

## HOW TO AVOID PREEXISTING CONDITIONS UNDER THE ALABAMA WORKERS' COMPENSATION LAW

George Allen Moore

Johnston, Moore & Thompson

400 Meridian Street Suite 301

Huntsville, AL 35801

(256) 533-5770

[www.alabamajusticecenter.com](http://www.alabamajusticecenter.com)

To establish medical causation for a work accident or a workplace injury, the employee only needs to show that the strain or exposure to employment conditions was a contributing cause of the injury. *Page v. Cox & Cox, Inc.*, 892 So.2d 413 (Ala.Civ.App. 2004); *Fort James Operating Co. v. Kirklewski*, 893 So.2d 434 (Ala.Civ.App. 2004). If the work accident is a contributing cause to the injury, the injury and the resulting disability are compensable. *Maclin v. Bamsi, Inc.*, 644 So.2d 1 (Ala.Civ.App. 1994).

In *Ex parte Valdez*, 636 So.2d 401 (Ala. 1994), the Supreme Court of Alabama explained the medical causation standard. According to the Supreme Court of Alabama, the test is not whether non-occupational factors could have caused the employee's injury on their own, but whether the industrial accident contributed to cause the employee's condition. The Court held

*"It is not necessary that the employment related injury be the sole cause, or the dominant cause of the employee's injury and disability, so long as it was a contributing cause." Id.*

To further clarify, the Supreme Court of Alabama held that a hazard can be a contributing cause if it is one of multiple factors acting in concert to bring about the occupational injury. *Ex parte*

*Valdez, supra.* The employee is not required to produce evidence that the employment-related trauma, strain or exposure was the only factor contributing to the injury. If the workplace trauma, strain or exertion combines with a non-occupational trauma, strain or exposure or an idiopathic condition to produce a personal injury, the injury and its entire effects will be compensable. *Ex parte Valdez, supra.*

Carrying the contributing cause standard to its logical conclusion, the Alabama Courts have held that medical causation is established when the work accident aggravates, accelerates, or combines with an employee's preexisting infirmity to cause a disabling injury or death. *Goodyear Tire & Rubber Co. v. Cranford*, 989 So.2d 1121 (Ala. Civ. App. 2008). In the clearest expression of this rule, the Alabama Court of Civil Appeals held that:

*"An actual aggravation of an existing infirmity, caused by an accident in the course of employment is compensable even though the accident would have caused no injury in a normal person."*  
*Reeves Rubber, Inc. v. Wallace*, 912 So.2d 274 (Ala.Civ.App. 2005); *Taylor v. Mobile Pulley and Machinery Works*, 714 So.2d 300 (Ala.Civ.App. 1997).

An employee with a preexisting spinal defect or back condition who aggravates it while lifting objects at work is entitled to disability benefits for the aggravation of the defect. *Holmes v. Goldkist, Inc.*, 673 So.2d 449 (Ala.Civ.App. 1995). The aggravation rule also applies when the injury aggravates a preexisting condition to cause new disabling symptoms. *Bidermann Industries Corp. v. Peterson*, 655 So.2d 997 (Ala.Civ.App. 1994).

Many employees suffer from preexisting conditions that will eventually disable them as the condition progresses with time. When a work accident hastens the appearance of disabling symptoms, the disability is medically caused by the work accident and not the preexisting condition. *Taylor v. Mobile Pulley and Machinery Works, supra.* In many aggravation cases, the Courts have stated that no preexisting condition is present for compensation purposes if the

employee was able to perform his or her duties prior to the subject injury. *BE&K Const. Co. v. Reeves*, 898 So.2d 738 (Ala.Civ.App. 2004). If the work accident contributes even slightly to the disabling injury or death, compensation should be awarded. *Ex parte Valdez, supra*. The work injury need not be the dominant cause of the injury to be considered the medical cause of the injury.

Medical causation may be established in the deposition of the treating doctor. The doctor may testify that the work injury contributed to the symptoms that caused the employee to seek medical treatment. The doctor may also testify that the restrictions from the Functional Capacity Evaluation and his medical care were related to the work accident. The doctor may also testify that the workplace injury was one of many factors causing the disability.

If you are unsure about whether a particular strain, trauma, or injury is compensable under the Alabama Workers' Compensation Law, you may call our office at 256-533-5770 for a free consultation. Go to [www.alabamajusticecenter.com](http://www.alabamajusticecenter.com) to learn a lot about your rights under Alabama Workers' Compensation Act.

We will treat you with respect and answer your questions. We will also help you make important decisions if you have suffered an industrial accident, a construction accident, a forklift accident, or a work injury, or if you have questions about workplace safety, a workplace or construction accident or safety at work.