

Posttraumatic Stress Disorder in Negligence Claims

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Court Denies Liability for PTSD in Negligence and Negligent Infliction of Emotional Distress Claims

DOI:10.29158/JAAPL.230067-23

Key words: duty of care; general negligence; negligent infliction of emotional distress; physical injury; posttraumatic stress disorder

In *Boivin v. Somatex, Inc.*, 279 A.3d 393 (Me. 2022), the Supreme Judicial Court of Maine ruled that the plaintiff's employer was entitled to summary judgment because the plaintiff failed to establish a *prima facie* case that her claim for posttraumatic stress disorder (PTSD) satisfied the state's physical injury requirement for negligence. The lower court also found that the plaintiff could not recover for negligent infliction of emotional distress (NIED) because she was not a direct victim of the company's negligence.

Facts of the Case

Kim Boivin was employed as a large crane operator for the NewPage Paper Company in Rumford, Maine. NewPage hired Somatex, Inc., to repair one of their overhead cranes. Somatex sent two employees to NewPage in August 2014 to repair a crane. Ms. Boivin's supervisor asked her to work with the Somatex employees while they performed the repair. One of the employees instructed Ms. Boivin to operate the crane while he was standing on the crane. After repeatedly refusing to comply, she ultimately agreed to assist. While Ms. Boivin was operating the crane, the Somatex employee stood up unexpectedly and was crushed between an overhead beam and the crane. He fell approximately 30 feet to the floor and landed in front of Ms. Boivin. The employee died

from his injuries. Ms. Boivin did not know the Somatex worker prior to the day of the incident.

In March 2021, Ms. Boivin sued Somatex, noting that its negligence caused her to develop PTSD. She did not initially specify whether the suit was for general negligence or for NIED. Somatex responded by moving for summary judgment, arguing that Ms. Boivin failed to establish that the event qualified for the limited circumstances in which Maine law imposes a duty to avoid causing emotional harm. In her opposing memorandum, Ms. Boivin offered evidence of physical injury by including a forensic psychiatrist's supporting affidavit, which stated that "PTSD is both a physical and mental disorder" (*Boivin*, p 395). She specified her symptoms of PTSD included "pain, suffering, mental anguish, and distress," as well as night terrors, which she said left her "exhausted. . . unable to concentrate" (*Boivin*, p 397). Ms. Boivin further asserted that she could recover in an action for NIED, even without a physical injury finding. In response, Somatex noted that she had not demonstrated physical injury and thus could only qualify for NIED.

In August 2021, the trial court entered summary judgment for Somatex, ruling that Ms. Boivin did not establish a physical injury and thus had no claim of general negligence. The court also held that Ms. Boivin had no claim for NIED because she was not a "direct victim of Somatex's negligence" (*Boivin*, p 396). Ms. Boivin appealed the judgment to the Supreme Judicial Court of Maine, arguing that she had submitted sufficient evidence confirming negligence on both the grounds of duty of care and physical injury.

Ruling and Reasoning

The Supreme Judicial Court of Maine detailed that, to oppose summary judgment successfully, the nonmoving party is required to present a *prima facie* case for each challenged element of the claim. The court reviewed the grant of summary judgment *de novo*, considering the evidence in the light most favorable to the plaintiff. The court noted that for Ms. Boivin to overcome a summary judgment motion, she must assert facts demonstrating that Somatex owed her a duty of care on the basis of either general negligence or NIED. The court distinguished general negligence from NIED, pointing out that although the elements of NIED are comparable with those of most negligence torts, there is no corresponding "general duty to avoid negligently

causing emotional harm to others” (*Boivin*, p 396). The duty in NIED only arises out of specific circumstances.

The court ruled that Somatex had a duty to act so as to avoid causing physical harm to others, and that this duty subjects the company to “liability for negligent conduct that causes physical harm” (citing Restatement (Third) of Torts: Liability for Physical and Emotional Harm §6, cmt. f (Am. L. Inst. 2010)). The court noted that what was lacking in Ms. Boivin’s submission opposing Somatex’s summary judgment motion was evidence that Somatex had caused her physical injury, for the purposes of her claim that Somatex breached its general negligence duty. The court found that Ms. Boivin’s claims as to the physical effects of PTSD did not produce “a genuine dispute of material fact as to a physical injury suffered by” Ms. Boivin (*Boivin*, p 397). The court said that Ms. Boivin had relied not on specific facts drawn from pleadings, depositions, or affidavits but instead on “conclusory allegations” (*Boivin*, p 397).

The court found that although Ms. Boivin had adequately argued that she experienced emotional distress as a result of the incident, she had not provided evidence that she qualified for the limited conditions required for a NIED claim. She did not have a close relationship with the employee who died and did not have a special relationship with Somatex. These circumstances denote an important difference between general negligence and NIED claims. With this, the court ruled that the lower court did not err, under either legal theory offered by Ms. Boivin, in determining that Somatex was entitled to judgment as a matter of law.

Discussion

In *Boivin*, Ms. Boivin attempted to offer her symptoms of PTSD as a qualifying physical injury under the law. But, the appellate court would not consider physical symptoms, only physical injury. Certainly her assertion that PTSD is a “physical disorder” is demonstrable, at least in the sense of it being a psychosomatic illness; anxiety is a core symptom of PTSD, and the physical manifestations of anxiety are well known. Under the state’s law, however, a symptom is not, in and of itself, an injury. That is not to say that PTSD does not cause, longitudinally, physical “injury,” at least as a somatic sequelae of this mental disorder. Chronic PTSD can cause significant physical (i.e., medical) injury (see Beristianos MH, *et al.*

PTSD and risk of incident cardiovascular disease in aging veterans. *Am J Geriatr Psychiatry*. 2016; 24 (3):192-200). But most of the medical effects of PTSD take years to develop, and there is no way for courts to know whether a particular plaintiff will develop PTSD-related medical disease or how long that may take. The case also demonstrates that evaluating forensic psychiatrists should be aware of jurisdictional variations in the definitions used in legal claims.

Posttraumatic Stress Disorder as Compensable Occupational Disease

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State Supreme Court Reviews Whether Appellee’s Posttraumatic Stress Disorder Qualifies as a Compensable Occupational Disease

DOI:10.29158/JAAPL.230067LI-23

Key words: compensable occupational disease; Minnesota statutes; PTSD; statutory presumption; workers compensation

In *Juntunen v. Carlton County*, 982 N.W.2d 729 (Minn. 2022), the Supreme Court of Minnesota considered questions of first impression and ruled that a county deputy sheriff diagnosed with posttraumatic stress disorder (PTSD) need only demonstrate a diagnosis of the condition in order to satisfy a statutory presumption of occupational disease for workers’ compensation benefits.

Facts of the Case

Douglas Juntunen was hired as a deputy sheriff in August 2001. While on the job, two specific events led to Mr. Juntunen’s subsequent treatment. In the first, Mr. Juntunen responded to an incident in which a 16-year-old boy died after severe head trauma in a car accident; this event was particularly affecting because Mr. Juntunen’s son had recently obtained his