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Workers' Compensation in a Global Pandemic – Injuries Sustained While Working from Home

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Coronavirus (COVID-19) has undoubtedly forced companies to confront a host of questions about how to safely and efficiently conduct business during a global pandemic. Many companies have opted to allow their employees to work from home in order to prevent the spread of the virus in the workplace. This raises a significant issue in the context of workers' compensation law—what makes a compensable claim for an injury sustained while working from home?

For an injury to be compensable under the Workers' Compensation Act, the injury must arise in the course of *and* out of the claimant's employment.[1] An injury arises in the course of one's employment when 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."[2] An injury arises out of one's employment where there is a causal connection between the employment and the injury.[3]

While Georgia courts have not specifically addressed coverage for injuries sustained while telecommuting or working from home, they have addressed situations where injuries sustained at the home are compensable because the employee has been requested to perform specific tasks at home.[4] Georgia courts may be willing to extend this reasoning in the context of working remotely due to COVID-19.

In *Amedisys Home Health, Inc. v. Howard*, a 24-hour on-call field nurse fell in the driveway of her home.[5] At the time of her fall, the injured worker was carrying patient reports to complete the following morning, a pager, a cell phone, a newspaper, and takeout pizza she picked up on the way home for the family's dinner.[6] An administrative law judge denied her benefits but the State Board of Workers' Compensation ("Board") subsequently reversed.[7] Affirming the Board and Superior Court's findings, the Georgia Court of Appeals held that her injury was compensable and arose out of and in the course of her employment.[8]

The injured worker's status as a 24-hour on-call field nurse and weekend supervisor required her to be available to respond to patient calls, by pager and telephone or visit to the patient, and at any time during the weekend shift she worked, whether from home, the office, or elsewhere in the field.[9] She was also required to prepare and submit patient reports by the morning after her home visits to patients.[10] The employer allowed its employees to complete required paperwork at home and provided a drop box apart

from the office to allow timely submission.[11]

The employer argued that going inside for dinner made the accident a personal pursuit.[12] The Court rejected this argument and reasoned that the injured worker resumed her employer's work at the time of the accident.[13] In addition to dinner, she was bringing time sensitive, job-related papers and equipment into her home.[14] Thus, the Superior Court did not err in finding that the injured worker's accident arose out of her employment.[15] Further, the Superior Court did not err in finding that the rule of continuous employment was applicable because she was subject to 24-hour on-call status and thus sustained her injury in the course of such employment.[16]

Whether the Georgia courts would extend the reasoning outlined in *Amedisys* to an employee who is injured while at home in a work from home scenario will likely be heavily fact dependent. It will depend on what the injured worker was doing at the time of his or her accident, and whether that activity could be deemed to be a wholly personal pursuit. Other factors that may weigh in on this determination are the injured worker's work from home setup, the time of day the injury occurred, and the injured worker's normal work hours. COVID-19 has created unique legal issues that will be litigated for years to come, especially with many employers deciding to make work from home more permanent. Employers would best situate themselves by setting rules that promote safety at employees' respective work from home environments in the event that an injury does occur. Additionally, many employees do not have the same ergonomic setup at home as they may have at work, potentially leading to an increased risk in repetitive use type injuries. Employers could also consider providing ergonomic evaluations for employees' work from home setup to prevent against same.

[1] OCGA § 34-9-1.

[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 Emple. Workers' Comp.*, No. S19G0447, 2020 Ga. LEXIS 458 at *15 (June 16, 2020) (citation omitted).

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

[4] *See* 12 Ga. Jur. § 7:7.

[5] 269 Ga. App. 656 (2004).

[6] *Id.*

[7] *Id.*

[8] *Id.* at 657. ("Whether workers' compensation claimant's injury or death arose out of and in course of claimant's employment is mixed question of law and fact.")

[9] *Id.* See also *Am. Mut. Liab. Ins. Co. v. Casey*, 91 Ga. App. 694 (1955) (holding that an injury sustained on the way home was compensable where an employee died in a car accident while on 24-hour on-call and while in possession of reports that were required to be mailed daily).

[10] *Amedisys*, 269 Ga. App. at 657.

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.* (“‘There is no requirement in our law that the employee at the time of his injury must have no objective other than the business of the employer. [Cit.].’” (Punctuation omitted.) (citing *American Mut. Liability Ins. Co. v. Casey*, 91 Ga. App. 694, 696, 86 S.E.2d 697 (1955)). See also *Kil v. Legend Bros., LLC*, 350 Ga. App. 680 (2019), cert. denied (Jan. 27, 2020) (holding that an injury sustained at home was in the course of employment where one of the claimant’s key daily responsibilities was to review the restaurant’s daily sales, receipts, and inventory and the claimant in fact had possession of such receipts at the time of the accident.)

[15] *Amedisys*, 269 Ga. App. at 657. *See also Manufacturers Cas. Ins. Co. v. Mansfield*, 78 Ga. App. 248 (1948) (holding that mechanic’s death on his way home to retrieve tools for his job, where he was permitted to keep them, was compensable because it was occasioned by his employment).

[16] *Amedisys*, 269 Ga. App. at 657. Courts have also applied this rule in the context of a traveling employee. *See Kil v. Legend Bros., LLC*, 350 Ga. App. 680 (2019).