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Idiopathic Fall on Level Surface Will Not Necessarily Preclude Recovery under the Texas Workmen's Compensation Act.

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WORKMEN'S COMPENSATION—Compensable Injuries—Idiopathic Fall on Level Surface Will Not Necessarily Preclude Recovery Under the Texas Workmen's Compensation Act

Texas Employers Insurance Association v. Page, 553 S.W.2d 98 (Tex. 1977).

Mason Page, a security guard for Preston State Bank in Dallas, sought compensation for an injury sustained or aggravated when he fell as he walked across the bank parking lot. The incident occurred after he had performed his daily routine of opening the motorbank teller windows. Page's right knee "buckled" causing him to fall and injure his right knee, wrist, and left arm on the parking lot surface. The evidence indicated that the "buckling" of Page's knee was the only factor contributing to his fall on the level surface. Three and one-half years prior to the bank incident, Page had sustained a compensable injury to his right knee which continued to hinder him. After the bank fall, attempts to treat the injury to his knee were unsuccessful, and Page was not able to return to work. The trial court entered an instructed verdict for the defendant, Texas Employers Insurance Association (TEIA). The court of civil appeals reversed and remanded the decision on the ground that sufficient evidence had been presented to raise a fact question as to whether Page had sustained the injury within the course of his employment and whether that injury was the producing cause of the incapacity of his right leg.[1] TEIA appealed to the Supreme Court of Texas, alleging that the injury did not occur "within the course of employment" as required in the Workmen's Compensation Act.[2] Held—*Affirmed.* An idiopathic fall upon a level surface will not necessarily preclude recovery under the Texas Workmen's Compensation Act.[3]

The majority of jurisdictions have denied compensation for injuries attributable to idiopathic falls on level surfaces[4] because no special risk or

1. Page v. Texas Employers Ins. Ass'n, 544 S.W.2d 452, 455 (Tex. Civ. App.—Dallas 1976), *aff'd*, 553 S.W.2d 98 (Tex. 1977).

2. Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 99-100 (Tex. 1977). The Workmen's Compensation Act states that the phrase "injury sustained in the course of employment" shall include, with certain exceptions:

> all other injuries of every kind and character having to do with and originating in the work, business, trade or profession of the employer received by an employee while engaged in or about the furtherance of the affairs or business of his employer whether upon the employer's premises or elsewhere.

TEX. REV. CIV. STAT. ANN. art. 8309, § 1 (Vernon 1967).

3. Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 102 (Tex. 1977).

4. *See, e.g.*, Sears, Roebuck & Co. v. Industrial Comm'n, 213 P.2d 672, 677 (Ariz. 1950); Dustin v. Lewis, 112 A.2d 54, 58 (N.H. 1955); Zuchowski v. United States Rubber Co., 229

hazard peculiar to the employment exists.[5] *Cinmino's Case*,[6] the first American case involving the compensability of an injury or death caused by such a fall, held that no causal connection was established between the hazard and the injury, since a concrete floor was not a danger created by the employment.[7] Thus, to establish a causal relationship between the employment and the injury, the employee must be exposed to a special hazard.[8]

A "significant minority" of courts, however, have allowed recovery for idiopathic level floor falls,[9] and some notable dissenting opinions have been written in cases which have followed the majority rule.[10] The minority view has developed because of the difficulty in distinguishing falls from small heights or falls into objects from falls onto level surfaces.[11] Injuries sustained in falls from heights or into machinery or other objects have been compensated ordinarily because the employment has created a special risk.[12] Therefore, a logical extension of this rule is to allow recovery for

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A.2d 61, 66 (R.I. 1967). *See generally* 1 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 12.14 (1972). Schmidt's *Attorneys' Dictionary of Medicine* defines "idiopathic" as that being of "spontaneous origin" or "self-originating." 1 J. SCHMIDT, ATTORNEYS' DICTIONARY OF MEDICINE AND WORD FINDER, I-4 (1977). A North Carolina court defined an idiopathic fall as "one due to the mental or physical condition of the particular employee." Cole v. Guilford County, 131 S.E.2d 308, 311 (N.C. 1963).

5. Howard v. Ford Motor Co., 363 S.W.2d 61, 67 (Mo. Ct. App. 1962).

> [N]umerous cases have held as a matter of law that a concrete floor is not such a hazard or special risk for the very simple reason that it is not peculiar to the employment, but is found on most sidewalks, streets and in the flooring of many public and private buildings.

Id. at 67; *see* Cimnino's Case, 146 N.E. 245, 246 (Mass. 1925).

6. 146 N.E. 245 (Mass. 1925).

7. *Id.* at 246; *see* Annot., 37 A.L.R. 769, 771 (1925).

8. *See* Zuchowski v. United States Rubber Co., 229 A.2d 61, 66 (R.I. 1967) (concrete floor not a special risk); Kraynick v. Industrial Comm'n, 148 N.W.2d 668, 671 (Wis. 1967) (hard tile not increased hazard).

9. *See, e.g.*, Employers Mut. Liab. Ins. Co. v. Industrial Accident Comm'n, 263 P.2d 4, 7 (Cal. 1953); Savage v. St. Aeden's Church, 189 A. 599, 601 (Conn. 1937); Pollock v.Studebaker Corp., 97 N.E.2d 631, 633-34 (Ind. Ct. App. 1951) (en banc); George v. Great E. Food Prods., Inc., 207 A.2d 161, 163 (N.J. 1965). *See also* 1 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 12.14 (1972).

10. *E.g.*, Henderson v. Celanese Corp., 108 A.2d 267, 271 (N.J. 1954) (Brennan, J., dissenting) *majority opinion overruled*, George v. Great E. Food Prods., Inc., 207 A.2d 161, 162-63 (N.J. 1965); Andrews v. L. & S. Amusement Corp., 170 N.E. 506, 508 (N.Y. 1930) (O'Brien, J., dissenting); Standfield v. Industrial Comm'n, 67 N.E.2d 446, 448 (Ohio 1946) (Bell, J. and Williams, J., dissenting).

11. Riley v. Oxford Paper Co., 103 A.2d 111, 114 (Me. 1954); General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 218 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

12. Riley v. Oxford Paper Co., 103 A.2d 111, 113 (Me. 1954); *accord*, Irby v. Republic Creosoting Co., 228 F.2d 195, 198-99 (5th Cir. 1955) (fall from a three-foot platform); Connelly v. Samaritan Hosp., 181 N.E. 76, 79 (N.Y. 1932) (fall into a table); Industrial Comm'n v. Nelson, 186 N.E. 735, 736 (Ohio 1933) (fall onto the base of a welding machine); Corry v. Commissioned Officers' Mess (Open), 81 A.2d 689, 692 (R.I. 1951) (fall from a forty-foot terrace).

injuries sustained from an idiopathic fall on a level floor.[13] The current trend is toward compensating the employee regardless of the risk, so long as the employment plays some role incident to the cause of the injury.[14]

In *Garcia v. Texas Indemnity Insurance Co.*[15] the Texas Supreme Court, for the first time, awarded compensation for injuries resulting from a fall caused by a preexisting idiopathic condition.[16] The court held that Garcia's injuries arose out of his employment, reasoning that his employment, either through its activities, conditions, or environments, had a causal connection with his injuries.[17] Although *Garcia* did not involve a level surface fall, it is important because it established that Texas would follow the majority view allowing compensation for injuries resulting from a fall caused by a preexisting idiopathic condition.[18]

General Insurance Corp. v. Wickersham[19] was the first Texas case involving an idiopathic fall on a level surface.[20] The Fort Worth Court of Civil Appeals held that "the attempted distinction between cases where the employee falls from a ladder, or into a hole, or against some object, and those where the employee falls to the ground or floor, is without a reasonable basis."[21] *American General Insurance Co. v. Barrett*[22] lent further support to this theory. In awarding compensation to a workman who suffered injuries from an idiopathic fall on a hard-surfaced road, the Texarkana Court of Civil Appeals stated that the gravel road was an instrumentality essential to the work of the employer.[23]

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13. George v. Great E. Food Prods., Inc., 207 A.2d 161, 162 (N.J. 1965). *Compare* General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 218 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.) (presumed employee suffered dizzy spell) *with* Martin v. Plaut, 59 N.E.2d 429, 430 (N.Y. 1944) (employee fell as she turned suddenly to pick up clothes while dressing in room furnished by employer).

14. Henderson, *Should Workmen's Compensation Be Extended to Nonoccupational Injuries?*, 48 TEXAS L. REV. 117, 125-26 (1969).

15. 146 Tex. 413, 209 S.W.2d 333 (1948).

16. *Id.* at 416, 419, 209 S.W.2d at 335, 337 (Garcia sustained fatal head injuries when he fell and struck a concrete post during an epileptic seizure).

17. *Id.* at 419, 209 S.W.2d at 336. In awarding compensation to Garcia the court adopted the "except for" test of causal connection. "If, except for the employment, the fall, though due to a cause not related to the employment, would not have carried the consequences it did, then causal connection is established between injury and employment, and the accidental injury arose out of the employment." *Id.* at 417, 209 S.W.2d at 336 (citing Connelly v. Samaritan Hosp., 181 N.E. 76, 78 (N.Y. 1932)); *see* 27 TEXAS L. REV. 570, 571 (1949).

18. General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 218 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

19. 235 S.W.2d 215 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

20. *See id.* at 218 (employee received fatal head injuries in fall caused by dizzy spell).

21. *Id.* at 218. This rationale generally is followed by courts which allow compensation for injuries caused by idiopathic falls on a level surface. *See* Pollock v. Studebaker Corp., 97 N.E.2d 631, 633 (Ind. Ct. App. 1951).

22. 300 S.W.2d 358 (Tex. Civ. App.—Texarkana 1957, writ ref'd n.r.e.).

23. *Id.* at 363; *cf.* George v. Great E. Food Prods., Inc., 207 A.2d 161, 163 (N.J. 1965) (similar result where employee struck concrete floor).

The opinion in *Texas Employers Insurance Association v. Page*,[24] sanctioning recovery for an idiopathic fall on a level surface, is the first definitive statement on this issue rendered by the Texas Supreme Court.[25] The court determined that an injury from a fall on a level surface caused by a personal preexisting condition was an injury of a kind and character that may have originated in the employer's business, thereby bringing it within the requirements of the Texas Workmen's Compensation Act.[26] From the evidence presented, a causal connection was established between the conditions under which Page performed his work and his resulting injury which was sufficient to raise a fact issue as to whether or not the injury originated in his employment.[27]

In Texas the Workmen's Compensation Act is liberally construed in favor of recovery.[28] The intended purpose of the compensation statute is to protect the employee against the risk or hazard encountered in performance of the employer's business.[29] According to *Page*, to be compensable, an injury need not be the product of an extraordinary risk peculiar to the employment; the mere fact that the employee is performing duties incident to his employment is sufficient to create a compensable risk.[30] Nothing in the workmen's compensation statute requires a showing that the employment involves a special hazard.[31] In the instant case the employment had only the slightest connection with Page's injury, but the statute was liberally construed so that its beneficial purpose was accomplished.[32]

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24. 553 S.W.2d 98 (Tex. 1977).

25. *Id.* at 102; *see* American Gen. Ins. Co. v. Barrett, 300 S.W.2d 358, 364 (Tex. Civ. App.—Texarkana 1957, writ ref'd n.r.e.); General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 218 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

26. Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 102 (Tex. 1977).

27. *Id.* at 102.

28. *See* Shelton v. Standard Ins. Co., 389 S.W.2d 290, 293 (Tex. 1965); Consolidated Cas. Ins. Co. v. Jackson, 419 S.W.2d 232, 238 (Tex. Civ. App.—Houston [14th Dist.] 1967, writ ref'd n.r.e.).

29. Lumberman's Reciprocal Ass'n v. Behnken, 112 Tex. 103, 110, 246 S.W. 72, 73 (Tex. 1922).

30. *See* Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 100 (Tex. 1977). A preexisting injury or disease which enhances or aggravates the injury complained of, does not of itself defeat a claimant's right to recovery under the statute. Sowell v. Travelers Ins. Co., 374 S.W.2d 412, 414 (Tex. 1963). According to *Page*, the prior injury must be the sole cause of the later incapacity in order to defeat a claim for compensation. Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 100 (Tex. 1977); *see* Argonaut Southwest Ins. Co. v. Morris, 420 S.W.2d 760, 774 (Tex. Civ. App.—Austin 1967, writ ref'd n.r.e.); Texas Employers' Ins. Ass'n v. Beard, 390 S.W.2d 59, 60 (Tex. Civ. App.—Fort Worth 1965, writ ref'd n.r.e.).

31. TEX. REV. CIV. STAT. ANN. art. 8309 § 1 (Vernon 1967); *accord*, Geltman v. Reliable Linen & Supply Co., 25 A.2d 894, 898 (N.J. 1942) (personal assault on a salesman while at work). *See also* American Gen. Ins. Co. v. Barrett, 300 S.W.2d 358, 363 (Tex. Civ. App.—Texarkana 1957, writ ref'd n.r.e.); General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 218 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

32. *See* Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 100-01 (Tex. 1977); *accord*, Mingus v. Wadley, 115 Tex. 551, 559, 285 S.W. 1084, 1087 (1926); King v. Texas Employers'

The Texas courts have not held that compensation should be allowed in every case in which an employee suffers injuries from a fall to a level surface,[33] and they agree that some hazard or risk must exist in order for the employee to recover although it need not be a special risk.[34] Even if the hazard is no different in degree or kind than those to which the general public is exposed, the plaintiff must prove the existence of a hazard in order to recover.[35] The courts, however, have not established guidelines for determining which injuries are compensable and which are not.[36] Surface hardness could serve as a standard for making this distinction since it might increase the risk of injury,[37] but *Barrett* is the only Texas case which specifically emphasizes the hardness of the level surface.[38] Some other jurisdictions, however, have rejected surface hardness as a source of the risk on the basis that such a test "lends itself to a *reductio ad absurdum.*"[39] The standard of surface hardness would create endless speculation because one could fall on a cement floor without injury, while another may fall on a relatively soft surface and be seriously injured.[40]

The jurisdictions which follow the majority view refuse to recognize a level floor as being a hazard or risk,[41] since level surfaces are conditions the general public encounter daily whether on a sidewalk or in a home.[42] While an employee who falls on the floor at work and injures himself might just as easily have fallen elsewhere and received the same injuries, the critical

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Ins. Ass'n, 416 S.W.2d 533, 538 (Tex. Civ. App.—Amarillo 1967, writ ref'd n.r.e.).

33. *See* Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 102 (Tex. 1977); General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 219 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

34. *E.g.*, Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 100-01 (Tex. 1977); American Gen. Ins. Co. v. Barrett, 300 S.W.2d 358, 363 (Tex. Civ. App.—Texarkana 1957, writ ref'd n.r.e.); General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 219 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

35. Savage v. St. Aeden's Church, 189 A. 599, 601 (Conn. 1937); *see* Whitaker v. General Ins. Co., 461 S.W.2d 148, 153 (Tex. Civ. App.—Dallas 1970, writ ref'd n.r.e.).

36. *See* Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 102 (Tex. 1977); American Gen. Ins. Co. v. Barrett, 300 S.W.2d 358, 363 (Tex. Civ. App.—Texarkana 1957, writ ref'd n.r.e.); General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 219 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

37. 1 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 12.14 (1972).

38. *See* American Gen. Ins. Co. v. Barrett, 300 S.W.2d 358, 359, 363 (Tex. Civ. App.—Texarkana 1957, writ ref'd n.r.e.).

39. Riley v. Oxford Paper Co., 103 A.2d 111, 113-14 (Me. 1954); *accord*, Dasaro v. Ford Motor Co., 113 N.Y.S.2d 413, 415 (App. Div. 1952). Larson, however, states that "[t]he element of hardness could . . . someday serve as a ground of distinction if claims should arise for falls into soft sandpiles or haymows." 1 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 12.14 (1972).

40. Riley v. Oxford Paper Co., 103 A.2d 111, 113 (Me. 1954).

41. *E.g.*, Riley v. Oxford Paper Co., 103 A.2d 111, 113 (Me. 1954); Zuchowski v. United States Rubber Co., 229 A.2d 61, 66 (R.I. 1967); Kraynick v. Industrial Comm'n, 148 N.W.2d 668, 671 (Wis. 1967).

42. Zuchowski v. United States Rubber Co., 229 A.2d 61, 66 (R.I. 1967).

factor is whether the employee was at work when he fell.[43] Accordingly, that the accident would not have happened but for the claimant's performing the duties of his employment is a poor argument to award compensation.[44] Courts following the majority view require that the employment factor make a more substantial contribution to the injury.[45]

The majority view is based on the contention that extending the statute to provide employees with protection against everyday accidents to which the general public is exposed would make them a "privileged class."[46] Injuries from idiopathic falls on level surfaces originate basically from a personal risk,[47] and the Workmen's Compensation Act is not a health insurance law requiring compensation for every injury an employee suffers while working.[48] It can be argued, however, that even though idiopathic falls are caused by a personal risk,[49] the employer takes the employee as he finds him without regard to any internal injuries or infirmities.[50] Thus, by accepting the employee as he is, the employer also accepts the risk of an idiopathic fall.[51] Therefore, a causal connection is established between the employment and the idiopathic fall under the implied acceptance theory which asserts that the employer's acceptance is a causative element.[52]

The Texas courts have determined that no distinction should be made simply because an employee was standing on a level floor when he fell instead of on a ladder or near a hole or some other potentially dangerous object.[53] By allowing compensation if sufficient evidence is presented to establish a causal connection between the injury and the employment, *Page* has rejected the argument that a level floord fall should not be within

43. *See* Aetna Ins. Co. v. Hart, 315 S.W.2d 169, 174 (Tex. Civ. App.—Houston 1958, writ ref'd n.r.e.); General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 218, 219 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

44. Borden Foods Co. v. Dorsey, 146 S.E.2d 532, 534 (Ga. Ct. App. 1965).

45. Sears, Roebuck & Co. v. Industrial Comm'n, 213 P.2d 672, 675 (Ariz. 1950); 1 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 12.14 (1972). The contribution of the employment factor need not be greater than the personal factor, but it must be a real contribution, not a fictitious one. *Id.* § 12.14; *see* Luvaul v. A. Ray Barker Motor Co., 384 P.2d 885, 888 (N.M. 1963).

46. Sears, Roebuck & Co. v. Industrial Comm'n, 213 P.2d 672, 675 (Ariz. 1950).

47. 1 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 12.14 (1972).

48. Zuchowski v. United States Rubber Co., 229 A.2d 61, 66 (R.I. 1967).

49. *See* Cole v. Guilford County, 131 S.E.2d 308, 311 (N.C. 1963).

50. George v. Great E. Food Prods., Inc., 207 A.2d 161, 162-63 (N.J. 1965); 1 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 12.14 (1972).

51. 1 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 12.14 (1972).

52. *Id.*

53. General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 218 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.). "It is our belief that the rule more in harmony with the letter and the spirit of the holdings of the Texas courts is the one allowing a recovery." *Id.* at 219; *see* American Gen. Ins. Co. v. Barrett, 300 S.W.2d 358, 363 (Tex. Civ. App.—Texarkana 1957, writ ref'd n.r.e.).

the course of employment.[54] In Texas the courts have approached each claim for recovery on a case by case basis to determine whether a causal connection exists.[55] In order for Page to perform his duties it was necessary for him to walk across the bank parking lot, thus making the parking lot an instrumentality of his employment and establishing the requisite causal connection.[56] Since the Texas Workmen's Compensation Act does not require a special risk or hazard,[57] the court found that even this tenuous connection was sufficient to allow recovery.[58]

Apparently in Texas all that is necessary to recover for an injury sustained in a level surface idiopathic fall is proof that the employment has only the slightest connection with the injury.[59] Although the original purpose of the compensation act was to allow recovery where the employment caused the injury, the current trend appears to be in favor of allowing recovery regardless of the origin of the risk.[60] The *Page* decision is consistent with this trend and now accords Texas plaintiffs the complete protection of the Act's beneficial purpose.[61]

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54. Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 102 (Tex. 1977).

55. *See, e.g.*, Texas Employers Ins. Co. v. Page, 553 S.W.2d 98, 102 (Tex. 1977); American Gen. Ins. Co. v. Barrett, 300 S.W.2d 358, 363 (Tex. Civ. App.—Texarkana 1957, writ ref'd n.r.e.); General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 219 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

56. *See* American Gen. Ins. Co. v. Barrett, 300 S.W.2d 358, 363 (Tex. Civ. App.—Texarkana 1957, writ ref'd n.r.e.).

57. TEX. REV. CIV. STAT. ANN. art. 8309, § 1 (Vernon 1967); *accord*, Geltman v. Reliable Linen & Supply Co., 25 A.2d 894, 898 (N.J. 1942). *See also* American Gen. Ins. Co. v. Barrett, 300 S.W.2d 358, 363 (Tex. Civ. App.—Texarkana 1957, writ ref'd n.r.e.); General Ins. Corp. v. Wickersham, 235 S.W.2d 215, 218 (Tex. Civ. App.—Fort Worth 1950, writ ref'd n.r.e.).

58. *See* Texas Employers Ins. Ass'n v. Page, 553 S.W.2d 98, 101 (Tex. 1977).

59. *See* George v. Great E. Food Prods., Inc., 207 A.2d 161, 162 (N.J. 1965). *See generally* Note, *Arising "Out of" and "In the Course of" the Employment Under the New Jersey Workmen's Compensation Act*, 20 RUTGERS L. REV. 599, 607 (1966).

60. Henderson, *Should Workmen's Compensation Be Extended to Nonoccupational Injuries?*, 48 TEXAS L. REV. 117, 126 (1969).

61. *See* Mingus v. Wadley, 115 Tex. 551, 559, 285 S.W. 1084, 1087 (1926); King v. Texas Employers' Ins. Ass'n, 416 S.W.2d 533, 538 (Tex. Civ. App.—Amarillo 1967, writ ref'd n.r.e.).