

# Pa. High Court Doubles Down on the Workers' Comp Act's Exclusivity Provision

Employers continue to be shielded from defending against lawsuits by employees when the matter at issue is intertwined with the workers' compensation claim and an employee alleges a failure to investigate a workplace injury.

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**O**n April 19, the Pennsylvania Supreme Court issued a decision in *Franczyk v. Home Depot*, 292 A.3d 852 (Pa. 2023), which safeguarded the Workers' Compensation Act's exclusivity provision in a third-party action.

In *Franczyk*, the plaintiff-respondent, Lindsay Franczyk, was working at a Home Depot store when a customer's dog bit her. She immediately reported the bite to her supervisors (who were named as defendants in the subsequent lawsuit, along with Home Depot). The third-party complaint alleged that the defendants barred Franczyk from any contact or interaction with the dog owner or any witnesses. The defendants located and questioned two individuals who brought dogs into the store and spoke to an eyewitness, but allowed all to leave without obtaining their contact information. Franczyk later had surgery for cubital tunnel syndrome, and she claimed and received benefits under the Workers' Compensation Act (the act).

Franczyk brought a third-party suit against the defendants, alleging that they failed to investigate the incident sufficiently and were negligent in allowing the dog owners

and witnesses to leave without obtaining contact information. The suit also alleged that these acts and omissions denied her the opportunity to file a third-party suit against the dog owner.

The employer filed a motion for summary judgment, claiming immunity under the act's exclusivity provision. The trial court disagreed, finding an exception to the act's exclusivity clause, and denied the summary judgment motion. The Pennsylvania Superior Court affirmed the trial court's decision.

The Pennsylvania Supreme Court, however, ultimately reversed the Superior Court's decision and remanded for the entry of summary judgment in favor of the defendants. In issuing its decision, the court found the instant facts provided no exception to the act's exclusivity clause and held that the exclusivity provision immunized the defendants from the third-party suit because the claimed injury was "not truly separate" from the work injury.

In reaching its decision, the court explained the history and purpose of the act's exclusivity provision, which allows

employers to avoid the risks of defending against lawsuits arising from work injuries in exchange for employers' mandatory contributions to a no-fault insurance program. While the act generally precludes employees from bringing workplace injury claims against their employers, it preserves employees' rights to bring negligence claims against third parties who bear some responsibility for employee injuries. When an employee recovers on such a claim, the employer may seek subrogation to recoup its workers' compensation expenses up to the amount recovered from the third party.

The court then drew a contrast between its prior decisions addressing the act's exclusivity provision in *Kuney v. PMA Insurance*, 578 A.2d 1285 (Pa. 1990) (*Kuney II*) and *Martin v. Lancaster Battery Co.*, 606 A.2d 444 (Pa. 1992), the case most favorable to Franczyk's position.

In *Kuney II*, the court rejected an asserted exception to exclusivity for wrongful conduct. George Kuney alleged that the employer's insurer had refused to pay Kuney's workers' compensation claim without any reasonable basis for such refusal. The workers' compensation judge issued an award and ordered the insurer to pay Kuney, and the Commonwealth Court upheld that determination. Kuney also filed a separate civil suit against the insurer, alleging its bad faith caused emotional harm distinct from the work injury—an injury for which Kuney received workers' compensation benefits. The trial court sustained the insurer's preliminary objections based upon the act's exclusivity provision, but the Superior Court reversed. The Supreme Court upheld the trial court's determination, sustaining the pre-

liminary objections. The *Kuney II* court held that, "reduced to its essence, the employee's claim is that the insurance company wrongfully delayed his receipt of compensation benefits. This is clearly a matter pertaining to a workers' compensation claim and must therefore be adjudicated within the framework of the statute."

In *Martin*, which provided an exception to the act's exclusivity provision, an employee sustained work exposure to lead. His employer tested employees on a regular basis for lead content in their blood. Over several years, the employer willfully and intentionally withheld test results from him or gave him altered results. Joseph Martin was then diagnosed with chronic lead toxicity, lead neuropathy and other ailments. His condition would have been substantially better had his employer not engaged in the deception.

The court in *Martin* concluded that the claim for the aggravation of lead toxicity was not subject to the exclusivity provision and the claimed injury was separable from the work injury. Specifically, there is a difference between employers who tolerate workplace conditions that will result in a certain number of injuries or illnesses and those who actively mislead employees already suffering as the victims of workplace hazards. The aggravation of the injury arises from and is related to the fraudulent misrepresentation of the employer. The *Franczyk* court rationalized that Martin's lawsuit was permissible because "the employee was not seeking compensation for the initial exposure but rather for the distinct (and preventable) aggravation of the original injury—an injury unto itself."

The *Franczyk* court also cited the Superior Court’s decision in *Santiago v. Pennsylvania National Mutual Casualty Insurance*, 613 A.2d 1235 (Pa. Super. 1992), wherein the Superior Court relied on *Kuney II* to hold that the act’s exclusivity provision barred an employee’s suit for an insurer’s bad faith in settlement negotiations as “completely intertwined with the original injury.”

In the end, the Pennsylvania Supreme Court concluded that *Franczyk*’s “asserted injury—by whatever name—is likewise ‘intertwined’ inextricably with the workplace injury.” The court rationalized that allowing *Franczyk*’s suit would require a “trial within a trial” of the underlying claim against the dog owner, in effect requiring the employer defendants “to litigate precisely the sort of claim that the act is supposed to prevent. The architects of the act held that the employer need not even indemnify a third party, let alone defend it.” The court added that the trial court would also likely have to consider the effect of the employer’s subrogation right on any recovery in the underlying suit, as well as whether to reduce any verdict against the employer, accordingly. The court noted that the act “does not anticipate this byzantine scenario, which would compound defendants’ litigation burden and

inject additional uncertainty into the process.”

Accordingly, the Supreme Court reversed the Superior Court’s order affirming the trial court’s denial of summary judgment, and remanded for the entry of summary judgment in favor of the defendants.

The Pennsylvania Supreme Court’s enforcement of the Pennsylvania Workers’ Compensation Act’s exclusivity provision is good news for employers and demonstrates the refusal to take away the statutory protections provided to them under the act. Employers continue to be shielded from defending against lawsuits by employees when the matter at issue is intertwined with the workers’ compensation claim and an employee alleges a failure to investigate a workplace injury.



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