



Daniel v. Bremen-Bowdon Investment Co.

The Georgia Court of Appeals has affirmed and relied upon the bright-line rule established in the recent case of *Frett v. State Farm Employee Workers' Compensation*, which was litigated by Swift Currie partner Chad Harris through his representation of State Farm. In *Frett*, the Court of Appeals concluded the ingress/egress rule does not apply to accidents and injuries occurring on regularly scheduled breaks where the employee is free to pursue personal matters. In a decision rendered on Feb. 26, 2019, in *Daniel v. Bremen-Bowdon Investment Co.*, the Court of Appeals applied the ruling in *Frett* and found the claimant's injuries are not compensable under the Workers' Compensation Act.

In *Daniel*, the claimant parked in a lot owned by the employer, requiring her to walk down a public sidewalk and cross a street to reach her employer's place of business. The claimant was provided a regularly scheduled lunch break during which she was free to leave the workplace and pursue personal matters. While on her regularly scheduled lunch break, the claimant was walking to her car to drive home for lunch when she tripped on the public sidewalk and was injured. The Court of Appeals affirmed the Appellate Division of the State Board's ruling that the claimant's injury did not arise out of her employment because it occurred on a regularly scheduled lunch break. In reaching this decision, the Court of Appeals applied the ruling in *Frett*, where the bright-line rule was established that the ingress and egress rule does not extend to employee injuries occurring while leaving and returning to work for a regularly scheduled break. In *Daniel* and relying upon *Frett*, the Court of Appeals concluded the claimant's injury was not compensable under the Workers' Compensation Act.

The Court of Appeals' ruling in *Daniel* and reliance upon *Frett* affirms the bright-line rule that the ingress/egress rule does not apply or extend coverage to accidents occurring on regularly scheduled breaks where the employer has no control over the employee's activities for the time period of the break. The *Frett* case has been recently resolved so the Supreme Court of Georgia will not address it. At this time, it is unclear if the ruling in *Daniel* will be appealed and, if so, whether the Supreme Court of Georgia will take it under consideration. Accordingly, the bright-line rule established in *Frett* continues to control and accidents occurring on regularly scheduled breaks are not compensable, regardless of whether the employee is ingressing or egressing.

If you wish to further discuss this case or have any questions, please contact a Swift, Currie, McGhee & Hiers attorney at 404.874.8800 or via our website, swiftcurrie.com.

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.

