In a recently issued case, Evans v. Hendrick Automotive Group, the Court of Appeals affirmed the Industrial Commission's decision to award workers' compensation benefits to a woman who was severely injured while returning to her hotel after a dinner party sponsored by her employer. The dinner party was part of a mandatory sales conference sponsored by the Hendrick Autmotive Group. The plaintiff had flown in from Texas to attend the event, and her travel expenses were paid by Hendrick.

Before, during, and after the dinner party, Hendrick provided alcohol to its employees, including the plaintiff. While leaving the party to return to her hotel, the plaintiff climbed onto the rail of an escalator, intending to slide down. Instead, she fell off the rail and suffered severe injuries when she struck the ground 25 feet below.

In contesting the plaintiff's claim for workers' comp, Hendrick argued that the injury did not occur "in the course of" or "arising out of" her employment, essentially that the injury neither occurred while she was working nor was caused by her employment. However, this argument failed to account for the well-established "traveling employee" rule, which states that "employees whose work requires travel away from the employer's premises are within the course of their employment *continuously* during such travel, except when there is a distinct departure on a personal errand." Thus, the employer's argument was rejected.

Next, Hendrick argued that the plaintiff's choice to slide down the rail was "thrill-seeking" behavior that served no benefit to Hendrick and, therefore, should not be covered by workers' comp. The Court of Appeals rejected this argument as well, by citing § 97-12(1) of the General Statutes. As a general rule, when a worker's injury is caused by intoxication, he is barred from receiving workers' compensation. However, there is an exception when the alcohol is "supplied by the employer." Because Hendrick provided the alcohol at the dinner party, it could not then argue that the plaintiff's conduct was barred for being "thrill-seeking behavior."

Interestingly, hoping to avoid responsibility for serving the alcohol, Hendrick argued that the plaintiff was not intoxicated when she decided to slide down the railing of an escalator. Her blood-alcohol level was .048, below the legal limit for intoxication. The plaintiff, however, offered the expert testimony of a toxicologist, who testified that blood alcohol levels of "roughly .05 ... can and do produce alterations in mood, in performance and in behavior."

The lesson to employers in this case is quite clear. If you supply alcohol to your employees, you may face workers' comp liability for their poor choices resulting from intoxication. (Note that this case published according to Rule 30(e)(3) of the Rules of Appellate Procedure. As such citation of the case is disfavored but permitted.)

*****

Follow us on Twitter for workers' comp news and updates: @mjworkerscomp

---