

## SUPREME COURT OF NEW JERSEY HOLDS THAT CARDIOVASCULAR DEATH IS NOT COMPENSABLE

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### KEY POINTS:

- For the plaintiff, there remains a heightened burden of proving cardiovascular injuries or deaths.
- The statutory standard of proof for cardiovascular injuries/deaths remains that a petitioner must demonstrate that the injury or death was caused by a work effort or strain involving a substantial condition that exceeds “the wear and tear of the petitioner’s daily living” outside of the petitioner’s work duties.
- The Court pointed out that the 1979 amendment to Section 7.2 was to prevent recovery from cardiac injuries that, as a matter of circumstance, happen to manifest in the workplace.
- If personal risk factors may have contributed to the cause of death, the petitioner must show that the work duties exposed the worker to greater risks than the activities in the worker’s daily life.
- The comparison of work effort to daily non-work activities requires a case-by-case, fact-specific analysis.
- The burden of proving that the work effort or strain involves a “substantial condition, event or happening” does not mean that a worker’s ordinary work effort is not sufficient to establish causation. The statute focuses on the intensity and duration of the precipitating work effort or strain in evaluating its capacity to cause cardiac dysfunction.
- Expert testimony should be scrutinized—expert witness conclusions should be carefully evaluated in the context of both the statutory criteria and the prevailing medical standards.

In its July 30, 2014, decision of *James P. Renner v. AT&T* (A-71-11) (068744), the New Jersey Supreme Court reiterated that there remains a heightened standard of proof and causation for cardiovascular claims. The Supreme Court opined in *Renner* that the decedent husband/petitioner failed to sustain his burden of proving a compensable cardiovascular death.

*Renner* involved a dependency claim filed following the death of Renner’s wife, who was employed as a salaried manager and had an agreement with the employer to work from home several days per week. On the day prior to Mrs. Renner’s death, she had been working long hours *at home* to meet a project deadline. Testimony eluded to the fact that Mrs. Renner had worked the evening prior to her death, working throughout the night and into the next morning on the project. Testimony was also submitted that Mrs. Renner had been sitting for a prolonged period of time while working throughout the night. Late the following morning, Mrs. Renner called for emergency medical services due to breathing problems.

She was pronounced dead upon her arrival at the hospital. An autopsy indicated a pulmonary embolism.

Although cardiovascular claims are more regularly associated with heavy labor jobs, this case involved a sedentary job with an unusual level of inactivity. The decedent’s husband/petitioner argued that prolonged sitting was the significant, contributing factor that led to the pulmonary embolism resulting in his wife’s death. The employer/respondent argued that the petitioner’s non-work risk factors—including morbid obesity, usage of birth control pills, age and an enlarged heart—were the significant contributing factors to her embolism and death.

The judge of compensation found there to be a compensable cardiovascular death, and the Appellate Division affirmed the lower court’s decision. However, the New Jersey Supreme Court reversed those decisions and found that the decedent’s husband/petitioner failed to sustain his burden of proving a compensable cardiovascular death under the standards of *N.J.S.A. 34:15-7.2* (Section 7.2), which

governs the burden of proof for cardiovascular claims.

In its decision, the Court provided an analysis of the evolution of the cardiovascular burden of proof in New Jersey. The Court also provided an analysis of the legislative intent behind the 1979 Amendment to Section 7.2, which is still the governing law for cardiovascular injuries/deaths. The *Renner* decision focuses on the interpretation of the “substantial condition or event component” of Section 7.2. The decedent’s extended period of sitting was not a “substantial condition, event or happening” under the facts of this case. Extended periods of sitting were not a job requirement, and the decedent was not confined to a specific space or instructed not to move from her workstation. The decedent had control over her body position, movements and ability to take breaks.

So what does this decision mean for petitioners, respondents and practitioners involved in cardiovascular injury or death cases, especially in a climate where more and more workers are working from home in a sedentary capacity? It means that a respondent does not merely take a petitioner as it finds him or her. It means that a petitioner must continue to meet the heightened burden of proving a compensable injury or death. ||

*See also Marshall Dennehey Warner Coleman & Goggin’s article about the 2011 appellate decision in *Renner* at <http://www.marshalldennehey.com/defense-digest-articles/can-excess-mean-less-broader-interpretation-cardiovascular-injuries>.*



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