

BELOW THE RED LINE

WORKERS' COMPENSATION UPDATE "WE'VE GOT YOU COVERED!"

April 2023

A WORD FROM THE PRACTICE CHAIR

I hope you are enjoying spring and making some wonderful plans for summer 2023! If you have children, I imagine you are preparing for the end of another school year, maybe with the added excitement of prom or graduation. In anticipation of the close of school, all the thoughts of summer begin to trickle into your head. This is a good thing. Time to be outside, soak up the sun, and hopefully work a more relaxed schedule. Time keeps flying at us faster than we want it to, so make sure you stop occasionally to enjoy life and all it has to offer. I, for one, like being outside without the need to wear four layers of clothing. Even if I am hot, spending time outside is always preferred, as long as I don't have to wear a suit. Don't get me wrong, I enjoy wearing my suits and ties (my partners will attest to that), but I certainly enjoy warm weather and the outdoors with friends and family.

I am hoping by now all of you have seen our save-the-date announcement and various messages and ads on social media about our upcoming IN PERSON ONLY Heyl Royster Claims Handling Seminar 2023. The Team here at Heyl Royster is very excited to get together with you and talk about all things workers' compensation. I am confident one of our locations and times will work for your schedule. We invite you to join us, and we can't wait to see you, so tell your colleagues and make plans to be there! We are in Chicagoland on June 8, followed by Bloomington on June 15, and finally, we hit St. Louis on June 22. Bring your smile, workers' compensation

questions, and crazy fact patterns, and we will be ready to help you hone your workers' compensation skills. You will be glad you came!

Writing this month's newsletter article is one of our newest associates who works with me in the Champaign office, [Melvin Stevens](#). Melvin has jumped into the world of workers' compensation with both feet, and we have enjoyed his enthusiasm and excellent work. He does a great deal of work with me, and I suspect you will get to know Melvin and his infectious, positive attitude in the future. We are proud and happy he is a Workers' Compensation Team member. The subject Melvin touches on this month is idiopathic injuries, or those that occur when, say, a person has bad knees that give way, causing an unexpected fall. Under typical situations, these are non-compensable claims. Please note that these are different from unexplained falls. Melvin discusses the case of the Chicago Board of Education involving a teacher's fall down some stairs and why it is important to make sure you are ready for trial, have a plan to present evidence to protect your defense position in the proper manner, to give you and your client the best possible chance for a finding of no compensability.



[Toney Tomaso](#)

WORKERS' COMPENSATION PUBLICATION TEAM

Practice Chair
Toney Tomaso

Editor
Amber Cameron

Featured Author
Melvin Stevens

FEATURE ARTICLE

IDIOPATHIC FALLS: THE IMPORTANCE OF REFUTING “SIGNIFICANT CONTRIBUTION” EVIDENCE

BY MELVIN STEVENS

Under the Illinois Workers’ Compensation Act (“the Act”), “[a]n idiopathic fall originates from an internal and personal condition of the employee.” *City of Bridgeport v. Illinois Worker’s Comp. Comm’n*, 2015 IL App (5th) 140532WC, ¶ 42, 44 N.E.3d 652, 663. Idiopathic falls are only compensable under the Act if “the employment *significantly contributed* to the injury by placing the employee in a position increasing the dangerous effects of the fall.” *Elliot v. Indus. Comm’n of Illinois*, 153 Ill. App. 3d 238, 244, 505 N.E.2d 1062, 1066–67 (1st Dist. 1987) (emphasis added). A recent Rule 23 Order issued by the Illinois Appellate Court, *Chicago Board of Education v. IWCC*, addressed the issue of refuting evidence that may otherwise be sufficient to show a “significant contribution” in an idiopathic fall case.



In *Chicago Board of Education v. IWCC*, the petitioner, Lisa Eskridge, fell down a set of stairs at her workplace in January 2011 and alleged injury to her knees, lower back, head, left elbow, and right index finger. 2023 IL App (1st) 220341WC-U, ¶ 3. Petitioner was a schoolteacher employed by respondent, who required petitioner to clock in and out of work by utilizing the employee time clock located on the second floor of one of the buildings. *Id.* at ¶ 5. Petitioner testified that she felt fine prior to her fall on the date of the accident, and that she had just clocked out of work using the time clock on the second floor. *Id.* at ¶ 6. Petitioner further testified that the stairs were in poor repair, lacked any metal or treading material, and were covered in snow and ice from others tracking snow onto the stairs from outside prior to her fall. *Id.* at ¶¶ 6-7. Petitioner fell down this flight of stairs, losing consciousness during the fall. *Id.* at ¶ 6. She



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testified that she discovered her coat was wet upon regaining consciousness at the bottom of the stairs. *Id.*

A coworker of petitioner, Michelle Mosley, similarly testified that: (1) all employees were required to clock in and out at the time clock on the second floor; (2) that the stairs in question needed repair; (3) that these stairs were wet from snow and ice; and (4) that petitioner's clothing was wet following her fall. *Id.* at ¶ 9.

On cross examination, respondent brought to the arbitrator's attention petitioner's medical records immediately following the fall. *Id.* at ¶ 7. These medical records, respondent claimed, showed that petitioner had a fainting episode that led to her fall and therefore, the fall was idiopathic, and petitioner's claim was not compensable under the Act. *Id.* Petitioner denied that she passed out or was lightheaded preceding her fall and denied the accuracy of the treatment notes claiming the fall was due to her fainting. *Id.*

The arbitrator found that petitioner had not proven she sustained accidental injuries arising out of her employment under the Act and awarded the employer credits for benefits and medical bills paid. *Id.* at ¶ 11. Petitioner appealed, and the Illinois Workers' Compensation Commission reversed the arbitrator's decision after adopting the findings of fact. *Id.* at ¶ 12. The Commission found that petitioner had produced evidence to satisfy the "significant contribution" test for idiopathic falls. *Id.* The circuit

court affirmed the Commission's decision. *Id.* at ¶ 13. The appellate court disagreed with the reasoning of the Commission but affirmed the Commission's decision. *Id.* at ¶ 16. While the Commission found the disrepair of the stairs caused petitioner's fall, the appellate court held that petitioner's fall occurred because of the wet condition of the stairs at the time of the fall. *Id.* The appellate court determined that petitioner's fall occurred within the scope of her employment, as she had just clocked out as required by respondent. *Id.* at ¶ 17. The court also found that the testimony of petitioner and her coworker, which was unrefuted by respondent, established that the floor and stairs leading to the second floor were wet because of the snow tracked from outside. *Id.*

This case demonstrates the importance of refuting petitioner testimony where the defense position asserts an idiopathic fall. The focus at the Commission and lower courts was on developing the *nature* of petitioner's fall. Respondent successfully established that petitioner fell due to an idiopathic issue. However, that is not the entire story needed to refute compensability. As this case shows, idiopathic falls may indeed still be compensable, if the employment *significantly contributed* to the injury by placing the employee in a position of injury due to the conditions surrounding the fall. In *Chicago Board of Education*, the Commission found the disrepair of the stairs significantly contributed to the injury and the appellate court held the wet condition of the stairs increased the petitioner's risk of injury. It is not enough to prove that a petitioner suffered an idiopathic fall; one must also prove that petitioner was not at any increased risk for dangerous effects from their fall as a result of their employment.

Compensability of employee falls are highly fact driven. Please feel free to contact any of our workers' compensation attorneys should you have any questions on this topic or any other workers' compensation issues.



ABOUT THE AUTHOR



Melvin Stevens

Associate in Champaign, IL

- Casualty/Tort Litigation
- Employment & Labor
- Healthcare
- Workers' Compensation

Melvin understands the key to successful attorney-client outcomes lies in the relationships they form professionally and in their shared community.

Melvin joined the Champaign office in 2022, focusing his practice on civil litigation. He intends to diversify and grow his practice, utilizing his additional experiences in Casualty/Tort Litigation, Employment & Labor, Healthcare, and Workers' Compensation.

A Champaign native, Melvin believes that the best lawyers integrate themselves into the community they practice. He understands the key to successful attorney-client outcomes lies in the relationships they form professionally and in their shared community, believing that the best lawyers integrate themselves into the community they practice.

Eager to expand his legal knowledge, Melvin worked throughout law school, first clerking for Mark Ingersoll in Champaign-Urbana, assisting in real estate, will, and estate planning matters. After his second year, Melvin worked remotely for New York-based Jafri Law Firm and assisted in employment law and other civil litigation matters. In his final year of law school, Melvin served as a student attorney for the Veterans Legal Clinic, where he had the privilege of serving his local veteran population.

Melvin graduated from the University of Illinois College of Law *cum laude*.

Contact Attorney:
Brad A. Antonacci
bantonacci@heyloyroyster.com
Kevin J. Luther
kluther@heyloyroyster.com
312.971.9807

Chicago Zone

Dockets Covered:
Elgin • Geneva • Wheaton
Contact Attorney:
Kevin J. Luther
kluther@heyloyroyster.com
815.963.4454

Zone 6

Dockets Covered:
Rockford • Waukegan • Woodstock
Contact Attorneys:
Kevin J. Luther
kluther@heyloyroyster.com
815.963.4454

Zone 5

Dockets Covered:
Kankakee • Joliet • Ottawa
Contact Attorney:
Kevin J. Luther
kluther@heyloyroyster.com
815.963.4454

Zone 4

Dockets Covered:
Bloomington • Rock Island • Peoria
Contact Attorney:
Jessica M. Bell
jbelle@heyloyroyster.com
309.676.0400

Zone 3

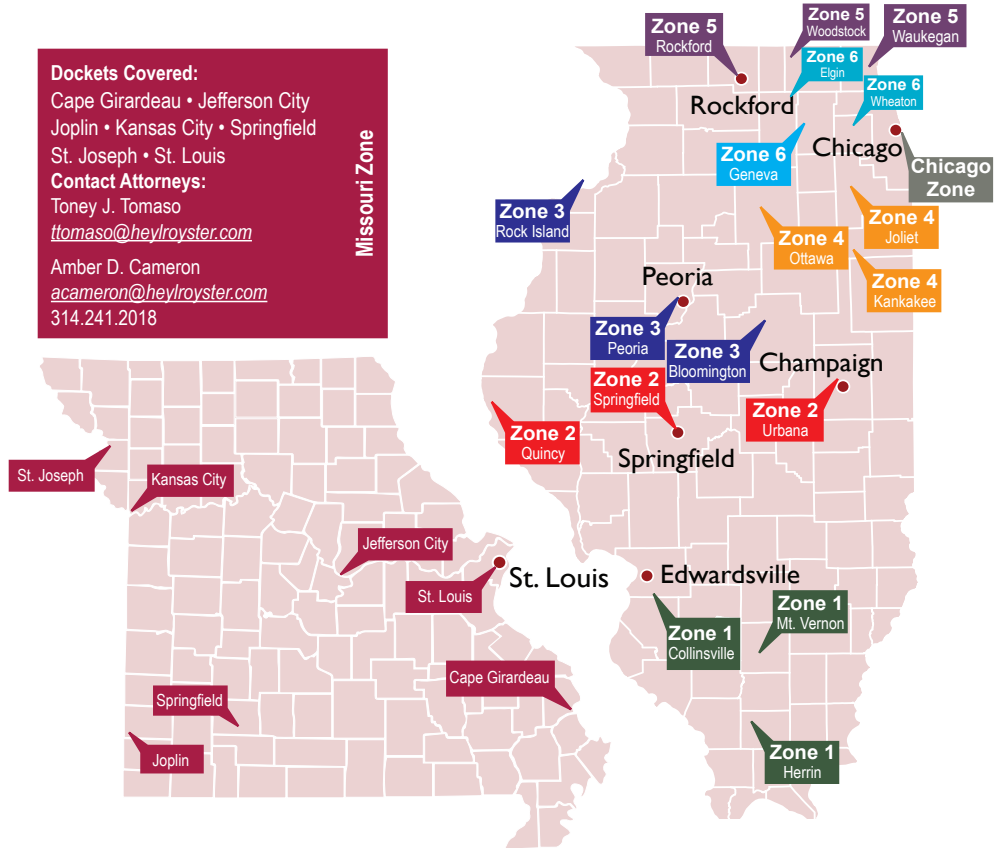
Dockets Covered:
Quincy • Springfield • Urbana
Contact Attorney:
Bruce L. Bonds
bbonds@heyloyroyster.com
217.344.0060

Zone 2

Dockets Covered:
Collinsville • Herrin • Mt. Vernon
Contact Attorneys:
Toney J. Tomaso
ttomaso@heyloyroyster.com
618.656.4646

Zone 1

REGIONAL ZONE MAPS



Workers' Compensation Practice Chair

Contact Attorney:
Toney Tomaso - ttomaso@heyloyroyster.com
217-344-0060

Workers' Compensation Appellate

Contact Attorneys:
Toney Tomaso - ttomaso@heyloyroyster.com
217-344-0060
Christopher Drinkwine - cdrinkwine@heyloyroyster.com
815-963-4454

State of Wisconsin

Contact Attorney:
Kevin Luther - kluther@heyloyroyster.com
815-963-4454

Jones Act Claims

Contact Attorney:
Ann Barron - abarron@heyloyroyster.com
618-656-4646

WORKERS' COMPENSATION OFFICE LOCATIONS

Champaign

301 N. Neil St.
Suite 505
Champaign, IL
61820
217.344.0060

Chicago

33 N. Dearborn St.
Seventh Floor
Chicago, IL
60602
312.853.8700

Edwardsville

105 W. Vandalia St.
Mark Twain Plaza III
Suite 100
Edwardsville, IL
62025
618.656.4646

Peoria

300 Hamilton Blvd.
Second Floor
Peoria, IL
61602
309.676.0400

Rockford

120 W. State St.
Second Floor
Rockford, IL
61101
815.963.4454

Springfield

3731 Wabash Ave.
Springfield, IL
62711
217.522.8822

St. Louis

701 Market St.
Peabody Plaza
Suite 1505
St. Louis, MO
63101
314.241.2018

WWW.HEYLROYSER.COM

WORKERS' COMPENSATION PRACTICE GROUP



Practice Group Chair

Toney Tomaso
ttomaso@heyloyroyster.com

Champaign Office



Contact
Attorney:
Bruce Bonds
bbonds@heyloyroyster.com



John Flodstrom
jflodstrom@heyloyroyster.com



Joseph Guyette
jguyette@heyloyroyster.com



Toney Tomaso
ttomaso@heyloyroyster.com



Samuel Brolley
sbrolley@heyloyroyster.com



Melvin Stevens
mstevens@heyloyroyster.com

Peoria Office



Contact
Attorney:
Jessica Bell
jbelle@heyloyroyster.com



Bruce Bonds
bbonds@heyloyroyster.com



Craig Young
cyoung@heyloyroyster.com



Joseph Moore
jmoore@heyloyroyster.com



Ashley Broadstone
abroadstone@heyloyroyster.com

Chicago Office



Contact
Attorney:
Brad Antonacci
bantonacci@heyloyroyster.com



Kevin Luther
kluther@heyloyroyster.com



Meg Bentley
mbentley@heyloyroyster.com



Joseph Rust
jrust@heyloyroyster.com



Leah Nolan
lnolan@heyloyroyster.com



Yu Ma
yma@heyloyroyster.com



Harry Chipeta Jr.
hchipeta@heyloyroyster.com



Ivan Settimba
issettimba@heyloyroyster.com

Rockford Office



Contact
Attorney:
Kevin Luther
kluther@heyloyroyster.com



Heidi Agustsson
hagustsson@heyloyroyster.com



Jordan Emmert
jemmert@heyloyroyster.com



Steve Getty
sgetty@heyloyroyster.com

Edwardsville Office



Contact
Attorney:
Toney Tomaso
ttomaso@heyloyroyster.com



John Flodstrom
jflodstrom@heyloyroyster.com



Amber Cameron
acameron@heyloyroyster.com

Springfield Office



Contact
Attorney:
Dan Simmons
dsimmons@heyloyroyster.com



John Langfelder
jangfelder@heyloyroyster.com



Jessica Bell
jbelle@heyloyroyster.com

St. Louis Office



Contact Attorneys:
Toney Tomaso
ttomaso@heyloyroyster.com



Amber Cameron
acameron@heyloyroyster.com



Jenna Scott
jscott@heyloyroyster.com

Appellate



Contact
Attorney:
Toney Tomaso
ttomaso@heyloyroyster.com



Christopher Drinkwine
cdrinkwine@heyloyroyster.com

Below is a sampling of our practice groups highlighting a partner who practices in that area – For more information, please visit our website www.heyloyster.com



Appellate Advocacy

Ann Barron
abarron@heyloyster.com



Business and Commercial Litigation

John Heil
jheil@heyloyster.com



Business Organizations & Transactions

Ken Davies
kdavies@heyloyster.com



Casualty/Tort Litigation

Nick Bertschy
nbertschy@heyloyster.com



Civil Rights/Section 1983 & Correctional Healthcare

Keith Fruehling
kfruehling@heyloyster.com



Construction

Mark McClenathan
mmcclenathan@heyloyster.com



Employment & Labor

Brian Smith
bsmith@heyloyster.com



Governmental

Andy Keyt
akeyt@heyloyster.com



Healthcare

Katie H. Anderson
kanderson@heyloyster.com



Insurance Services

Patrick Cloud
pcloud@heyloyster.com



Long Term Care/Nursing Homes

Tyler Robinson
trobinson@heyloyster.com



Professional Liability

Renee Monfort
rmonfort@heyloyster.com



Toxic Torts & Asbestos

Jennifer Johnson
jbjohnson@heyloyster.com



Trucking/Motor Carrier Litigation

Mark McClenathan
mmcclenathan@heyloyster.com



Workers' Compensation

Toney Tomaso
ttomaso@heyloyster.com



Scan this QR Code
for more information about
our practice groups and attorneys

Peoria

300 Hamilton Blvd.
Second Floor
Peoria, IL
61602
309.676.0400

Champaign

301 N. Neil St.
Suite 505
Champaign, IL
61820
217.344.0060

Chicago

33 N. Dearborn St.
Seventh Floor
Chicago, IL
60602
312.853.8700

Edwardsville

105 W. Vandalia St.
Mark Twain Plaza III
Suite 100
Edwardsville, IL
62025
618.656.4646

Rockford

120 W. State St.
Second Floor
Rockford, IL
61101
815.963.4454

Springfield

3731 Wabash Ave.
Springfield, IL 62711
217.522.8822

St. Louis

701 Market St.
Peabody Plaza
Suite 1505
St. Louis, MO 63101
314.241.2018

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