

Despite Robbery Being a Risk of Employment, State Store Manager Granted Mental Injury Claim

Some jobs have inherent risks, but that doesn't mean that employees in those jobs are excluded from seeking mental injury claims when an incident occurs in the workplace. Based on a recent Supreme Court ruling, a claimant working in a high stress/high risk job may be granted benefits for mental injury when the stressor is determined to be abnormal even for that type of employment.

In 2013, the Pennsylvania Supreme Court in *Payes v. WCAB (Pennsylvania State Police)* established a new rule of law in mental injury claims involving high stress employment environments. The Court granted benefits to a state trooper who struck and killed a pedestrian with his official vehicle. The pedestrian was in dark clothing and intentionally walked into the path of the trooper's car. The Court noted that although state troopers are involved in motor vehicle accident investigations which may involve death and mayhem, this does not preclude them from having mental injury/stress claims under certain circumstances. Before *Payes*, individuals involved in high stress occupations could not prevail in a mental health/stress claim when the mental stressor was part of the expected conditions of employment.

In *PA Liquor Control Board v. WCAB (Kochanowicz)*, decided December 30, 2014, the Commonwealth Court was faced with applying the *Payes* standard in a case involving the manager of a state store having been robbed at gun point. The claimant was employed for more than 30 years for the PA Liquor Control Board and had never been robbed before this episode. The robbery involved a masked burglar with two guns, one of which he held to the back of claimant's head during the robbery. The WCJ granted benefits on the basis that being robbed is an abnormal working condition, but the Commonwealth Court initially reversed the award, finding that the robbery was foreseeable and hence not an abnormal working condition. In light of the *Payes* decision, the Supreme Court directed the Commonwealth Court to reconsider its ruling. Ultimately, the Commonwealth Court found for the claimant and determined that being robbed is not a normal working condition despite the high probability of such occurrences.

Claims of psychological disability based on an emotional stressor must be analyzed very carefully as the law is always changing. The *Payes* case and this case clarify, however, that even employees in inherently stressful occupations, can be entitled to workers' compensation benefits.

For more information, please contact Peter J. Weber at pweber@wglaw.com or 215.972.7901.