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Connecticut Supreme Court Bars Bystander Emotional Distress Claims Arising Out of Compensable Workplace Injuries

On August 9, the Connecticut Supreme Court will officially release an opinion barring bystander emotional distress claims against employers, where such claims arise out of the witnessing of a compensable injury to an employee. In *Velecela v. All Habitat Services, LLC,* a worker was killed on his employer's premises when an all-terrain vehicle fell off a lift and crushed him. No. SC 19589, adv. release op. at 1 (Conn. Aug. 1, 2016). His wife discovered his body at the scene. *Id.* She brought suit against his employer, alleging negligent infliction of bystander emotional distress. *Id.* The employer asserted the workers' compensation exclusive remedy doctrine as a special defense, and prevailed at trial. *Id.* The plaintiff appealed, and in an advance release opinion issued last week, the Connecticut Supreme Court indicated it would affirm the judgment of the trial court.

The Supreme Court began by noting the Connecticut Workers' Compensation Act abolished "[a]ll rights and claims between an employer who complies with the requirements of [the Act] . . . and employees, or any representatives or dependents of such employees, arising out of personal injury or death sustained in the course of employment." *Id.* at 2 (quoting Conn. Gen. Stat. § 31-284(a)). The court characterized the abolition as "broad," and as "manifest[ing] a legislative policy decision that a limitation on remedies under tort law is an appropriate trade-off for the benefits provided by workers' compensation." *Id.* (quoting *Driscoll v. Gen. Nutrition Corp.,* 252 Conn. 215, 2202-21, 752 A.2d 1069 (2000)) (internal quotation marks omitted). Having noted this, the court then considered "whether a bystander emotional distress claim 'arises out of' the personal injury and death of an employee sustained in the course of employment as that phrase is used in § 31-284(a)." *Id.* Reviewing its prior jurisprudence on the use of "arising out of" in Section 31-284(a), the court held that a claim arises out of employment-related personal injury or death "when there is a causal connection between a compensable personal injury or death and the right or claim." *Id.* at 4. Since a claim for bystander emotional distress "by its very nature, results from and arises out of the underlying personal injury or death," it is "barred by the exclusive remedy provision of § 31-284(a)" "[w]hen that personal injury or death is one that is compensable under the" Workers' Compensation Act.

Velecela is the latest of several cases in which the Connecticut Supreme Court resisted calls to erode the exclusive remedy doctrine. For example, in *DeOliveira v. Liberty Mutual Insurance Co.,* the court held that the doctrine barred actions against workers' compensation insurers for alleged bad-faith handling of an employee's claim. 273 Conn. 487, 489–90, 870 A.2d 1066 (2005). *DeOliveira* and its progeny, including *Velecela*, establish favorable precedents for employers and workers' compensation insurers alike.

Summer associate Julia M. Sorensen contributed to this alert.