

**STATE OF LOUISIANA
COURT OF APPEAL, SECOND CIRCUIT
430 Fannin Street
Shreveport, LA 71101
(318) 227-3700**

No. 55,460-CW

DEBRA PINKNEY

VERSUS

FRANKLIN PARISH SCHOOL BOARD

FILED: 07/26/23

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On application of Franklin Parish School Board for SUPERVISORY WRIT in No. 48,084 on the docket of the Fifth Judicial District, Parish of FRANKLIN, Judge Stephen Gayle Dean.

HAMMONDS, SILLS, ADKINS, GUICE, ET AL.
Jon Keith Guice
Linda Kay Ewbank

Counsel for:
Franklin Parish School

BENOIST LAW OFFICES
Paul Howard Benoist

Counsel for:
Debra Pinkney

Before COX, ROBINSON, and ELLENDER, JJ.

WRIT GRANTED AND MADE PEREMPTORY; EXCEPTION OF LACK OF SUBJECT MATTER JURISDICTION SUSTAINED.

Applicant, Franklin Parish School Board (“FPSB”), seeks review of the district court’s judgment overruling its exceptions of lack of subject matter jurisdiction and no cause of action raised in response to the plaintiff’s tort suit seeking damages arising from injuries sustained as a result of a “trip and fall” on the school campus. FPSB argues that because Ms. Pinkney’s accident clearly arose from and in the course of her employment, the Office of Workers’ Compensation (“OWC”) has original, exclusive jurisdiction over all claims related to Ms. Pinkney’s injuries sustained by the accident pursuant to La. R.S. 23:1310.3(F).

The plaintiff, Debra Pinkney, is a third-grade teacher at Winnsboro Elementary School who sustained injuries when she tripped and fell on a landing at the top of stairs leading into to the main building on the campus. When she fell, Ms. Pinkney was seeking to deliver a medical excuse to the principal of the school whose office is located in the separate main building of the school. Ms. Pinkney filed a Disputed Workers’ Compensation Claim on September 22, 2021. On August 9, 2022, Ms. Pinkney also filed a petition for damages in the district court under La. C.C.P. arts. 2315, 2317, 2317.1 and 2322, alleging that the treads and

risers of the steps and landing leading to the principal's office are defective and unreasonably dangerous, and that but for its failure to repair to stairs, the accident would not have occurred. FPSB challenged the suit in district court by filing exceptions of lack of subject matter jurisdiction and no cause of action which the trial court denied.

Jurisdiction over the subject matter is the legal power and authority of a court to hear and determine a particular class of actions or proceedings, based upon the object of the demand, the amount in dispute, or the value of the right asserted. La. C.C.P. art. 2. Subject matter jurisdiction is a threshold issue inasmuch as a judgment rendered by a court that has no jurisdiction over the subject matter of the action or proceeding is void. La. C.C.P. art. 3; *Iberia Bank v. Live Oak Circle Dev., L.L.C.*, 12-1636 (La. App. 1 Cir. 5/13/13), 118 So. 3d 27. Whether a district court has subject matter jurisdiction over a case is a question of law and is subject to *de novo* review. *Larkin Dev. North, L.L.C. v. City of Shreveport*, 53,374 (La. App. 2 Cir. 3/4/20), *writ denied*, 20-01026 (La. 12/22/20), 307 So. 3d 1039.

Where no evidence is introduced at the hearing on the exception of lack of subject matter jurisdiction, the court must accept the allegations of the petition as true for the purpose of ruling on the exception. However, this rule applies only to properly pled material allegations of fact; the court is not required to accept conclusory allegations or allegations of law as true for purposes of the exception. *Beasley v. Nezi, LLC*, 16-1080 (La. App. 1 Cir. 9/8/17), 227 So. 3d 308.

La. R.S. 23:1310.3(F) sets forth the jurisdiction of the workers' compensation judgments, and provides in pertinent part as follows:

The workers' compensation judge shall be vested with original, exclusive jurisdiction *over all claims or disputes arising out of this Chapter*, including but not limited to workers' compensation insurance coverage disputes, group self-insurance indemnity contract disputes, employer demands for recovery for overpayment of benefits, the determination and recognition of employer credits as provided for in this Chapter.

The courts will not read La. R.S. 23:1310.3 more broadly than its explicit language since the general rule is that district courts are vested with original jurisdiction and exceptions to this general rule are to be narrowly construed. *See Broussard Physical Therapy v. Family Dollar Stores, Inc.*, 08-1013 (La. 12/2/08), 5 So. 3d 812. If the issue to be considered arises out of the Louisiana Workers' Compensation Act, jurisdiction is vested in the OWC; if the issue merely relates to a workers' compensation claim, the OWC does not have subject matter jurisdiction. *TIG Insurance Company v. Louisiana Worker's Compensation Corporation*, 04-2608 (La. App. 1 Cir. 6/10/05), 917 So. 2d 26, *writ denied*, 05-1821 (La. 1/27/06), 922 So. 2d 553.

In general, a workers' compensation claimant is entitled to compensation under La. R.S. 23:1031(A) if he/she "receives personal injury by accident arising

out of and in the course of his [her] employment.” *Demarest v. NI Welding Supply, LLC*, 22-231 (La. App. 3 Cir. 11/9/22), 352 So. 3d 1067. An accident arises out of the employment if the employee was engaged about her employer’s business and when the conditions of the employment cause the employee in the course of her employment to be at the place of the accident at the time the accident occurred. *McLin v. Industrial Specialty Contractors, Inc.*, 02-1539 (La. 07/02/03), 851 So. 2d 1135; *Obein v. Mitcham Peach Farms, L.L.C.*, 43,637 (La. App. 2 Cir. 10/29/08), 997 So. 2d 670. Our courts have also recognized that employees may from time to time be asked by their employers to do things that are not necessarily within their regular job duties or descriptions. *Biscamp v. Sysco East Texas*, 46,182 (La. App. 2 Cir. 4/13/11), 63 So. 3d 1097. These instances are “special mission” exceptions to the “going and coming” rule, which generally provides that injuries sustained by an employee traveling to and from work are not considered to have occurred within the course of employment. *McLin, supra*. There is also an “intentional act” exception to the exclusive jurisdiction provisions of the OWC. To establish that a workplace injury resulted from an intentional act requires proof that the person who acts either (1) consciously desired the physical result of his act, whatever the likelihood of that result happening because of his conduct, or (2) knew that the result was substantially certain to follow from his conduct, whatever his desire may have been as to that result. *Elits v. Twentieth Century Fox Film Corporation*, 54,252 (La. App. 2 Cir. 3/30/22), 336 So. 3d 1022, *writ denied*, 22-00691 (La. 6/22/22), 339 So. 3d 1184. An employee may be exposed to a suit for damages where the employer intentionally and arbitrarily denies necessary medical expenses and knew to a substantial certainty that the denial of such benefits could cause the employee’s death. *Kelly v. CNA Ins. Co.*, 98-0454 (La. 3/12/99), 729 So. 2d 1033.

After *de novo* review, we conclude that the injuries sustained by Ms. Pinkney due to the slip and fall arose out of her employment and in the course of her employment as a teacher at Winnsboro Elementary School. Even assuming, for the sake of argument, that her walk across the campus from her classroom building to the principal’s office in the main building took her away from the situs of her regular classroom employment duties, her delivery of a medical excuse for her absence(s) is an employer required “special mission” that she performed on the campus during normal working hours and part of her duties as a teacher at the school. We find that the accident occurred in the course of her employment when Ms. Pinkney was injured while actively engaged in the performance of her duties during working hours, either on the employer’s premises or at the main building on campus where her employment activities took her. *McLin, supra*; *Obein, supra*.

We further conclude that, when all the allegations of material fact alleged in her petition are accepted as true, Ms. Pinkney does not meet either of the two very narrow exceptions to the exclusive jurisdiction of the OWC in this matter. The facts alleged in Ms. Pinkney’s petition fail to establish that FPSB arbitrarily denied Ms. Pinkney medical benefits while knowing to a substantial certainty that the denial of medical benefits could cause her death. *Weber v. State*, 93-0062 (La. 4/11/94), 635 So. 2d 188. The allegations that Ms. Pinkney’s petition, if proven, also do not meet the “intentional act” exception under La. R.S. 23:2032(A)(1)(a),

sufficient to defeat exclusive jurisdiction in the OWC in this case. *Stanley v. Airgas-Sw., Inc.*, 15-0274 (La. 4/24/15), 171 So. 3d 915; *Elits, supra*. Thus, Ms. Pinkney's exclusive remedies for her claims fall within the jurisdiction of the OWC under La. R.S. 23:1310.3(F).

Furthermore, since a judgment rendered by a court that has no jurisdiction over the subject matter of the action or proceeding is void, the district court ruling that denied the exception of no cause of action was void, and our consideration of that exception is rendered moot.

Accordingly, we grant FPSB's writ application, sustain the exception of lack of subject matter jurisdiction, and dismiss the petition for damages with prejudice.

Shreveport, Louisiana, this 12 day of October, 2023.

JLR JSC DJE

FILED: October 12, 2023

Shandra Taylor
DEPUTY CLERK