Summary of SC98168, *Lucille Schoen v. Mid-Missouri Mental Health Center and Treasurer of the State of Missouri – Custodian of the Second Injury Fund*
Appeal from the labor and industrial relations commission
Argued and submitted February 11, 2020; opinion issued April 14, 2020

Attorneys: Schoen was represented by Truman E. Allen of Allen, Nelson & Wilson in Columbia, (573) 441-2667. The mental health center was represented by Eric Donar of the attorney general's office in Jefferson City, (573) 751-3321; and the fund was represented by Maureen T. Shine of the attorney general's office in Kansas City, (573) 751-3321.

This summary is not part of the opinion of the Court. It has been prepared by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: An employee appeals the denial of workers' compensation benefits for orthopedic injuries she allegedly sustained after she was tripped accidentally at the doctor's office where she was seeking treatment for respiratory symptoms after chemical exposure at work. In a unanimous decision written by Chief Justice George W. Draper III, the Supreme Court of Missouri affirms the decision. The employee failed to demonstrate her alleged orthopedic injuries arose out of and in the course of employment because the risk of accidental tripping was one to which she would not have been exposed outside employment.

Facts: Lucille Schoen developed respiratory symptoms after being exposed to ant spray while working as a charge nurse at Mid-Missouri Mental Health Center. Her employer sent her to a doctor for evaluation. The doctor accidentally tripped Schoen. She claimed her resulting fall caused her to sustain orthopedic injuries. After completing his evaluation, the doctor opined he expected Schoen to have no permanent disability due to her chemical exposure and released her to regular work duty without restrictions. Schoen ultimately sought workers' compensation benefits for both her chemical exposure and her orthopedic injuries. An administrative law judge awarded her benefits for the chemical exposure as well as for the orthopedic injuries, finding being tripped was the "natural and probable consequence" of Schoen's chemical exposure. The employer appealed to the labor and industrial relations commission, which reversed the award. The commission found Schoen failed to meet her burden of proving her chemical exposure was the prevailing or primary factor in causing any orthopedic injuries from being tripped at the doctor's office. Schoen appeals only the denial of compensation for her orthopedic injuries.

AFFIRMED.

Court en banc holds: Schoen is not entitled to workers' compensation for any injury sustained from her accidental tripping because this injury did not arise out of and in the course of employment. Any orthopedic injuries stemming from the accidental tripping did not occur because of a condition of Schoen's employment, and Schoen is unable to demonstrate her risk of accidental tripping was one to which she would not have been exposed outside her employment. Further, because Schoen's accidental tripping did not arise out of and in the course of her employment, the second injury fund cannot be liable for any compensation.