisite should be "straightforward,"<sup>[6]</sup> a determination that Frett's injury—during a

scheduled lunch break—arose out of her employment would conflict with the holding in *Farr*.

The Court engaged in an analysis on upholding precedence<sup>[7]</sup>, and it held that the unsoundness of reasoning, unworkability, and lack of reliance interests in *Farr* weighed in favor of overruling the case.<sup>[8]</sup> Only the age of *Farr* cut in favor of its retention, but not when balanced against the other stare decisis factors. Most notably, the Court stated that *Farr* produced inconsistencies in the law surrounding scheduled breaks, unscheduled breaks, and rest periods, where injuries would be wholly fact-dependent to determine compensability. The Court stated that the Court of Appeals' holding created *anomalous and arbitrary results and defied ordinary expectations about working conditions*. The Supreme Court found that *Farr* conflated the two statutory requirements—that the injury arise in and occur in the course and scope of employment. Moreover, *Farr* had not become deeply entrenched in the Court's jurisprudence. Thus, the stare decisis factors weighed in favor of overruling *Farr* and logically, Frett's injury "was causally connected to the conditions under which she worked. The Court therefore found that her injury 'arose out of' her employment."<sup>[9]</sup>

In his lone dissent, Justice Peterson argued that stare decisis counsels *against* overruling such a "venerable statutory precedent without an unusually compelling reason." If stare decisis applies with little force to constitutional precedents, then it follows that it must apply with *greater* force to statutory precedents, which elected representatives can overrule more easily. Further, because of *Farr*'s age and statutory basis, the conflict between the principles, according to Justice Peterson, should be remedied by the General Assembly, and not by this Court.

*Frett v. State Farm* changes the landscape for workers' compensation claims and makes clear that the ingress/egress doctrine *does* apply to scheduled breaks. While the Court leaves open the possibility of a "close case," where factors may indicate a tenuous connection between the injury and the workplace, the Court's holding helps rid the law of *Farr*'s anomalous and arbitrary results regarding entering and leaving work for a shift versus entering and leaving work for a scheduled break.

[1] *Ocean Acc. & Guar. Corp. v. Farr*, 180 Ga. 266 (1935); *See e.g., Employers Ins. Co. v. Bass*, 81 Ga. App. 306, 306-307 (1950) (coverage applied to worker who died before commencing work, but while on the employer's premises, on the way to the job site).

[2] *Hennly v. Richardson*, 264 Ga. 355, 356 (1994). This statutory prerequisite "relates to the time, place, and circumstances under which the injury takes place." *Frett v. State Farm Empl. Workers' Comp.*, No. S19G0447, 2020 Ga. LEXIS 458 at \*15 (June 16, 2020) (citation omitted).

[3] *Frett*, 2020 Ga. LEXIS 458 (citation omitted).

[4] *Hennly*, 264 Ga. at 356.

[5] *Frett*, 2020 Ga. LEXIS 458 at \*11 (citation omitted).

[6] *Id.*

[7] *Frett*, 2020 Ga. LEXIS 458 at \*13–14 (“Generally, we ‘adhere to the principle of stare decisis, which directs the courts to stand by their prior decisions.’ At the same time, ‘we recognize that stare decisis is not an inexorable command, and sometimes, there are compelling reasons to reexamine an earlier decision.’” (citations omitted)).

[8] *State v. Jackson*, 287 Ga. 646, 658 (2010).

[9] *Frett*, 2020 Ga. LEXIS 458 at \*11.