

# Virginia Workers' Compensation Update

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## Virginia Court of Appeals Provides Refresher on the Basics of Compensability

*Kenneth Reynolds v. Falletta Enterprises, Inc. and Massachusetts Bay Ins. Co.*

On Tuesday, the Virginia Court of Appeals issued an opinion denying benefits for claimant who alleged an injury to his knee arose from stepping out of the back of his work van. *Reynolds v. Falletta Enterprises* addressed a familiar accident location – stairs – but with the unusual condition of the claimant stepping down from a work vehicle rather than down a traditional staircase.

The facts of this claim are relatively straightforward. The claimant is plumber who returned to his work van to collect tools to complete the job. He entered the rear of the van and collected some tools which were not described on the record. As he stepped from the rear of the van on to the client's driveway, he felt a twinge in his knee. Later it was determined that he tore his meniscus and required surgery. The claim was originally denied as the claimant did not articulate what caused his injury during his recorded statement.

### This claim reached the Court of Appeals on two unique issues:

1. Is stepping from the rear of a work vehicle the same as stepping down from a traditional stair?
2. If so, was there sufficient evidence to establish the fall arose from the employment? Or, if not, what is the appropriate standard for evaluating injuries?

To address the first question, the Court of Appeals primarily focused on the standard for determining if an injury arises from an added-risk of the employment. Specifically, the Court considered if there was an unusual condition of the work which would have contributed to the injury. Logically, the first concern was whether or not the height of the platform created an unusual risk which would increase the likelihood of injury. Since the rear of the vehicle created a physical necessity to "step" down to the ground, the Court found that it was appropriate to evaluate this claim with the same legal analysis applied to injuries which occur on traditional staircases.

**What then constitutes an injury arising out of the employment when a worker sustains an injury while stepping from a platform or stair?** The Court of Appeals and the Workers' Compensation Commission highlighted several common risk factors which can result in a compensable claim, including:

- The height of the step/platform,
- Weight and quantity of tools or supplies carried by the worker,
- Lighting conditions,
- Defects in the landing surface or
- Even a distraction caused from a work-related condition.

Reynolds argued on appeal that the stepping from a platform was sufficient to establish an unusual condition of his work and a compensable accident. The Court disagreed, noting that the unusual condition **alone** is insufficient to establish that the injury arose from that same condition. Reynolds was required to establish that a risk existed from stepping out of the back of his work van **and** that same risk caused the alleged injury.

MGC attorney [Brian Frame](#) successfully defended this claim at the Virginia Court of Appeals. The decision in *Reynolds v. Falletta Enterprises* functions as a good refresher on the basics of compensability, while also addressing an unusual fact pattern of an injury arising from a worker exiting the rear of his work vehicle.

Questions? Please contact an [MGC attorney](#).

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