



YLD NEWS

The newsletter of the Illinois State Bar Association's Young Lawyers Division

A worker's compensation primer for non-work comp attorneys

By Paul R. Popovic

As young attorneys, many of us are developing expertise in a specific area of the law. For general practitioners and other attorneys, that may be multiple areas of expertise at once. But inevitably, we will all be faced with a question from a client, friend, or family member that stumps us, dealing with an area of the law we just don't know much about. The purpose of this article is to give you a basic understanding of my developing specialization in the legal field, workers' compensation law, so you can answer those questions involving a work injury (and hopefully avoid giving your client, friend or family member a blank stare).

What is workers' compensation?

Workers' compensation is insurance that pays for the medical recovery of employees who get injured on the job. Prior to the enactment of workers' compensation law, an injury at work was brought under common law and subject to common law defenses. Due to assumption of risk and contributory negligence defenses, employees working in particularly hazardous fields (such as mining), were losing negligence claims and thus any benefits for medical care. For those that did win their claims there was no cap on jury

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ISBA/YLD PILI Internship Award recipient reflects on 2012 summer PILI Internship

By Meryl Prochaska

During the summer of 2012, I had the opportunity to serve as a Public Interest Law Initiative (PILI) intern with the Chicago Medical-Legal Partnership for Children (CMLPC) at Health and Disability Advocates. This experience further inspired me to pursue a career in public interest law. A few of the highlights of my internship experience with the CMLPC include: hearings at juvenile court, presentations on the CMLPC for physicians at the University of Chicago Comer Children's Hospital, meetings with numerous Chicago advocacy organizations, and events such as a bill signing with Governor Quinn. In addition, I was able to assist with an article on the Affordable Care Act. I had opportunities to learn about direct client services and was able to increase my knowledge of

legislative and policy advocacy, which included learning how to write comments and recommendations to proposed rule changes. When I attended PILI's Summer Educational series, I was exposed to other aspects of public interest law, including a seminar on Writing for Public Interest Lawyers.

With the help from the ISBA Young Lawyers Division Internship grant, I was able to support myself, while having the wonderful experience to go to work every day in an environment where I was learning from an organization and from attorneys who seek to make a difference in people's lives. As I continue to develop my specific career interests, I plan to use the skills and experience I learned in this internship. I am grateful for the support and the opportunity. ■

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A worker's compensation primer for non-work comp attorneys

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awards, forcing some employers into bankruptcy. Workers' compensation law put a cap on those awards for injuries that occurred at work, and also replaced the common law system, which leads to my next point.

Workers' compensation is a no-fault system

Because Illinois Workers' Compensation law did away with common law claims, employees no longer have the burden of proof to establish negligence on the part of their employer. Regardless of negligence or fault, if an employee is injured at work, workers' compensation insurance will kick in.

Which injuries are considered "at work?"

For an injury to be considered job-related, it must "arise out of," and "in the course of" employment. Generally, an injury "arises out of" employment when the employee is doing the work he or she is tasked to do, or is subject to a particular risk of their work. An injury occurs "in the course of" employment when an employee is at work, or traveling as required by their employment.

What benefits are provided?

As discussed above, the idea behind workers' compensation is to return an employee to their original state of good health. The benefits provided by workers' compensation are in accordance with this idea. An employee has the right to receive the "reasonable and necessary" medical care to cure their injury. If their injury cannot be cured, and the employee will never return to their original state of health, some variation of a permanency settlement will be awarded to compensate for the difference. Should an employee be restricted from work by a physician due to their injury, they have the right to receive a portion of their weekly pay while they recuperate.

Resources

Illinois enacted its first workers' compensation law with the intent that employees would follow the procedures without the assistance of an attorney. Given the complexities that have developed over the years, in many instances this is no longer realistic. However, the State still provides a free resource that anyone can access, which delin-


eates the workers' compensation process in detail. The Illinois Workers' Compensation Commission maintains the Web site (iwcc.ill.gov), which contains the Workers' Compensation statute, rules, frequently asked questions, and other necessary information for filing a claim.

Workers' compensation attorneys

To find a workers' compensation attorney near you, consider the following resources for a referral. The Illinois State Bar Association (www.isba.org) and the Workers' Compensa-

tion Lawyers Association (www.WCLA.info) are terrific resources for finding a workers' compensation attorney in Illinois. For out-of-state matters, consider using the American Bar Association as a source (www.abanet.org). I would also be happy to serve as a resource for any questions (ppopovic@spiroslaw.com).

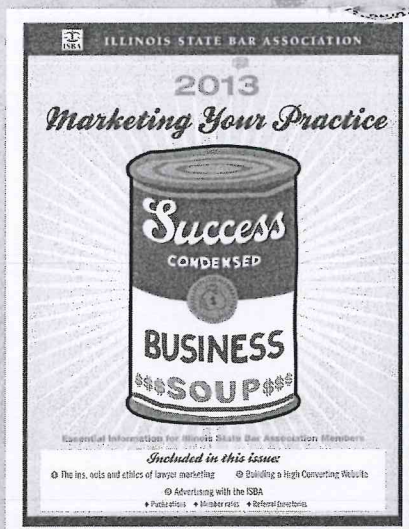
This primer gives you an idea of how workers' compensation works, why we have it, and to whom it applies. At the very least, you will have a response the next time a friend, family member or client asks you about their injury at work.


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