



## Workers' Compensation Report

Amber D. Cameron\*

Heyl, Royster, Voelker & Allen, P.C., Edwardsville

### A Painful Precedent: *Tazewell County* and the Expanding Scope of Compensable Injuries

---

On January 31, 2025, the Illinois Appellate Court, Fourth District, issued a decision of first impression regarding a repetitive injury claim where a preexisting injury was not worsened but became painful due to work activity of the petitioner. In *Tazewell County v. Illinois Workers' Compensation Commission*, 2025 IL App (4th) 230754WC, the appellate court affirmed the circuit court's decision upholding the Illinois Workers' Compensation Commission's award of benefits. The ruling confirms that an asymptomatic preexisting condition that becomes painful from work activity is compensable under the Workers' Compensation Act.

#### Background

As a concise overview, the aggravation or acceleration of a preexisting condition caused by a work-related activity is compensable under the Act. *Sisbro, Inc. v. Industrial Commission*, 207 Ill. 2d 193, 204-205 (2003). Under the Act, an employee must establish that she sustained an accidental injury "arising out of" and occurring "in the course of" her employment by a preponderance of the evidence. 820 ILCS 305/2 (West 2018); *Sisbro*, 207 Ill. 2d 193 at 203. An injury "arises out of" employment if there is some causal connection between the employment and the accidental injury. *McAllister v. Illinois Workers' Compensation Commission*, 2020 IL 124848, at 36. In that, even if an employee had a preexisting condition that made her more vulnerable to injury, recovery for an accidental injury will not be denied if she can show that the employment was also a causative factor. *Sisbro*, 207 Ill. 2d 193 at 205. While these requirements have long been established under the Act, pain alone caused by an employee's job duties had not been viewed as a compensable condition, because it was considered merely a symptom of an underlying injury.

For over 20 years, the standard for evaluating the compensability of Illinois Workers' Compensation cases involving a preexisting condition has hinged on the findings in *Sisbro*, in which the Illinois Supreme Court conducted a detailed study of precedential caselaw and affirmed the award of benefits to a petitioner who claimed entitlement to benefits for an ankle injury, despite various preexisting maladies. In so doing, the court focused the analysis of preexisting condition cases on conditions, rather than symptoms, expressly articulating that to establish a compensable injury, a worker must prove "that a work-related accidental injury aggravated or accelerated the preexisting disease such that the employee's current condition of ill-being can be said to have been causally connected to the work-related injury and not simply the result of a normal degenerative process of the preexisting condition." *Id.* at 204-205.

## Appellate Court Findings

In *Tazewell County*, the Illinois Appellate Court, Fourth District, issued a decision guaranteed to impact how workers' compensation practitioners approach repetitive injury claims for years to come. Specifically, the court addressed an issue of first impression: whether repetitive work activity that causes pain—without worsening a preexisting condition—is compensable.

The petitioner, Dora Potts, worked as a full-time dental hygienist for the respondent employer from 2005 until 2019. *Tazewell County*, 2025 IL App (4th) 230754, ¶¶ 4,6. Potts, who had a preexisting rotator cuff tear, began to notice pain in her left shoulder in January 2019 which she attributed to consistently having her arm elevated at work to perform her job duties. *Id.* ¶ 7. Specifically, the petitioner maintained her left arm at a 90-degree angle straight out from her shoulder when she worked on a patient, a method she was taught in school and used by most dental hygienists. *Id.* ¶ 5. The left shoulder pain persisted, leading to surgical intervention for a symptomatic rotator cuff tear. *Id.* ¶ 12. Petitioner's surgeon stated in his narrative report that while he did not believe the nature of the petitioner's duties caused her rotator cuff tear, her repetitive work activities "were a contributory cause of pain at her left shoulder" and there was a causal connection between her work for the respondent and her left shoulder pain. *Id.* ¶ 13.

At the arbitration hearing, the arbitrator denied the petitioner's request for temporary disability and concluded that she failed to prove she sustained an accident arising out of and occurring in the course of her employment with the respondent. *Id.* ¶ 17. Potts appealed the arbitration decision to the Commission. The Commission reversed the decision of the arbitrator and found the petitioner had sustained a compensable injury to her left shoulder, despite a lack of substantive change to the preexisting tear, because her work duties as a dental hygienist - specifically how she positioned her arm to reach a patient - aggravated her preexisting condition by causing pain. *Tazewell County*, 2025 IL App (4th) 230754, ¶ 18.

On further appeal, the main issue before the appellate court was whether repetitive work activity that results solely in pain stemming from a preexisting non-work-related condition was compensable under the Act in the absence of a concomitant worsening of the underlying condition. *Id.* ¶ 27. Put simply, the appellate court was tasked with determining whether pain stemming from a preexisting condition should be compensable under the Act when that preexisting condition was not worsened by work activities. Potts' repetitive work activities were not documented to have increased the size of her rotator cuff tear nor otherwise aggravate the condition of her left shoulder. *Id.* ¶ 41. Instead, Potts' repetitive work activities only caused increased pain in her left shoulder necessitating surgical repair of the preexisting condition.

Respondent centered its argument before the appellate court on the issues of accident and causation and contended that pain alone is not a compensable condition under the Act. *Id.* ¶ 30. This argument held merit because, prior to the Commission decision in *Tazewell County*, prevailing case law supported the position that pain alone was not a condition of ill-being and therefore not enough to substantiate a compensable injury. Rather, pain was typically considered a symptom of an underlying injury or condition, but not a condition or injury itself.

Potts and her counsel argued that she had sustained a compensable injury to her left shoulder because her work duties aggravated her preexisting rotator cuff tear, which warranted the surgery she ultimately received to alleviate the complaints. Potts' medical evidence documented her left shoulder pain improving while she was off work, but consistently returning when she resumed work. *Id.* ¶ 18. In this case, while Petitioner's rotator cuff tear was not technically worsened by her everyday job duties, these duties were a contributing factor to her resulting pain.

Ultimately, the appellate court ruled that Potts' repetitive work duties resulted in left shoulder pain, and therefore, her accident arose out of and in the course of her employment with the respondent, and her left shoulder pain was causally related to her repetitive work duties. *Id.* ¶¶ 33-34. Based on this finding, the petitioner was entitled to temporary total disability and permanent partial disability benefits, in spite of respondent's objections. *Tazewell County*, 2025 IL App (4th)

230754, ¶ 35. In essence, despite finding no causal connection between the petitioner’s work duties and any change to her preexisting left shoulder rotator cuff tear, there was a causal connection between her work duties and her left shoulder pain, making her claim for benefits compensable under the Act.

*Tazewell County* highlights a substantial shift in analysis of causation that directly impacts employers: if a petitioner with an asymptomatic preexisting condition experiences a new onset of pain that can be connected to a work-related activity, that symptomatic condition (pain) is compensable under the Act as an aggravation of a preexisting condition, even in the absence of a change in the preexisting condition.

### Takeaways

But what amount and duration of symptomology from work activity is enough to render pain from a non-work-related condition compensable under the Act? How will *Tazewell County* impact notice and statute of limitations questions? Going forward, this ruling may raise lingering questions for practitioners and prompt inquiries from arbitrators about whether injuries that result in pain alone are compensable.

Despite the ruling in *Tazewell County*, defense attorneys can still effectively advocate for their clients. At the outset of such a polarizing decision, *Tazewell County* is a distinguishable case. Consider the facts in this case: Potts worked as a full-time dental hygienist for over 14 years, seeing up to 18 patients a day with little to no breaks during her shift. Her left shoulder pain was found to result from years of consistent repetitive motion and maintaining a specific arm and shoulder position to perform her duties. The sustained specific repetition faced by Potts provides a strong basis for arguing that *Tazewell County* does not apply broadly. Most petitioners alleging pain from asymptomatic conditions will likely struggle to show the same extent and duration of repetitive activity necessary to establish compensability without evidence of a change in the underlying condition.

The case of *Tazewell County v. Illinois Workers’ Compensation Commission* underscores the importance of thorough claim analysis by defense counsel and employers. In determining whether to accept a repetitive trauma claim as compensable, it is essential to examine the extent and duration of a petitioner’s symptoms, relevant medical history, any preexisting conditions, and the specific demands and scope of their job duties. The decision also accentuates the value of well-documented job descriptions, physical requirements, and task mechanics to support the defense of claims. Further, testimony and documentation of supervisors and co-workers about an employee’s pain complaints—or lack thereof—while completing work tasks will become increasingly important. Section 12 examiners will also need to address pain level expectations with various medical conditions and opine whether any specific work activities may reasonably exacerbate symptoms.

*Tazewell County* results in a broader interpretation of a compensable claim but does not erase viable defenses. It presents new challenges for defending claims, but the petitioner must still prove that the new onset of pain was not merely the natural progression of a preexisting condition, but the result of an exacerbation of the condition by the repetitive nature of specific work duties.

### About the Author\*

**Amber D. Cameron** is a partner at *Heyl, Royster, Voelker & Allen, P.C.*, working out of the firm’s Edwardsville and St. Louis offices, where she focuses her practice on workers’ compensation and toxic tort litigation. A seasoned trial attorney, Ms. Cameron represents employers of all sizes throughout southern Illinois and Missouri. Regularly providing educational seminars to insurance companies, third-party administrators, and self-insured employers, she has a keen eye



for detail and a tactical approach, working diligently with her clients to develop creative resolution strategies for her claims. Before joining Heyl Royster, Ms. Cameron gained advanced knowledge of Illinois workers' compensation law while working as a staff attorney at the Illinois Workers' Compensation Commission. She earned her law degree and a certificate in dispute resolution from the University of Missouri-Columbia School of Law, where she excelled in legal writing.

\* The author would like to thank **Allison Klein**, an associate in the Chicago office of *Heyl, Royster, Voelker & Allen, P.C.*, for her assistance with this article.

### **About the IDC**

The Illinois Defense Counsel (IDC) is the premier association of attorneys in Illinois who devote a substantial portion their practice to the representation of business, corporate, insurance, professional and other individual defendants in civil litigation. For more information on the IDC, visit us on the web at [www.IDC.law](http://www.IDC.law) or contact us at PO Box 588, Rochester, IL 62563-0588, 217-498-2649, 800-232-0169, [admin@IDC.law](mailto:admin@IDC.law).