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RECENT DEVELOPMENT

ELECTRICAL GENERAL CORP. V. LABONTE: THE EXISTANCE OF A SUBSEQUENT INTERVENING INJURY DOES NOT PRECLUDE AN EMPLOYER FROM LIABILITY FOR ADDITIONAL PERMANENT DISABILITY BENEFITS.

By: Kelly Gillett

The Court of Appeals of Maryland held that an employee's subsequent non-work-related injury did not bar his employer from further liability for the worsening of his back condition. *Elec. Gen. Corp., et al v. Michael L. LaBonte*, 454 Md. 113, 137 164 A.3d 157, 171 (2017). Furthermore, the court determined that neither the collateral estoppel or case doctrine prohibited an employee from receiving additional worker's compensation benefits. *Id.* at 142-43, 454 Md. at 175. As a result, the court held that the evidence adduced at trial supported the jury's finding that the employee's worsening condition was attributable to the work-related injury. *Id.* at 144, 454 Md. at 176.

On September 2, 2004, Michael LaBonte ("LaBonte") suffered an injury during the course of his employment with Electrical General Corporation ("Electrical General"). From September 2004 to June 2006, LaBonte filed a series of claims with the Worker's Compensation Commission ("Commission"). The Commission subsequently determined that he had sustained a work-related injury and awarded him temporary total and partial disability. On December 31, 2006, during a traffic stop, an officer pushed LaBonte against his vehicle, aggravating his back injury.

LaBonte subsequently filed a claim for permanent partial disability benefits. The Commission granted the benefits requested except for medical expenses. The Commission found that a greater percentage of the permanent disability was causally related to the work-injury than the subsequent event with police officer. In October 2012, the Commission granted LaBonte's petition to reopen which asserted that his back injury had worsened. However, the Commission ultimately denied the request for additional benefits, stating that the subsequent event with the police officer broke the "causal nexus" between LaBonte's work-injury and his worsening condition.

LaBonte filed a petition for judicial review. At trial, the jury found that LaBonte's work-injury was causally related to his back condition, and the worsening of his back condition was solely attributable to the work-injury. Electrical General filed an appeal. The Court of Special Appeals, affirming, held that the subsequent intervening accident did not, *per se*, bar Electrical General's responsibility for the injury sustained in 2004. Electrical General filed a petition for a *writ of certiorari*, which the court granted.

The Court of Appeals of Maryland began its analysis by addressing the parties' arguments. *LaBonte*, 454 Md. at 129, 164 A.3d at 167. Electrical General asserted that because the Commission found the incident with the

officer to be a subsequent intervening event; it severed the “causal nexus” between the disability and the work-injury, and therefore precluded the employer’s liability. *Id.* LaBonte contended that the worsening of his back condition was independent from the non-work-related injury. *Id.* He further argued that a finding of a subsequent intervening event did not preclude the employer of further liability under the Workers’ Compensation Act. *Id.* at 130, 164 A.3d at 167. Moreover, LaBonte noted that in the case of permanent disability benefits, liability may be apportioned among multiple injuries. *Id.* As such, LaBonte asserted that the jury had the authority to determine that the work injury was causally related to his worsening condition, and that the evidence adduced at trial supported these findings. *Id.*

Next, the court discussed the standard for reviewing the Commission’s interpretation of the Workers’ Compensation Act. *LaBonte*, 454 Md. at 131, 164 A.3d at 168. Generally, some deference is given to the Commission’s interpretation, unless the decision is founded on clearly erroneous conclusions of law. *Id.* If the Act contains ambiguous language it is to be construed in favor of the injured employee, but the court cannot create ambiguities. *Id.*

The court then conducted a comparative analysis of the present case and the previous case law relied on by Electrical General. *LaBonte*, 454 Md. at 133, 164 A.3d at 169. *Reeves Motor Co. v. Reeves* stated that an employee with a permanent disability was entitled to benefits for the portion that was reasonably attributable solely to the work-related injury. *Id.* at 134, 164 A.3d at 170 (citing *Reeves Motor Co. v. Reeves*, 204 Md. 576, 582-83, 105 A.2d 236, 239-40 (1954)). The court stated that it was the role of the Commission to determine these factual matters. *Id.* at 137, 164 A.3d at 172. The court rejected *Reeves* and found that the Commission’s determination that an independent subsequent injury automatically breaks the causal nexus between the work injury and the worsening condition. *Id.* In turn, the court held that an employer may be liable for the worsening of an employee’s permanent disability caused by and reasonably attributable solely to the work-related injury. *Id.*

Next, the court discussed whether the law of the case doctrine or the doctrine of collateral estoppel applied. *LaBonte*, 454 Md. at 140, 164 A.3d at 173. The law of the case doctrine precludes a party from re-litigating a legal issue once ruled upon by an appellate court. *Id.* at 140-41, 164 A.3d at 173 (citing *Dep’t of Pub. Safety & Corr. Servs. v. Doe*, 439 Md. 201, 216, 94 A.3d 791, 800 (2014)). Similarly, the doctrine of collateral estoppel prevents the re-litigation of an issue of fact that was crucial to the final judgment against the same party in a previous action. *LaBonte*, 454 Md. at 142, 164 A.3d at 174 (citing *Nat’l Union Fire Ins. Co. of Pittsburgh, P.A. v. The Fund for Animals, Inc.*, 451 Md. 431, 463-64, 153 A.3d 123, 142 (2017)). The court concluded that the Worker’s Compensation Act permits the Commission to modify its prior findings, and clearly states that the Commission is not bound by prior rulings. *LaBonte*, 454 Md. at 142-43, 164 A.3d at 175. Therefore, neither the doctrine of the law of the case or of

collateral estoppel barred the Commission from awarding additional benefits. *Id.*

Finally, the court examined the evidence from the prior hearings. *LaBonte*, 454 Md. at 144-45, 164 A.3d at 176. The court determined that the evidence provided ample support for the jury's finding that the work injury caused LaBonte's back condition to worsen. *Id.* at 145, 164 A.3d at 176 (distinguishing from *Reeves* where there was no evidence to support the jury's finding that the employee's work-related shoulder caused his shoulder's partial immobility). LaBonte's work injury affected his ability to work for almost two years and required surgery, while the subsequent incident led to him missing less than 1 month of work along with medication and exercise. *Id.* LaBonte presented a medical expert whose testimony supported the jury's conclusion. *Id.* Therefore, because the evidence supported the jury's finding, the trial court did not err by allowing the jury to determine how much of LaBonte's worsening back condition was attributable to the work-related injury. *Id.* at 145-46, 164 A.3d at 177.

The Maryland Appellate Court held that in the case of a permanent disability, a subsequent intervening act does not necessarily absolve the employer of further liability. This ruling demonstrates the court's desire to ensure that the proper safeguards are intact for employees. The Worker's Compensation Act is designed to protect employees, and this decision will not allow an employer to automatically deny an employee's right to future benefits simply because an independent event occurs. Alternatively, this could result in an increase in frivolous lawsuits, with more people likely to pursue a claim that is unrelated to their actual work injury. Regardless, the Commission is required to determine the actual source of a worsening permanent disability, whether it is caused by the work injury or a subsequent intervening event.