

North Carolina Workers' Compensation Update (10)

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North Carolina Court of Appeals Declines Defendants' Attempt to Narrow the *Pickrell* Presumption

The North Carolina Court of Appeals published an opinion on September 20, 2022 that declined to narrow the application of the *Pickrell* presumption.

In *Frye v. Hamrock, LLC*, the employee-decedent died in the course and scope of his employment when his work vehicle collided with an oncoming car. The initial cause of death was "multi-system trauma" and "motor vehicle collision." Defendants ordered an autopsy, which found that the claimant died of a heart attack. The Deputy Commissioner initially denied the dependents' request for death benefits. However, the Full Commission reversed that decision, determining that the *Pickrell* presumption applied and the defendants failed to effectively rebut it. The Court of Appeals affirmed the Full Commission's reversal.

In North Carolina, a claimant for workers' compensation death benefits must show that the death was caused by an accident arising out of and in the course and scope of the employment. The *Pickrell* presumption generally applies when a claimant dies within the course of employment but the circumstances bearing on work relatedness are unknown. In those situations, a rebuttable presumption exists that the death was work-related, and therefore compensable, whether the medical reason for death is known or unknown.

The defendants in *Frye* argued: (1) the *Pickrell* presumption did not apply because the claimant was not "found dead" and (2) even if the presumption did apply, defendants presented evidence to it by showing that the claimant died of a heart attack. The Court first rejected defendants' narrow reading of *Pickrell*, and confirmed that the presumption is not limited to situations where an employee is "found dead," but should be applied more broadly "where the circumstances bearing on work-relatedness are unknown and the death occurs within the course of employment ... *whether the medical reason for death is known or unknown.*" The Court of Appeals further ruled that defendants' evidence was insufficient to rebut the *Pickrell* presumption. The Court relied on the fact that the doctor who performed the autopsy could not say that the heart attack was caused by a pre-existing medical condition rather than the unusual stress of decedent's employment of driving a dump truck on a steep and curvy descent.

Overall, this ruling implies that defendants have an increased burden of production to rebut the *Pickrell* presumption. It may not be enough to show that the employee died of a heart attack, even when the employee had a pre-existing medical condition that *could* have caused the heart attack. Defendants need to show that the medical condition was more likely than not the cause of the heart attack rather than the circumstances of the employment in order to

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