

Workers' Compensation

University of South Alabama v. P.J. Lumber Co.

--- So.2d ----, 2007 WL 80459 Ala. Civ. App. Jan 12, 2007.

Employer sought declaratory judgment to determine workers' compensation liability for an injured employee. The employee died, and thereafter the Circuit court granted the employer's motion to dismiss. Then, the medical provider filed a postjudgment motion to intervene, seeking reconsideration of the dismissal, and to recover payment for medical expenses that the employer paid to the employee. The Circuit Court granted summary judgment on behalf of the employer and the medical provider appealed.

The Court of Civil Appeals affirmed, holding the following:

- 1) the medical provider had no right to maintain independent action, and
- 2) the medical provider could not intervene.

The Alabama Act provides that an injured employee may recover payment for medical expenses, even in the absence of having filed a claim for compensation under the Act. Code §§ 25-5-77, 25-5-81.

For a medical provider to recover from his employer for medical services provided to the injured employee, who had not filed claim under Workers' Compensation Act, provider would have had to prove employee was injured in line and scope of his employment and thus was entitled to recovery under Act. Code §§ 25-5- 81, 25-5-77, 25-5-1(9).

A medical provider had no right to maintain independent action under Workers' Compensation Act to recover for medical services provided to employee unless some action was filed by an injured employee for workers' compensation benefits. Ala. Code §§ 25-5-77, 25-5-81.

The court held that the medical provider had no interest that could be protected by being allowed to intervene in employer's declaratory judgment action to determine workers' compensation liability.