

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

KEVIN COOPER,)	No. ED96549
Plaintiff/Appellant,)	Appeal from the Circuit Court
)	of St. Louis County
v.)	Honorable Maura B. McShane
)	Date: December 13, 2011
CHRYSLER GROUP, LLC,)	
Defendant/Respondent.)	

Plaintiff, Kevin Cooper, appeals from the entry of summary judgment in favor of defendant, Chrysler Group, LLC, in his negligence action to recover damages for injuries suffered in a workplace slip and fall. The trial court entered summary judgment on the ground that plaintiff's exclusive remedy for damages caused by injuries arising from a slip and fall on his employer's premises was with the Labor and Industrial Relations Commission (the Commission), where his workers' compensation claim was pending.

REVERSED AND REMANDED WITH DIRECTIONS TO ENTER A STAY OF PROCEEDINGS.

Division Two Holds:

1. The primary jurisdiction doctrine provides that courts will not decide a controversy involving a question within the jurisdiction of an administrative tribunal until after that tribunal has rendered its decision.
2. The issue of whether there was an accidental injury is a fact issue that is within the exclusive jurisdiction of the Commission, and that a circuit court does not have the authority to determine before the Commission has rendered its decision.
3. The trial court entered summary judgment, which is a final judgment. Although the Commission has exclusive jurisdiction to determine accidental injury, if it does not find an accidental injury, plaintiff should then be able to pursue his civil cause of action. That cause of action should not be terminated by summary judgment before the Commission's decision.
4. The proper remedy in this case is a stay of proceedings in the circuit court until the Commission makes its decision.

Opinion by: Kathianne Knaup Crane, P.J.
Lawrence E. Mooney, J. concurs
Kenneth M. Romines, J., concurs in a separate concurring opinion.

Attorneys for Appellant: Eric D. Holland, Steven J. Stolze, and R. Seth Crompton

Attorney for Respondent: Maureen A. McGlynn

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.