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# Client Alert

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## *Cartersville City Schools et. al v. Johnson* — The Sky is *NOT* Falling on Idiopathic Claims

Since first defining idiopathic injury, the Georgia appellate courts have refined and attempted to clarify the definition and legal framework for analyzing what has been coined the "idiopathic defense." At one time or another, the defense appeared to die only to be resurrected. For the most part, it has been a viable defense available to employers and insurers for more than sixty years. The most recent decision by a three-member panel of the Georgia Court of Appeals in *Cartersville City Schools v. Johnson* seems to at first glance once again call into question the definition of an idiopathic injury. However, a closer analysis of the actual decision, which remains subject to further appeal, indicates not much has actually changed and the analysis of idiopathic injuries based on the standard set forth in *Chaparral Boats, Inc v. Heath*, 269 Ga. App. 339 (2004) should continue. Despite what you may hear, the sky is not falling, and the idiopathic injury defense is not dead.

In *Johnson,* a school teacher injured her knee while teaching a class. Ms. Johnson was in her classroom instructing students when she turned from her computer and desk to walk back towards the front of her classroom and fell.

The sole issue for the hearing before the Administrative Law Judge concerned whether Ms. Johnson's accident and knee injury arose out of her employment. The ALJ found Ms. Johnson's injury was not idiopathic because she was weaving through the class room desks at the time she fell. The Appellate Division at the State Board reversed this decision, finding no support for the ALJ's determination the fall was caused by her work duties or a tight classroom configuration. The Appellate Division further found Ms. Johnson's act of turning and walking was not a risk unique to her work, and was a risk to which she would have been equally exposed outside of her employment.

The Superior Court reversed the State Board's decision finding the Appellate Division applied the incorrect legal standard and the absence of any evidence the injury was idiopathic. Cartersville City Schools appealed.

The three-Judge panel of the Georgia Court of Appeals found the Superior Court erred in failing to sufficiently defer to the State Board's finding of facts, but ultimately affirmed the Superior Court's decision based on an alleged error in the State Board's legal analysis on the issue of whether Ms. Johnson's injury arose out of her employment. The Court of Appeals indicated the State Board's legal error occurred in the interpretation of the standard set out in the Georgia Supreme Court case of *Fried v. U.S. Fid. & Guar.* Co, 192 Ga. 492 (1941) and its progeny, including *Chaparral Boats*, that injuries do not arise from employment where (1) the injury cannot be traced to the employment as the proximate cause <u>and</u> (2) which comes from a hazard to which the claimant would have been equally exposed apart from employment. According to the Court of Appeals, the State Board's analysis focused solely on the second prong of an otherwise two-pronged analysis. Specifically, it was error to find Ms. Johnson's injury was idiopathic solely because she could have fallen outside of work while walking and turning. Under this analysis, the Court noted, virtually any case in which an employee is walking, turning or standing while performing the job would be non-compensable.

The Court of Appeals found the legal framework for determining whether an injury arises out of employment also requires a determination of whether the injury was caused by activity the employee engaged in as part of her job or some special danger of employment. The Court of Appeals also found the undisputed facts established Ms. Johnson was actively engaged in movements and behaviors required of her as a classroom teacher and she was injured as a result of one or more of these movements. Thus, the Court concluded that "idiopathy" refers to injuries sustained at work that are unrelated to, or do not occur while engaged in work.

What is the take away from this decision? Although some in the claimant's bar may try to interpret this decision to support another death of the idiopathic injury defense, the Court of Appeal's recent decision should not be read to change the analysis you are already applying to cases with facts potentially supporting the occurrence of an idiopathic injury. This analysis, which remains very fact specific, requires the absence of any causal connection between the condition of employment and a determination the injury is not the result of a risk reasonably incident to employment. An idiopathic injury remains one which would have occurred regardless of where the employee was required to be located by his or her employment <u>and</u> the result of a risk to which the employee would have been equally exposed apart from any condition of employment. Satisfying only one of these two requisite criteria, particularly the second, in accordance with *Chaparral Boats* is not enough, as the Court in *Cartersville City Schools v. Johnson* found.

If you have any further questions or would like to discuss the circumstances of a claim which you think may be idiopathic, please do not hesitate to contact your Swift Currie attorney for a more in-depth discussion.

*The foregoing is not intended to be a comprehensive analysis of the full effect of these changes. Nothing in this notice should be construed as legal advice. This document is intended only to notify our clients and other interested parties about important recent developments. Every effort has been made to ascertain the accuracy of the information contained within this notice.*

1355 Peachtree Street, NE | Suite 300 | Atlanta, GA 30309 | 404.874.8800
2 North 20th Street | Suite 1405 | Birmingham, AL 35203 | 205.314.2401