



Georgia Court of Appeals Outlines “Clearer Bright-Line Rule” for the Scheduled Break Exception

A recent ruling by the Georgia Court of Appeals clarified whether the ingress and egress rule applies to the scheduled break exception. The court previously determined an injury does not arise out of and in the course of an employee’s employment while on a scheduled break where the employee is free to use the time as he chooses even if he remains on the employer’s premises. However, the court also previously established the ingress and egress rule, which indicates an injury occurring within a reasonable period of time while the employee is on the employer’s premises preparing to begin or end work does arise out of and in the course of his employment.

In *Frett v. State Farm Employee Workers’ Compensation*, the claimant slipped and fell while on a scheduled lunch break as she was leaving the breakroom to go outside to eat her lunch. The Court of Appeals affirmed the Board and Superior Court’s denial of benefits. In its ruling, the court noted a clearer bright-line rule is needed regarding the application of the scheduled break exception and how it intersects with the ingress and egress rule. The court concluded the ingress and egress rule does not apply to the scheduled break exception. The court further disapproved its previous holdings to the contrary where it had extended the ingress and egress rule to cover cases where an employee was injured while leaving and returning from a regularly scheduled break.

However, the Court of Appeals noted within its opinion any decision to apply the ingress and egress rule to the scheduled break exception should be made by the Georgia Supreme Court. *Frett* has applied for certiorari of the Court of Appeals decision to the Georgia Supreme Court. Unless the Georgia Supreme Court indicates otherwise, the bright-line rule established by *Frett* is that the ingress and egress rule does not apply to the scheduled break exception. Consequently, an employee injured on a scheduled break on the employer’s premises where he is free to use the time as he chooses is not entitled to workers’ compensation benefits, even if this injury occurs while the employee is departing for or returning from the scheduled break.

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.

