

KEGEL, TOBIN & TRUCE
INTER-OFFICE MEMORANDUM

TO: ALL ATTORNEYS/CLIENTS

FROM: JOE TRUCE

DATE: August 15, 2003

RE: COMPENSABLE CONSEQUENCES OF ORIGINAL INDUSTRY
INJURY

In the case of Pirelli Armstrong Tire Company, Allianz Insurance Company v. Workers' Compensation Appeals Board (Charles Van Zant), the Workers' Compensation Appeals Board once again held up the principle of "compensable consequences" which basically reminds us on the defense side of the ditty: "the knee bone is connected to the shin bone..."

Quite frequently we will receive a call from one of our clients concerning a demand for treatment for a body part that was not found to be injured in the original Findings and Award.¹

In such a case, we must find out whether the new body part requires treatment as a "consequence" of the original industrial injury. The most typical case involves a Findings and Award with respect to the applicant's knees. Years later, because of favoring the injured knee, the applicant sustains injury and/or requires medical treatment for his back. The back injury is regarded as a "compensable consequence" - even though the "injury" to the back occurs more than five years from the date of injury.

This long established principle of law was upheld by the Board in the Pirelli Armstrong Tire Company case.²

The Board in Pirelli stated in relevant part as follows:

¹Sometimes our clients feel that there is a "difference" between a Findings and Award after Trial and a Stipulated Findings and Award. In such a case we must remind our client that a Stipulated Findings and Award has the same legal effect as a Findings and Award after Trial.

²A summary of the Pirelli Armstrong case is attached. This summary appeared in the Appeals Board Reporter (Volume 5, Number 12, June 27, 2003 edition).

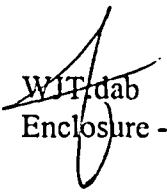
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"In enforcing a general award of medical treatment..., the Board may require an employer to provide treatment for a condition that is a compensable consequence of the industrial injury, even if that condition was not part of the original award, and even if the employee first requests treatment for the condition more than five years after the date of injury..."

 WIT:dab

Enclosure - Pirelli summary