

Products Liability Series: What Is the Interplay Between Arkansas Workers' Compensation and Products Liability Actions?



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What is the interplay between Arkansas Workers' Compensation and Products Liability Actions? Under Arkansas law, an employee's exclusive remedy for claims for work-related injuries against an employer is through the Arkansas Workers' Compensation Commission.

The resulting difficulty for defendants in Arkansas products liability actions is that Arkansas law does not permit co-defendants to ask the jury to apportion fault as against an immune employer. According to the Uniform Contribution Among Tortfeasors Act (UCATA), a defendant's right to contribution for the allocation of fault applies only to "joint tortfeasors," and joint tortfeasor is defined as "two (2) or more persons or entities who may have joint liability or several liability in tort for the same injury to person or property, whether or not judgment has been recovered against all or some of them." Ark. Code Ann. § 16-61-201(1). Since an employer who carries workers' compensation insurance is generally immune from liability for damages in a tort action brought by an injured employee, an immune employer is not an entity that can have "joint or several liability in tort" and does not fit within the definition of a "joint tortfeasor" or fall within the confines of the allocation of nonparty fault under the UCATA. In short, the UCATA does not allow for the apportionment of fault to an immune employer. See *Indus. Iron Works, Inc. v. Hodge*, 2020 Ark. App. 56, 5, 595 S.W.3d 9, 12 (2020), reh'g denied (Feb. 19, 2020).

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