Horseplay on the Job Fatality File

This worker wasn’t able to go back to his job after suffering injuries when he was tackled during horseplay. The injured worker sued the employer. Is the employer liable?

Wayne Booth was a truck driver employed as an independent-contract hauler for Southern Hens Inc. in Mississippi.

On oct. 30, 2012, Booth went to Southern Hens to pick up a trailer. While waiting for paperwork, Southern Hens employee Jerome Caldwell grabbed Booth from behind his midsection in a “bear hug.” Caldwell shoved Booth against some boxes and pushed him through a doorway onto a stack of pallets.

Booth was told that Caldwell was “Just playing.” However, Booth suffered serious injuries to his back that required medical treatment. He wasn’t able to return to work due to the injuries, Caldwell was terminated as a result of the incident.

Booth sued Southern Hens, claiming negligence and failure to supervise and control its employees. Southern Hens filed for summary judgment. A trial court granted the company’s request and threw out Booth’s lawsuit. He appealed.

In reviewing Booth’s case, a Mississippi appeals court noted an employer is liable for an employee’s actions done in the course and scope of his employment. Conduct isn’t considered in the course and scope of employment when it’s not authorized, doesn’t serve the purposes of the employer, or is a “wrongful deed” committed when an employee “abandons” employment.

The appeals court found the trial court correctly found that Caldwell's conduct in bear-hugging Booth and shoving him into a stack of pallets was outside the course and scope of Caldwell's employment duties – loading and unloading shipments. Since it's not within the course and scope of Caldwell's employment, Southern Hens can't be liable for it, the court ruled.

Mississippi case law also says a premises owner must protect an invitee from "reasonably foreseeable injuries at the hands of another."

The appeals court found Caldwell's actions weren't "reasonably foreseeable." The incident occurred without warning in a matter of seconds. Caldwell didn't have a history of dangerous or violent tendencies at work.

Also important: Southern Hens' had safety rules that specifically prohibited fighting, physically threatening others, "horseplay," and practical joking. Records showed Caldwell signed a checklist stating he understood horseplay wasn't tolerated.

Therefore, the appeals court upheld the trial court's ruling to throw out Booth's lawsuit.