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CALIFORNIA SUPREME COURT RULING IN BRANDON CLARK CASE A VERY FAVORABLE DECISION FOR CALIFORNIA WORKERS

By Scott O'Mara

The California Supreme Court has reviewed the development and manifestation of Workers' Compensation laws through which a separate and distinct pattern of benefits has emerged for injured workers as opposed to people who sustain non-work-related injuries (tort injuries). In a recent decision, the Court has reinforced the agreement entered into between employers and employees (known as "the bargain") in the early 1900s.

Whereas in personal injury cases, unlimited liability can be placed on the wrongful party, part of "the bargain" in Workers' Compensation was placing a ceiling on the benefits which can be accessed by injured workers. In exchange for this limitation, the other part of the bargain was a reduced threshold for establishing causation. Whereas in personal injury cases the source of causation must be a *material* factor in causing the injury, in Workers' Compensation the standard is that a worker's job must be a *contributing* factor in causing the injury.

In the *Brandon Clark* case, Mr. Clark — who was represented by O'Mara and Hampton — suffered an injury to his neck and back, as well as his head. Mr. Clark was prescribed medications by his personal physician and ultimately passed as a result of an accidental overdose of a combination of these medications.

The carrier denied liability for Mr. Clark's medical condition, maintaining that his death was non-work-related, and the matter was litigated before the Workers' Compensation Appeals Board. The WCAB Judge found that the combination

of medications contributed to Mr. Clark's demise.

The employer tried to raise a different standard — not the *contributory* factor standard, but the *material* factor standard — and sought to overturn the findings of the WCAB Judge and the Workers' Compensation Appeals Board. The Court of Appeal subsequently found in favor of the employer and overturned the original finding, failing to recognize the substantial difference between the established causation standards for Workers' Compensation and personal injury cases.

This decision by the Court of Appeal essentially eviscerated approximately a century of Workers' Compensation history since "the bargain" took effect about 100 years ago. Had this decision remained in effect, not only would the family of Brandon Clark have been denied benefits — *all California workers would have been seriously hampered in obtaining the benefits to which they are rightfully entitled under the Workers' Compensation system.*

Fortunately, the California Supreme Court reviewed this matter and took issue with the Court of Appeal and recognized that Court's failure to recognize the unique distinctions between Work Comp law and tort law. The Workers' Compensation system does allow employers to defend their cases and deny injuries, but the threshold for the denial and restriction of benefits is limited pursuant to "the bargain" established between employers and employees in the early 1900s.

The Workers' Compensation system was created through an enactment in 1911 in California, and it underwent significant changes in 1913 and 1917 — and continues to evolve through legislative enactments and case law through this date — but "the bargain" has remained in effect throughout.

The Supreme Court's finding in the *Brandon Clark* case reinforces the separation between Work Comp law and tort

law, and the different standards of causation established for work-related and non-work-related injuries. The Workers' Compensation system is designed to protect injured workers and their families, but through a balanced approach which has its limits — the limits being in terms of payment of compensation, *not* the threshold of compensability. Thus, the *Brandon Clark* decision is a *very significant decision.*



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NOTICE

Making a false or fraudulent Workers' Compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.

