

Director Jay Morris and Missouri Client Win Workers' Compensation Trial

In this recent win, a laborer was wheelbarrowing concrete back and forth between a concrete truck and a building on the University of Missouri campus in Columbia when he gradually began to have tightness, swelling and soreness in his right knee. He reported the "injury" to his employer and was seen by a doctor the next day.

An MRI showed no tears, only a degenerative arthritic condition, and the employee had a medial meniscectomy in the same knee two years prior. After his employer, our client, denied the claim, the employee underwent treatment consisting of PT and a series of injections, but continued to have chronic pain. His treating physician recommended a partial knee replacement and opined that his work with our client had exacerbated his preexisting condition to cause the chronic pain.

On cross-examination, the treating physician admitted that the prevailing factor in causing the need for future treatment was the prior surgery and the subsequent development of arthritis in the knee. He could not state within a reasonable degree of medical certainty that the work "injury" caused even the swelling or the pain...it could have been caused generally by the preexisting arthritis. He also admitted that the preexisting arthritis was not caused by the work injury and that the work injury was not the cause for the need for future treatment.

The Missouri DWC found that the employee had suffered an "unusual strain" and, therefore, an on the job accident, but that the accident had only possibly caused the symptom of swelling and pain. The need for treatment (knee replacement) and the resultant disability were not caused by the unusual strain but by the preexisting injury. Therefore, the employee's claim for compensation was denied in its entirety.

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