



## **Orlando Motorcycle Mechanic and Instructor Awarded Workers' Compensation Benefits for Back Injury**

An Orlando motorcycle mechanic and training instructor suffered several injuries while employed with Universal Technical Institute (UTI) over the past eleven years. In 2003 he suffered injuries to his head, in 2005 he injured his [low back](#) while lifting, in 2009 he injured his left hand, [elbow](#), wrist and shoulder resulting in multiple surgeries and on March 10, 2011 he injured his back while lifting a motorcycle engine.

Following the injury, the claimant felt no back pain; he simply heard a "clunk", though he did feel pain in the hip and calf. More than a week later his supervisor noticed he was limping and inquired as to the cause of the problem. The claimant advised that he didn't know what he had done. He had surgery related to the 2009 accident and then returned to work for two days before being fired for a, "reduction in force."

In June, 2011, just days after being terminated, he saw his family doctor who ordered an MRI which revealed two herniated discs and he was referred to a spine surgeon. He then saw the doctor workers' compensation had provided for his 2005 back injury. This physician advised him the damage in his back was caused by the 3/10/11 work accident.

In June or July of 2011 he called the Human Resources department for UTI and reported the 3/10/11 injury. When asked why it took so long to report the accident he advised that he did not realize the extent of the 2011 injury due to the pain medication he was taking from a prior work accident and not until told by his family physician.

UTI's workers' compensation insurance company denied the accident based on a [lack of reporting](#) and notice defense and refused to provide medical or lost wage benefits.

Pursuant to Section 440.185(1), Fla. Stat. (2011), "An employee who suffers an injury arising out of and in the course of employment shall advise his or her employer of the injury within 30 days after the date of or initial manifestation of the injury."

However, the 30 days does not begin to run until the claimant, as a reasonable person, should recognize the nature, seriousness, and probable compensable character of her injury.

Orange County Public Services v. Ottley, 9 So. 3d 638 (Fla. 1st DCA 2009). Further, "failure to timely notify the employer of the injury can be excused if the employer had actual knowledge of the injury, or if the cause of the injury could not be identified without a medical opinion and notice was given within 30 days of claimant obtaining a medical opinion indicating the injury arose out of and in the course of employment."

In reviewing the testimony of the parties, the Judge rejected the insurance company's "notice of injury" defense finding the claimant notified his employer within 30 days, "of when he reasonably recognized the nature, seriousness, and probable compensable character of his injury", specifically, that the claimant did not recognize that he had sustained any significant injury from the 3/10/11 incident until Dr. Johnson told he had herniated discs in his back.

The Judge explained that it is "reasonable that the medications claimant was on for his 2009 injury ... would have masked his symptoms from the 3/10/11 injury somewhat, and it is reasonable that [the] claimant might not initially recognize his symptoms as related to the 3/10/11 incident given his prior work-related back injury." The Judge also accepted the claimant's unrefuted testimony that he informed ... the UTI HR department about his 3/10/11 work injury sometime in early July of 2011, specifically noting that, "because the claimant had been laid-off from UTI on 6/24/11, he would have no reason to be in contact with his former supervisors after that date."

Based on the above evidence, the Judge found in favor of the injured mechanic and awarded him temporary partial disability benefits, plus statutory penalties and interests, from his termination date to the present and continuing.

If you, or anyone you know, have suffered a work place injury, call an experienced and dedicated workers' compensation attorney at the [Law Offices of Franks & Koenig](#) for a free and confidential consultation today. Contact us at 1-877-WE-CAN-HELP or visit us online at the [Law Offices of Franks & Koenig](#).

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