

In The Matter of The Workers' Compensation Claims of Timothy Araguz and James Elder v. Wal-Mart Stores, Inc., 2011 WY 148 (Wyo.2011)

This case represents an important victory for retail establishments who have not elected to become a part of Wyoming's state-funded workers' compensation program (the Act"). Araguz and Elder were injured while operating a forklift and a yard tractor at Wal-Mart's Distribution Center. They contended they were engaged in "warehousing," which is statutorily classified as extra hazardous work and that they were entitled to workers' compensation benefits under the state plan. The Department of Employment had classified Wal-Mart as a non-covered retail operation. The employees challenged the Wyoming Department of Employment's classification of the Distribution Center as a retail ³Warehouse Clubs and Supercenters² establishment, contending that the Distribution Center's primary function of warehousing distinguished it from other non-covered retail operations, and therefore must be covered under the Act. The Wyoming Supreme Court relied upon a Wyoming Workers Compensation Division Rule requiring the classification to be based upon the primary business of the employer and held that the duties of an individual employee did not determine whether the employer's business was extra hazardous employment. Although, an individual employees' activities may be extra hazardous in nature, the employer's classification requires an analysis of the primary business of the employer throughout the State of Wyoming. Although the work performed by the plaintiffs at the Distribution Center involved warehousing activities, a consideration of Wal-Mart's business activities throughout the state led to the proper conclusion that Wal-Mart was a non-covered retail operation.

This case was handled by John Sundahl.