

Workers' Comp 101: Lessons You Need to Learn Before it's Too Late

Introduction

The day you were injured probably was one of the worst days of your life. You never thought that you would get hurt on such an ordinary day. And now you have to deal with doctors and nurses, not to mention the insurance company. Will you be able to work like you could before? How could one thing on that one day take such a toll on your health and the money in your pocket? Will you ever get what you deserve?

Even if you haven't had an injury at work, someone you know probably has. And you could be the one who is worrying about your workers' comp claim in the future.

Although workers' compensation laws are designed to compensate injured employees, the workers' compensation system isn't easy to understand. Many claims are promptly accepted by the insurance company, with compensation and medical benefits quickly paid to the injured worker. Injured employees with accepted claims often take care to follow through with their responsibilities and receive the benefits they are due. Often there is no disagreement about medical treatment, the injured worker returns to work, and the claim ends in a payment to the worker.

Other injured employees have workers' comp claims that are challenging.

Sometimes problems arise in those claims not because the employee did something wrong, but because of how the injury happened. Problem cases may end with a bad outcome, without medical treatment or compensation and can leave the employee feeling cheated. The truth can be hard to swallow: in the world of workers' comp, bad results happen all the time. In fact, there are some claims will never be payable because North Carolina lawmakers have decided that workers' comp laws should not cover that kind of injury or condition.

Don't let the worst results happen to you and your claim. This book was created to show you how to improve your chance of getting the best outcome, and to make sure that you know how to keep away from the traps that will take away your money and your medical benefits.

How do we sort through the thousands of injuries to get to the Workers' Comp 101 lessons that will help you? We grade the claims, giving the best grades to those claims that are likely to give the injured worker the best result, and the worse grades to those that aren't. Two types of grades stand out. The first type is the claim that starts out as a solid C or a D but then the injured worker takes charge and earns an A. The second kind has even more interesting lessons for Workers' Comp 101 students. These claims start out as A or B claims but end up earning an F. Those claims tell us the most about what NOT to do with your workers' comp claim.

I have been representing injured workers for nearly 20 years. But before I was a lawyer, I was a classroom teacher. I teach law students at UNC-Chapel Hill and sometimes at Wake Forest. I regularly meet with groups of workers in union halls across the state and give classes for lawyers on everything from basic workers' comp to how workers' comp works with state employees' benefits. I love to teach, and I especially love to teach Workers' Comp 101.

My experience has taught me that it's not always easy for an injured worker to figure out what workers' comp is supposed to do and the kinds of benefits that workers' comp can provide. This book can help you know what to do to get your medical treatment is paid and to get money for food on your table and gas in your car. You will see how some employees got it wrong and nearly

failed, so that you can get it right. In some cases, you will see how the injured employee pulled up his grade, proving that even some of the worse problems can be fixed.

Workers' Comp 101 is for everyone. It doesn't matter what kind of student you were in school. Some of the best students I've had never got a high school diploma or even finished middle school. To get that A on your claim, you just need a willingness to learn, a bit of persistence, and a good dose of common sense.

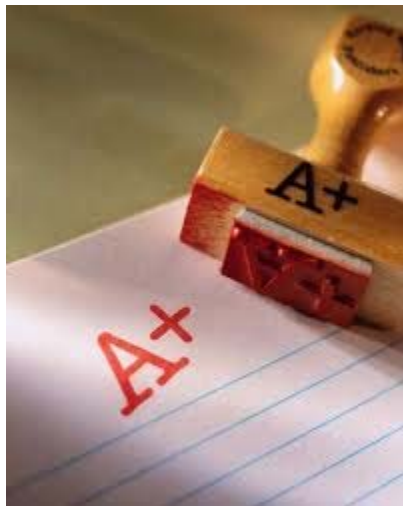


Table of Contents

Introduction	1
Lesson 1: Failing to Report the Accident	5
Lesson 2: Failing to Understand What “Injury by Accident” Means	9
Lesson 3: Failing to Get Medical Treatment Right Away	13
Lesson 4: Failing to Understand What a Doctor Does	16
Lesson 5: Failing to Look for Work When You Can or to Return to Work When Work is Offered	20
Lesson 6: Failing to Understand What You Get From a Worker’s Comp Claim	24
Lessons 7 & 8: Failing to Understand Occupational Conditions and Failing to Keep Working on Your Workers’ Comp Case	31
Lesson 9: Failing to Recognize What it Takes to Win a Workers’ Comp Claim	34
Lesson 10: Failing to Get a Lawyer When You Need One	37
A Note on Choosing an Attorney	40
Summary	41
Resources	42
Appendix	43

Lesson 1: Failing to Report the Accident

Rule: Report injuries in writing as soon as possible, and at least within 30 days after they happen.

Let's start with the first and most important lesson: report injuries when they happen. If you don't report it immediately, report it as soon as you can, and definitely within 30 days. The sooner an accident is reported the easier it will be for the insurance company to accept the claim and pay benefits.

When making the injury report, put it in writing. You may be given a form to complete or asked to sign one that the supervisor filled out. But even if you aren't asked to sign something, you should write down what happened. You can send an email to your manager, fill out an Industrial Commission Form 18, or write it down on a piece of paper. Be specific with the details of what happened, and write down what made the injury an **accident**. Remember that you want a complete record of what happened for yourself and for the company.

You should also write down the names of witnesses for your own use. Take pictures of any visible damage you suffered, like your surgical scar.

All of these tips are simple. But if you don't report your injury right away, it can lead to a very hard lesson.

Ralph

For 14 years Ralph worked five or six days a week in a distribution warehouse, mostly driving a forklift. One day he got down from his forklift and shifted a wooden pallet. Immediately he felt a searing pain in his back. Not one to complain or make a scene, Ralph got back onto the forklift and kept working. The pain didn't go away, and now and then it shot down his leg. But since he had just an hour left to work, Ralph figured he would get some ice or some pain reliever when he got home. He would get better after a couple of days. Ralph was no stranger to soreness after a long day at work.

Ralph didn't tell anyone about his back pain. When it was time to leave, Ralph walked right by the bulletin board where a sign was posted: "REPORT ALL ACCIDENTS IMMEDIATELY," along with others listing the number of days without an injury at his workplace and some notices that the company had posted about NC workers' comp. Ralph passed the nurse's office as he was leaving but he figured that he'd better get over to his son's baseball game. When his supervisor yelled out, "Have a good weekend, Ralph!" in the parking lot, he just waved and slowly eased himself into his truck.

Ralph's back was so uncomfortable that he couldn't stay for more than a couple of innings at the baseball game. For the rest of the weekend Ralph couldn't get comfortable and had trouble sleeping. On Monday, Ralph went back to work. Ralph wasn't about to miss a whole day of work for a backache; he had child support and a car payment to worry about. He made it through the shift by gulping over-the-counter pain pills and survived working the rest of the week the same way. On Thursday, knowing that his daughter needed braces, Ralph even volunteered for two hours of overtime.

Another week went by. Ralph made it to work every day, praying that the pain would go away. But then one day he pulled some clothes out of the dryer and the pain in his back hit him so hard that he dropped to the floor. He crawled to the phone and called his sister to take him to the emergency room. He told the Emergency Room nurse what had happened at work but the date he gave her was off a day. Ralph couldn't give them any information about whether workers' comp insurance would pay because he didn't know. Ralph called into work from the ER. His supervisor said that he would fill out an accident report. By now, two-and-a-half weeks had passed since Ralph was injured at work.

After waiting hours for the MRI results, the doctor told Ralph that he would need surgery. There was a large part of a disc in his lower back that was pressing on a nerve. Ralph paid the \$250 co-pay and went home, wondering when he would be able to afford those braces. Within five days, Ralph received a form from an insurance company saying that his workers' comp claim had been denied.

Ralph's grade on his workers' comp claim: F

A good employee with 14 years of experience in the same job, Ralph was respected at work. When he lifted the pallet and felt the pain in his back, Ralph could have gone to the supervisor and filled out a report. Ralph's supervisor would have believed him and passed the report on to the safety manager. Ralph would have been sent to the company nurse and then, when he failed to improve, the company's doctor, and his surgery and workers' comp benefits would have been paid.

In fact, there were other opportunities for Ralph to document the injury. Ralph could have asked to see the plant nurse at any time and completed the report then. Though he didn't know it was a serious injury, he could have mentioned the incident to a co-worker or a team leader so they would remember what had happened if a problem arose later. And when the pain didn't go away immediately, it would have made sense to call in and report it over the weekend or on the following Monday.

But Ralph just kept going. He kept going even though he knew about the workers' comp flyers on the bulletin board. He saw the big "Days Without An Injury" sign the day he was injured. The safety manager always mentioned the sign in the safety meetings because the company's goal was to get to a year of injury-free days. (It crossed Ralph's mind that he shouldn't be the one to make the board turn from 161 to zero for a pain in his back. Most of all Ralph didn't want his injury to cause all of his co-workers to miss the free lunch that they earned every month that the warehouse didn't have an accident.)

The law in North Carolina is very clear: every injured employee has to give written notice of an accident to his or her employer within 30 days. If the injured employee doesn't give notice, then the insurance company usually doesn't have to pay compensation. Of course, there are exceptions. The injured worker has to be able to give notice. And there are lots of cases where the worker didn't understand that the accident had caused their medical condition and didn't report

the accident until the doctor explained it to them. But there must be a reasonable excuse for not reporting it on time or the employee could lose his claim.

Ralph knew he was in trouble when he got the letter from the insurance company. He called me and I agreed to represent him. I filed for a hearing with the Industrial Commission, the state agency that handles workers' comp claims. Luckily, Ralph had some short-term disability benefits from his job, but the checks he received were only 50 percent of his regular pay. Ralph looked for work that he could do within his 35 pound lifting restriction when he was released to return to work, but he couldn't find a new job. I told him that he had to go to a mediation as a part of the process and explained that the mediator would be a qualified lawyer and the company would be required to attend. But the company only offered a few thousand dollars to settle his claim, not even enough to pay his ongoing child support.

Since the mediation did not go well, the next step in his case was a hearing before the Industrial Commission. Ralph testified truthfully that he had no idea the pain was so serious or that he would need medical treatment until he ended up in the emergency room. Luckily, the doctor who operated on him backed him up, explaining how the work injury caused his back condition and that the incident with the dryer was just a continuation of Ralph's injury. The doctor testified that Ralph had worked hard in physical therapy and tried hard to get well. After 11 long months, Ralph won his claim.

Final grade for Ralph's Claim: A

After his initial problems, Ralph did everything right. Here's how he performed on the issues after the denial of his claim and pulled his grade up:

- ✓ Ralph looked for other work
- ✓ He cooperated with medical treatment
- ✓ Ralph took action and found a lawyer



Lesson 2:

Failing to Understand What “Injury by Accident” Means

Rule: An injury by accident is an unusual event that interrupts normal work.

The word **accident** is defined in the Merriam-Webster dictionary as “an unforeseen and unplanned event or circumstance.” That definition makes sense: you don’t have an accident unless something out of the ordinary happens. When you apply that definition to workers’ comp in North Carolina, there isn’t an “accident” if you are doing a job in the usual way. ***Simply put, you cannot have a regular day at work, feel pain in your knee, foot or arm, and have a covered accident under workers’ comp.***

When an injured worker describes an injury as work-related, and says that there was nothing unusual about the injury, he is likely to receive a letter from the insurance company and a form denying the claim. The form probably will state that the claim is being denied because the employee “did not have an accident within the meaning of the Workers’ Compensation Act.” And sometimes, that form will be right.

But since many rules have exceptions, the injury by accident rule is no different. In some kinds of claims it doesn’t matter that the worker didn’t have an accident. Ralph, the forklift driver, was doing his normal job when he was hurt and he won his case. But injuries to the back – and the neck, because it is part of the spine – are treated differently. A worker doesn’t have to have an injury to “by accident” to have it be payable under workers’ comp if the injury is to the back or neck. The injury only has to happen at a specific point in time during the course of employment. Hernias and occupational conditions that arise over time also have different rules. We will cover occupational diseases in a later lesson.

But in claims not involving an exception to the rule it is important for injured workers to describe how the injury was the result of an accident, even if the accident happened because the employee was breaking the rules. Telling the adjuster the truth and describing the accident in detail can make the difference between a workers' comp claim that is promptly paid and one that requires a long fight.

Anna

Anna was a new assistant at the nursing home. She hadn't reached the end of her 90-day probationary period when her accident happened. Daniel, another new employee, was very friendly, even flirty, and he and Anna were both single. Anna liked Daniel. When she saw Daniel getting ready to leave one night, Anna ran after him, even though she knew she shouldn't. The employee handbook stated that employees must always walk in the hallways. Anna twisted her knee when she bumped into Daniel. The pop she felt made her realize that something was wrong. She limped over to the supervisor's desk and told her that she had twisted her knee.

Anna filled out a report (mentioning nothing about Daniel or running or bumping into him) and was sent by the supervisor to the nearest urgent care center. The doctor told Anna not to stand too long and to elevate her knee whenever possible. Anna was put on light duty at work while the insurance adjuster investigated the claim. After about three weeks, the adjuster called to take her statement. The adjuster explained that she would record the conversation and asked Anna a lot of questions. Anna told the adjuster that she was doing her usual job duties when she got hurt and denied there was anything unusual that had happened. She mentioned that sometimes the floor was slick but she wasn't sure that was what had caused her accident.

"I guess I just twisted my knee somehow," Anna said.

The adjuster thanked her for her time and concluded the recorded statement. After physical therapy didn't help, and an MRI was ordered, Anna was told by the surgeon she was sent to see that she needed to have knee

surgery. Unfortunately, that was on the same day that she received a form in the mail – a Form 61 – denying her workers' compensation claim.

Anna's bad luck didn't stop there. The supervisor called and told her that light duty was only for people with accepted work-related injuries. With no available work, Anna had no money coming in. A week later she received a termination letter from the nursing home. Anna was told that she didn't qualify for unemployment benefits because of the limitations on her ability to work. And without her job, she lost her insurance. Anna canceled her cable, cut up her Target card and managed to get a job running the register at a barbecue restaurant where she could sit down all day. She didn't see a lawyer and never filed a claim. She hopes to get the surgery "one day."

Anna's grade on understanding that an injury must be caused by an accident: F

Anna didn't tell the truth. If Anna had admitted that she broke the rules by running and that she had twisted her knee when she accidentally ran into Daniel, she would have earned an A. The insurance adjuster would have accepted her claim and paid her benefits. The law in North Carolina is clear: injuries due to horseplay are accidental. One recent case shows how the horseplay exception works: a woman on a business trip was playing around and tried to ride down on the escalator railing. She was awarded compensation for the massive injuries she sustained when she fell to the floor below.

Anna fell into the trap of thinking that because she was hurt doing her job, she was going to receive compensation but that if her employer knew she caused the injury, she wouldn't be able to get workers' comp. That thinking is actually the exact opposite of the rule. The insurance company's adjusters know this rule well, but workers are often fooled.

Anna met the requirement of having an **injury by accident** under workers' comp, because despite the accident being her fault, it was a break in her normal work routine that caused her to twist her knee when she accidentally ran into

Daniel. Anna's claim is even stronger because she was at a job that was new to her. Anna should have received workers' comp payments. **It doesn't matter who is wrong or at fault in workers' compensation law.** It could absolutely be the employee's fault, just like it was Anna's fault for running after Daniel against company policy, and workers' comp would still have to pay her.

Why make the employer pay for injuries caused by horseplay, like Anna's? Workers' comp law recognizes people don't always behave perfectly. So had Anna told her boss and the insurance adjuster truthfully what had happened, her claim would have been covered.

Anna's final grade: F

Anna didn't consult with a lawyer or tell the truth. It is true that it would be difficult to fix this one after Anna's misstep. She did have a witness, but Anna just gave up.

What could have happened if Anna had known this lesson? Let's say that Anna reported the horseplay and received a written warning. The nursing home then gave her light duty work until she went out of work for surgery. The insurance company paid her two-thirds of her pay while she recovered. But because she couldn't return to her regular job, and because she broke the rules, she was terminated. Her workers' comp payments continued until she was able to find new work in a doctor's office that fits her permanent restriction of no standing more than two hours at a time. Afraid to sign anything she didn't understand, Anna called a lawyer for help. He settled her case and she was able to move on.

Anna's potential grade (sadly, it's too late now): A

Here's what she **could** have done to have earned an A:

- ✓ Reported how unusual the accident was that caused her injury
- ✓ Told the truth
- ✓ Talked to a lawyer



Lesson 3:

Failing to Get Medical Treatment the Right Way

Rule: The insurance company picks the medical provider. The injured worker can request a change in treatment.

When you need a doctor, of course you choose to go to the one you know and trust. But when you have a workers' comp claim and the insurance company is paying for your medical treatment that is not the rule. You must accept the treatment provided for you by the insurance company unless you have permission to go elsewhere. And if you go in your own for treatment you could even endanger your rights to get your compensation.

Perhaps you want to see your own doctor so much that you are willing to pay for a second opinion. You still need to know the proper way to have that opinion count.

Chris

Chris, a bus mechanic, fell at work on a slippery floor in the garage. By the end of the day it was clear that his knee was getting worse and he reported the injury. He was told to go to the urgent care center where he was given work restrictions, including no lifting objects heavier than 50 pounds. With no work fitting that description available for him at the bus company, Chris sat at home. The only treatment he was offered was physical therapy and return visits to the physician's assistant that he thought didn't listen to him and wasn't making him any better. So he went to see an orthopedic surgeon on his own. That doctor, Dr. Goode, performed an MRI and scheduled surgery for three weeks later. Chris put the MRI on his health insurance that he got through work. But when he received a letter from the health insurer asking if the treatment was work-related, he didn't know what to do. He called the workers' comp insurance adjuster, who

was angry that he had gone to an unauthorized doctor. She refused to pay for the treatment with Dr. Goode and threatened to stop paying for any treatment at all. Chris was confused: how could his workers' comp claim go so bad, so quickly?

Chris's grade on getting the right medical treatment the right way: F

Chris made an error in judgment about workers' compensation. Because the insurance company has to provide medical treatment in accepted claims, it can send Chris to the doctor that it chooses. But Chris can ask the insurer to send him to a doctor of his choice. He shouldn't go to the new doctor until he has asked for that visit **in writing**. The insurance company has 14 days to respond. If there is no response, then the North Carolina Industrial Commission can be asked to order the visit. But if Chris doesn't follow the rule, then his doctor's opinion – even if it is 100 percent correct – can be thrown out.

And the workers' comp adjuster isn't the only one mad here – the health insurer likely won't want to pay for an accepted work-related injury. How can Chris get himself out of this and improve his grade? He may have a difficult time getting the workers' comp insurance company to pay for Dr. Goode. The adjuster may be willing to send him to another doctor since there is a surgical recommendation. But the adjuster could refuse to send him anywhere, and even if she doesn't, she could try to delay treatment. Given Chris's past behavior, he has made sure that the adjuster will be calling the shots. Chris needs some legal advice, and fast, to dig him out of this hole.

Chris's potential final grade: C

Let's review the issues: Chris did report the injury right away and went to the company doctor. But he messed up on the medical treatment part, and now needs a lawyer to help.

Here's how Chris did:



- ✓ Reporting the accident
- × Failing to ask for a change in medical treatment in writing before seeing the doctor.
- × Getting unauthorized medical treatment
- ✓ Hiring a lawyer

Lesson 4:

Failing to Understand What a Doctor Does

Rule: Doctors and medical personnel keep a record of everything they observe

Practicing medicine is hard. In addition to figuring out how best to treat a medical condition, the doctor has to follow regulations, bill insurance companies and keep detailed records. Understanding that doctors and medical personnel are writing down everything that they see or hear that is critical to your claim.

Devon

Devon worked as a corrections officer at a youth facility for three years. His job was difficult. Students sometimes injured staff members when they were upset or angry. Staff members often didn't get along. Devon had some problems with student behavior and with the other staff. Devon's supervisor would have said that Devon was an accident waiting to happen. But Devon's injury at work didn't happen because of a fight or because he had to put a student in a hold. He got hurt when he was loading equipment into a car. Devon stepped onto a rock he didn't see and rolled his ankle, stumbling and stopping just before he fell to the ground. "Just like last summer," he thought.

When Devon was playing in his regular weekly basketball game the prior year, he fought for a rebound but landed on another player's foot. Devon spent a month in a rigid ankle brace before he could play basketball again. Worse, he had to go out of work on short-term disability because corrections officers have to be able to restrain the students. But Devon thought that this new injury wasn't nearly as bad. He went inside and iced his ankle, took some medicine, finished his shift and went home.

The next morning his ankle was really swollen so he pulled out the old brace from last year and called in sick. His wife called his family doctor and he

went in to see him. At the office, the nurse felt his foot and ankle and looked back at the computer screen.

“I see it’s the same left ankle bothering you again,” the nurse said. “Did you take anything for it?”

“Just some pain meds, nothing big.” Devon was ready to get this over with.

“Did you put any ice on it?”

“Yes, off and on most of the day yesterday at work when it started hurting, and again last night.”

“Dr. Avalon will see you shortly.”

Dr. Avalon came in, checked the chart, asked Devon where it hurt and ordered an x-ray. When nothing was broken, he gave Devon a prescription and a referral to a specialist in sports and physical medicine because he said Devon needed physical therapy.

Devon went to the appointment with the surgeon. When he was given a medical history form to fill out before he saw the doctor, he put down that he had rolled his ankle and that the problem had started “last summer.” He left a lot of the form blank. The doctor was running an hour behind and rushed in.

“Well, this seems to be a chronic problem,” said the surgeon. “You like to play basketball, huh? Let’s see about getting you back on the court. I don’t know whether we will talk surgery in the future, but I believe we can skip it for now.” As he spoke, the doctor mostly stared at the computer screen. Devon wasn’t sure of the doctor’s name and was too shy to admit it, so he didn’t say much. The exam took five or six minutes, and the doctor was gone.

Devon was happy to hear that he wouldn’t need surgery. But the physical therapy the doctor recommended was a problem since he would need to miss work. Devon knew then that he should report the injury, so he filled out a form and gave it to the supervisor.

This time Devon was given some desk work, but with his foot in a brace there wasn’t much else he could do. Within days of reporting his injury Devon received medical releases to sign that allowed the insurance adjuster to get any

of his medical records from any medical treatment that he had ever had, and a letter in the mail saying that she was investigating the injury. When he spoke to the adjuster, she was very nice and reassuring. Devon filled out the forms and sent them back.

The adjuster was really looking at the fact that the doctor wrote in the medical records: "The injury started a year ago playing basketball." A month after the injury Devon received a form denying his claim. He went out of work on short-term disability when he needed surgery for the torn ankle tendon that wouldn't heal and that interfered with his ability to stand. He looked for other employment, but he couldn't find anything.

Devon's grade for not understanding what a doctor does: D

Not only did Devon fail to report the accident immediately, he also didn't take every opportunity to tell his medical providers about his work-related injury. You probably have seen your own doctor at a computer screen. Many medical records are kept electronically and can be sent easily from doctor to doctor. While this is meant to help patients have access to better medical treatment, it also means that it is easy to find whatever the doctor has written down. By law the adjuster can get any records that are related to a workers' comp injury. Devon gave the adjuster the ability to get any record of any treatment for any condition he has ever had, just because she asked him.

The people who make decisions in workers' comp cases – the insurance adjusters and judges who hear the claims – are the same as everyone else when it comes to looking at information. If there is an easy answer they will find it right away. A good employee with records from two doctors that confirm he told them about an injury? Pay as an accepted workers' comp injury. A problem employee who sees two doctors within days of the accident, neither of whom mentions an accident in their medical records? It is easy for that company to deny the worker's claim.

Even worse are the medical records that say “no known injury” or “NKI” for short. Yes, adjusters and workers’ comp judges know that you didn’t go in and write the medical records yourself or have a chance to make corrections. But if there is nothing in the doctor’s notes about the injury you are claiming happened and was so significant to you that you should receive medical treatment and money for it, then it’s going to be an extra hurdle.

Given these facts, it’s hard to give Devon a good grade on this one. A doctor may be asked to add to his notes when there has been a mistake made, but Devon didn’t tell him anything about the injury at the beginning of treatment. Now Devon will have to explain what happened to his doctors as best he can, explain it to the lawyer he now should hire, and explain it to a deputy commissioner at the Industrial Commission who likely will have to hear the claim before Devon can get any compensation.

Devon’s potential final grade: C-

Devon will have to work hard to win his claim. Here is how his final tally could look on the issues:

- × Reporting the injury to his employer
- × Reporting the injury to medical providers
- ✓ Getting a lawyer



Lesson 5:

Failing to Look for Work When You Can Work And Failing to Return to Work When Work is Offered

Rule: Injured workers who can work must return to work or look for work.

If you make a claim about a work injury and you can work, you must work. If you don't have work to do at your current job, you must look for work. This rule is confusing for injured employees. They often ask, "Why do I have to look for work?" "What kind of work do I have to look for?" And they tell me, "I don't have to look for work, because I have a job waiting for me as soon as I get better!" But it comes down to this: you have to follow this rule if you want to get workers' comp benefits.

Workers' comp is meant to compensate people for disability. Disability in workers' comp means that the worker can't earn his regular wages because of his or her workers' comp injury. The meaning of disability is not limited to the injured worker who cannot do any work. Disability in workers' comp means that the injured worker's activity is limited in some way that affects his wages.

Injured workers are responsible for proving their disability at each stage of their claim. Because workers' compensation benefits are ongoing, the injured worker has to prove that he is entitled to receive benefits every day. When an injured worker has some disability, he must show that he can't do any work at all or that there is no work for him to do within his work limitations. People who are not totally disabled but don't have to look to work are the exceptions to this rule, like an elderly person who, because of his limited work experience, age and disability, will not be able to find employment.

If you don't follow this rule, you can come close to failing Workers' Comp 101, just like Juan did.

Juan

Juan worked for a delivery company driving a truck and delivering packages. When he slipped and fell on ice during a delivery, Juan had no problem getting his workers' compensation checks or his medical benefits. Juan liked the doctor who performed his shoulder surgery and his physical therapy went well. When the doctor told him not to lift more than 50 pounds, there was no work for him to do at his job that fit that description, so Juan continued to work on his recovery. Looking for work with another employer never even crossed his mind.

Juan was shocked when he received a voicemail from Victor, a vocational rehabilitation specialist. Victor's message said that he had been hired by the insurance company and wanted to meet Juan at a library where they would start looking for work for Juan. Juan didn't call back.

Victor sent a letter to Juan telling him that they needed to meet. Then Victor sent two more letters and called again. Juan ignored the letters and messages for three weeks before he returned the call. Victor told Juan that he had to go to the meeting and start looking for jobs.

"Look," said Juan, "the doctor expects that I can go back to my job within a few months. My union contract says that they have to hold it for me for a year. Why do I have to go through all of this?"

Victor explained that he was just doing his job. He said that Juan had the responsibility of meeting with him. Juan reluctantly went to the meeting but showed up 15 minutes late. He followed up on most of the job leads he received from Victor but never finished his resume. As the weeks went by, sometimes Juan went to the meetings, and sometimes he didn't. Victor told him that he should try harder, but Juan didn't like the jobs that Victor chose for him. For example, he didn't think that he should have to go and apply at a car dealership for the job of a van driver for \$11.00 an hour.

When Juan's doctor said that his shoulder injury wasn't going to allow him to meet the lifting requirements of his job and that 50 pounds was all he should lift in the future, Juan was shocked yet again. He didn't show up for his next

appointment with the Victor. Juan figured that he should just wait to settle his case. Victor was never going to help him find a job anyway.

Juan's grade at looking for a job while on workers' comp: C-

Juan's workers' comp claim is in danger. For weeks after he was released to return to work with restrictions on his ability to lift, Juan did not look for any work at all. And now that he has a vocational counselor to help him, Juan is not fully cooperating. In other words, Juan is looking for trouble. Unfortunately, trouble is exactly what you're in for when it comes to breaking this rule.

Juan must look for work. If his job had work available, even if Juan didn't like it or didn't think it was something that he could do, and as long as it was within his restrictions, he should try it. His doctor can take him out of work if he can't do it.

Juan does get points for reporting his injury and working hard to get better. But if Juan doesn't start looking for work and attending his meetings, the insurance company will believe that Juan isn't cooperating at the level that he should. The insurer can ask for Juan's workers' comp checks to be stopped until he does cooperate. And since Juan's attendance and job search has been documented with reports that Victor has filed every week or two, he is going to have a hard time showing that he has been working hard to find a job.

What should Juan do? He should immediately do what the vocational rehabilitation specialist asks. Juan should look for jobs and finish his resume. He should keep his own records showing every job that he contacted and whether they were hiring. He can investigate training opportunities at the community college. Most importantly, Juan should think about what he wants his life to be like after his workers' comp claim is over, and how he can get another job that he can do for the long term.

Juan's possible final grade if he follows the rules and looks for work: B

Let's review how he can work out the issues he is having with his claim:

- ✓ Cooperating with vocational rehabilitation
- ✓ Looking for work – better late than never!
- ✓ Planning for life after workers' comp



Lesson 6:

Failing to Understand What You Get From a Workers' Comp Claim

Rule: Workers' Comp is based on disability.

Many injured workers know someone who was injured at work and got a "big" settlement. But getting a big settlement means that the injured worker suffered a terrible impact to his life and his ability to earn a living. It means a serious injury and lost money from being out of work. Serious injuries accepted by the insurance company usually take a long time before there is a settlement. Sometimes they will never settle. All settlements are voluntary, and there is no way to force the insurance company to pay more than they want to pay! However it happens, a settlement comes at the end of a workers' comp case, and sometimes years after the injury.

An injured worker is entitled to only three types of payments from workers' comp: (1) payment for medical treatment, (2) payment for lost wages, and (3) payment for any permanent injuries. **Medical treatment** payments include the obvious: visits to the doctor, physical therapy, and hospitalization. It also includes things that you might not think of, including medical travel, broken eyeglasses, and payment for home care for some serious injuries.

Payment for lost wages is to compensate the employee because he is either totally out of work or because he can't make as much money as he used to before his injury. An out-of-work employee will receive weekly workers' comp payments equaling two-thirds of his average wages. That is called the **workers' comp rate**, and it never changes. If an injured employee can find other work but makes less money, he is entitled to two-thirds of the amount he is losing from what he used to make.

If a worker has a permanent injury, and the doctor determines the amount of **permanent injury** (the percentage of damage to the body, also known as a

rating), the insurance company must pay compensation for it. The amount the injured worker will receive is determined by the rating, the part of the body that was injured and the amount of the workers' comp rate.

The date that an injured worker finishes healing from the injury is the most important date in his claim. That date is the first day that the injured worker can determine what type of payments they will receive. Some injured workers will not return to work because of their injuries and will receive ongoing weekly benefits and not the payment of a rating. Most injured workers will go back to work but some will not be able to make as much money as before the injury, and they may choose to receive weekly wage loss payments. Still others may choose the amount of the rating, also paid in weekly payments. The law says that the worker gets to choose the option that gives him the most money. Determining which option that will be can take time and a lawyer to figure out.

There can be big differences in the amount of money different injured workers will receive for similar permanent injuries. Let's compare two workers. The first one is a highly paid truck driver. He is 55 years old and right handed. When he hurts his right hand and can't do the work he has done for 30 years, and can't find any other work, he will likely receive ongoing weekly benefits and maybe a "big" settlement. The second one is a 30-year-old pharmacist. She suffers a similar injury to her right hand. Because she can return to her same job and make the same amount of money she did before she was hurt, she is in a very different position than the truck driver. The 30-year-old worker has less disability under the law because she will lose less money because of her injury.

Sometimes what you get in a workers' comp claim is all about timing. The workers' comp law was changed in 2011. Workers' comp claimants injured before June 24, 2011 can possibly receive ongoing compensation until they return to work (or pass away). Workers injured after June 24, 2011 will most often be limited to 500 weeks of compensation, though it can be extended in some circumstances. All of these factors are important to consider if an injured worker wants to maximize the amount of money that could be paid for their claim.

David

David's work as an electrician in a manufacturing plant made him a good living. When he fell 25 feet and broke several bones, including one in his spine, he knew his days of doing that kind of work were over. He spent long days in physical therapy and long nights in pain. He thought the operation on his back was the worst thing he would ever have to go through but felt that it would end the pain and then he could go back to work. The nurse they sent with him to his doctor was pushy. She kept asking the doctor to send David back to work immediately, despite his pain.

But then David needed another surgery when the bone in his wrist didn't heal right. It wasn't until two years after the accident that he felt pretty good. The doctor kept him totally out of work until then. Then the doctor sent David for a long test at the physical therapy place. The test was hard and made him hurt worse, especially his shoulder. David knew he was could never lift the 50 pounds that the doctor said he could after the doctor read the test results. David also had trouble standing a long time because his back ached.

Meanwhile, David's workers' comp checks came regularly. He used to work a lot of overtime but these checks were only two-thirds of what he would have made in a 40-hour work week. David didn't ask for anything from the insurance adjuster, and didn't even ask for her to pay for him to go back and forth to the doctor. David figured that he could get Social Security disability benefits since he was nearing 60 and with what his wife made, he thought his family would be able to get by once he got his big settlement. But David didn't rush to apply for Social Security benefits, thinking that he would get around to it and that it wouldn't take long to get his benefits started.

David's doctor said that his injuries had caused a 15% impairment rating to his back and a 7% rating to his hand. When David asked about his shoulder, the doctor said that he didn't think that a rating on David's shoulder was necessary. He said that David would not need any more treatment.

David didn't protest even though he had pain most days. But he did start to worry when the offer to settle his case that he received in the mail from the

insurance adjuster was only half of what he had made in the year before he was hurt. The letter stated that the offer was based on the ratings from the doctor. David was shocked and didn't understand. Why didn't the adjuster offer any money at all for his pain and suffering? He worried that one day soon his checks would stop. What was David going to do?

David's grade on understanding what you get from workers' comp: C-

David is missing out on money that he could have put in his pocket. And who doesn't like more money? There are a lot of things going on in this case and many opportunities for David to get a better grade. Let's break it down into five parts.

1. Failing to know what you're owed

As long as David is out of work, the workers' comp insurance company has to pay weekly benefits based on all of David's income – including the overtime money he would have made if he was still working. David used to make \$180 a week in overtime, at \$30 an hour. David has been underpaid by the insurance company for two years. That **workers' comp rate** should equal two-thirds of the average weekly wages paid to David over the year before the injury. That right workers' comp amount is very important and not just because it buys groceries and puts gas in the car (But let's not minimize that part!). Some special circumstances can change that average, such as missing eight days of work in a row or more or having temporary employment. But David didn't have any of those, so he was missing out on more than \$120 a week for two years – and who couldn't use another \$12,480?

Remember what we learned from the last lesson: the weekly workers' comp rate is what determines what the impairment rating will be worth. A **rating** is the amount of permanent damage a doctor determines that the injury has caused to a part of the body. Each body part gets a separate rating (see

appendix). Ratings are given only when the injured employee has reached **maximum medical improvement**, or, in other words, when the person has healed as much as the doctor believes that she or he will heal.

2. **Failing to know that you have a right to a second opinion on the rating**

Doctors can have different opinions on the rating numbers. Once the doctor has given that opinion, it is a matter of going to the workers' comp laws and looking up the number of weeks a particular body part is worth. The number is then multiplied by the percentage of the rating and by the workers' compensation rate.¹ If a number is too low, the worker loses every week AND in the rating – which might be all the injured worker could receive for the injury, depending on the facts of the case.

Here, the fact that David's average wages were reported at too low a level makes his workers' comp rate \$120 short each week. So his rating – if he receives this rather than a final settlement or continuing weekly benefits for his time out of work or reduced wages – will be low too. A person's back is listed at 300 weeks of compensation in case of a total loss. Fifteen percent of 300 weeks is 45 weeks. Multiply that by \$120 – the amount David is losing in his workers' comp rate – and you get \$5,400. Certainly worth asking for, right?

Injured workers have the right to receive a second opinion on their ratings. If David asks for one, his medical visit to have a doctor examine him and review his medical records must be paid for by the insurance company, within certain limits on fees. David's rating of 15% on his back and 7% on his wrist, as well as the lack of a rating for his shoulder, could be looked at by a doctor of his own choice and that doctor could choose to give David a different rating. Both ratings are usually averaged to determine the award of money, and the Industrial Commission has to approve the final amount. We don't know how much money David could be missing but it could be thousands of dollars.

¹ Here is an example. David's wrist is considered part of his hand, and a hand is worth 200 weeks of compensation. The doctor gives David a rating of 7% and he currently gets \$700 a week in workers' comp benefits. $200 \times .07 = 14$ weeks. $14 \text{ weeks} \times \$700 \text{ a week} = \$9,800$.

3. Failing to ask for mileage or prescription reimbursement

When you aren't getting paid what you were when you were working, every little bit of money counts. David did have a prescription drug card from the workers' comp insurance company to use at his drug store, but if he didn't he could use a Form 25P (see page 51) to ask for his money back for his prescription drugs.

Also, David has been paying for gas and wear and tear on his 10-year-old truck to get him to the medical treatment visits he needed. David always traveled more than 20 miles round trip to his appointments, so he meets the minimum mileage requirement to get travel reimbursement on each trip. David should have used a Form 25T (see page 52) to ask for payment. The money he could be missing from this misstep is more than \$600.

4. Failing to understand "pain and suffering"

David has pain and he has suffered but he gets no money for either in his workers' comp case. That's the law.

Most people have heard that settlements give the injured person money for pain and suffering. That is true with some kinds of legal settlements, like car accidents, but it is not true for workers' comp settlements. Let me repeat – there is NO way to get money for pain and suffering for injuries that are only due money from workers' comp. But there are many other things to be considered and included when negotiating a final settlement amount, and future treatment is one very important thing. David may need yet another doctor to consider his future treatment needs and he definitely needs to talk to a lawyer about his options before he settles.

5. Failing to consider other benefits

David, who is nearing his 60th birthday, knows about Social Security disability. He thought about applying but hasn't yet called or gone to the Social Security office. The Social Security Administration could award him substantial

benefits that would increase his income. That money could even increase when David settles his workers' comp claim – a settlement that is in question with the low-ball offer he received from the insurance company!

But David should consult with an attorney about how this works and about his chances of receiving benefits. The process can be very time consuming and can require specialized knowledge that only an attorney who represents injured workers with social security claims would have.

If David follows the steps that I have outlined above, and he talks to an attorney about both Social Security and his workers' comp claim, David's grade can go way up.

David's potential final grade after talking to an attorney: *A*

Let's review the issues David has to overcome:

- × Not being paid the right workers' comp rate
- × Considering a second opinion on the rating
- × Getting paid for all of his travel reimbursements
- × Applying for Social Security benefits



Lessons 748:

Failing to Understand Occupational Conditions and Failing to Keep Working on a Workers' Comp Claim

Rule: Some conditions that were caused by work are payable under workers' comp even when there is no accident.

Rule: Don't give up on good claims based on bad information.

Most people know that workers who get a condition known as carpal tunnel syndrome from a job that requires strenuous, repeated hand movements sometimes can get workers' comp benefits. But why some other conditions are **occupational diseases** and payable under workers' comp is not as well understood. Some occupational conditions are listed in the workers' comp law, like brown lung from breathing in cotton dust, or lung disease from asbestos. Other occupational diseases can be any condition that meets both of these requirements: the employee's work causes the condition, and the employee's job put her at increased risk of getting the condition.

Many injured workers simply give up when they don't know what else to do with a workers' comp claim, especially one that is as hard as an occupational disease. Pursuing a workers' comp claim is not easy. But the surest way to make a good claim into a failure is to not follow through with it.

Leslie

Leslie worked in a retail distribution facility. Much of her day was spent filling orders that went to stores in the Southeast. The merchandise was kept in bins on shelves that stretched above her head and all the way down to the floor. She pulled the bins out and pushed them back in hundreds of times a day. After a year on the job she noticed that the soreness in her right shoulder wasn't going away after she went home. In fact, it was getting worse.

Leslie had never had problems with her arm before. After a few hours at work the pain would get worse, but Leslie just tried to work through it. She went to the nurse at work and got medication regularly, but her pain quickly got to the point where she was having trouble doing her job.

The nurse asked her if she had hurt her arm and Leslie truthfully answered that she hadn't had an accident. She went to the company's doctor who said she probably did have some chronic problems. After months of pain, he finally ordered an MRI, but Leslie was told that the company wouldn't pay for more treatment.

Leslie started missing work because she just couldn't physically do the job. Her sick leave time was soon gone and the company put her on short term disability. She went to a doctor who recommended surgery, but she didn't go back for treatment because she couldn't afford it. The \$300 disability payments were taxable, so she only received \$275 a week and couldn't pay the co-pays for the doctor. Now Leslie is nearing the last of her short term payments. Since it has been over five months since she could work, Leslie fears she is in danger of getting evicted from her apartment.

Leslie's grades on understanding occupational conditions and keeping her claim going: D

Leslie could better manage her case if she knew more about occupational diseases. She believes that her job caused her shoulder problems. That makes perfect sense. Leslie should tell her doctor about the repeated reaching and pulling overhead that she is required to do all day long. The lack of prior problems with her shoulder is important too.

If the doctor believes that the work was a significant factor in causing the condition to develop, and that Leslie's job put her at risk for getting the condition compared to people who don't do her job, then her condition would be considered an occupational disease and she could win her case.

Leslie has not done much to keep her claim going. She hasn't gotten the continuing treatment she needs and she hasn't filed a claim to get compensation from the North Carolina Industrial Commission. But all is not lost. Her doctor has not told her that her condition comes from work but Leslie can ask him now or she can ask another doctor. When a doctor tells Leslie that the condition is work-related, then Leslie will have a maximum of 30 days to tell the employer **in writing**. Leslie should not miss this deadline! Though injured workers have two years to file a claim with the Industrial Commission, Leslie should report the occupational disease in writing right away (using a Form 18 like the one on page 45). Leslie's claim can still be made – even though it has been months she has been out of work.

If Leslie's claim is denied, she should remember that occupational disease claims are usually more difficult to prove than accident claims. Employees often have to prove their claims in court. Leslie is going to need a lawyer. Leslie's lawyer may have to get favorable testimony confirming her job did cause her injury from one or more doctors to finally win her case.

Leslie's Final grade: C

Let's review the ways Leslie can up her grade:

- ✓ Get a better understanding of occupational disease
- ✓ Keep her claim going by hiring a good lawyer
- ✓ Communicate better with her doctor



Lesson 9:
Failing to Recognize What It Takes to
Win a Workers' Comp Claim.

Rule: The injured employee has to prove just about everything.

If you have a workers' comp claim and it is denied, you probably understand that it will take some work to win in court. What you might not understand is that you have to keep proving that you have some disability every day that you claim workers' comp. It doesn't matter if your case is accepted or denied, it is your responsibility. That is hard to get across to some people who think they are doing everything right in their claims: maybe going to a doctor they didn't choose, undergoing painful treatments, meeting with nurses, etc. But this is a legal case, and the burden to produce evidence is on the injured worker for most things. Sometimes regular, everyday things that injured workers do will just look bad in court. Injured workers seeking workers' comp benefits, or wanting to keep the ones they have, ought to keep that in mind too.

Joe Jr.

Joe Jr. drove a bus for five years before he hurt his back. He was injured when he hit an 80-year-old driver who turned left in front of the bus. Joe wasn't surprised to learn that he would have to bring a lawsuit against the elderly driver's insurance company. He wasn't surprised when he was suspended by the bus company after the accident, even though he was not at fault. He figured that the company would follow procedure and take him for a drug test. Joe Jr. knew from what others said that he would have to go to the company doctor for any medical treatment for his back. What he didn't expect was a form in the mail threatening to cut off his compensation because the insurance company said they had discovered he was working.

Joe's dad, Joe Sr., owned a body shop. Joe Jr. was raised working on cars and when his father needed a hand, he lent one. Joe Jr. wasn't supposed to lift more than 50 pounds, according to the company doctor, and at his dad's body shop he didn't even get close to the limit. Joe Jr. liked hanging around with his dad watching TV and using the shop's computer to look for jobs. He was floored when he finally opened an envelope from a lawyer he'd never heard of, giving him 17 days to respond to the Industrial Commission or have his workers' comp benefits stopped.

Joe Jr.'s grade: C

Joe Jr. is a big believer in rules. He's played by them for years – going to work every day on time, never making a fuss. He got excellent reviews from his supervisors and was never written up. He was not doing any work with his father or anyone else. So when he gets the notice that his claim is in jeopardy, he is dumbfounded. How could he be treated this way? He did everything right. It just isn't fair.

Nothing in workers' comp is fair. This is a lawsuit, just like the one he is going to have against the other driver's insurance company, and Joe Jr. is going to have to act like it. Joe Jr. is supposed to be looking for work and reporting any work he does to the defendants. If asked, he has to complete a Form 90 that says that if he does work while receiving workers' comp, it could be considered as fraud. He should know that people may be watching him and recording and writing down his every move. Videos of his activities may be shown in court and may be shown to the doctors. Fair? No. Part of the evidence? Yes.

How can Joe Jr. get a better grade? He needs help to respond to the attempt to stop his benefits. He should see an attorney who knows how to answer these accusations. There should be evidence admitted that supports his claim that he did not work when he was spending time at the body shop. There should be evidence admitted that Joe Jr. was looking for work. Because even if

he wins this round, it may be appealed. Joe Jr. doesn't want to be in a courtroom alone, either with his workers' comp claim, or the personal injury lawsuit.

Joe Jr. needs to be very careful about coordinating his two cases because the workers' comp insurance company has the right to get the money back that it paid. There are ways that a worker's personal injury claim can really work to an injured worker's advantage. But Joe needs a lawyer to help.



Final grade: B

If Joe takes these steps, he will improve his grade:

- ✓ Following through with looking for work
- ✓ Responding to the attempt to stop his compensation
- ✓ Understanding that he has to fight for his claim.

Lesson 10:
Failing to Get a Lawyer
When You Need One

Rule: Workers' comp is complex. People suffering with serious injuries benefit from legal expertise.

Many workers' comp cases are uncomplicated, and the injured employee heals and returns to work after receiving the proper benefits. Other cases have issues that obviously can only be solved by a skilled lawyer. They may be denied cases, where the injured worker will only get benefits after going to court. Then there are the injured workers with complex claims who just don't want to hire a lawyer. Their arguments against getting a lawyer make sense to them and I understand the need to save money. But even though I don't like doctors and don't want to pay one, I have to go to one now and then to stay healthy. And when I do, I want the best one I can get. Your workers' comp claim is just like that. The more serious it is, the better your lawyer ought to be.

Cassie

Cassie was smart and motivated. A married mother of two, she worked her way up at a marketing company for 12 years and traveled with a team of other representatives to sales events. She made a good salary but worked long days. One night she was returning home from the airport and ran her car off of the road. The car flipped over and Cassie was lucky to live through the accident.

Cassie broke her leg in multiple places and sustained a head injury. But she was embarrassed that the accident was her fault. Cassie worked hard to get better but she had trouble concentrating on tasks and endured constant headaches. She was depressed about her medical challenges but thought the doctors were just too cautious when they said she could always have memory

problems related to the accident. Cassie thought she would get better in time and tried not to complain.

But Cassie's bills at home were mounting even with her workers' comp checks. After three months out of work she lost her employee benefits. Her supervisor said that they were thinking of terminating her if she couldn't come back to work soon. Cassie was happy to take a desk job at work, even though it paid her less than half of her commission-based pay. Her workers' comp stopped the day she returned to work. Cassie had problems doing the job, especially when her headaches returned. When she couldn't remember tasks she put up post-it notes on her computer monitor, and set reminders on the computer calendar. Cassie accepted the money the insurance company offered in final settlement of her claim for her injuries within weeks of returning to work. She was proud that she had asked for \$10,000 more than the adjuster offered, and she got it. Cassie used the money to catch up on her bills and mortgage and then prayed for the best.

After a couple of months Cassie thought she was on her way back to earning her old job back. That is, until Cassie was terminated because she failed to get a second signature on a company check, something she had simply forgotten to do. Cassie was heartbroken and scared. She realized that her injuries were impacting her ability to make a living and that she might need to pay for tests and future medical treatments. What would she do now that the settlement money was gone?

Cassie's grade: F

It's hard to play by the rules if you don't understand the game. Because Cassie's injuries are serious and long lasting, there are multiple ways she could have benefited from expert legal advice. She may have needed or wanted additional medical opinions or treatment for her head injury. A lawyer probably would have decided that taking a settlement at the time was not a good idea. Had Cassie insisted on settling, her lawyer would have taken the possibility of

future job loss, medical treatment and permanent impairment to her leg and brain into account. Cassie missed out on thousands of dollars that she now needs to keep her family going.

Cassie thought that she would save money in the end by not hiring an attorney. Lots of people believe that because of the cost it is best to skip a lawyer in workers' comp cases. But all fees must be approved by the Industrial Commission, meaning that a lawyer cannot charge any more than is ordered. Doing it yourself in court isn't a good option: there's too much to be missed on the hundreds of laws and thousands of cases that could make or break your claim. Cassie probably never knew that had she rejected the settlement offer, her case would have remained open for nine months while she tried to return to work. During this time she would have been able to have her compensation restarted if she couldn't do her job. Cassie probably also didn't know about her rights to future medical treatment or the payments she could have gotten for the reduced pay she received when got a new, lower-paying job. But now it is too late. Cassie's claim is over.

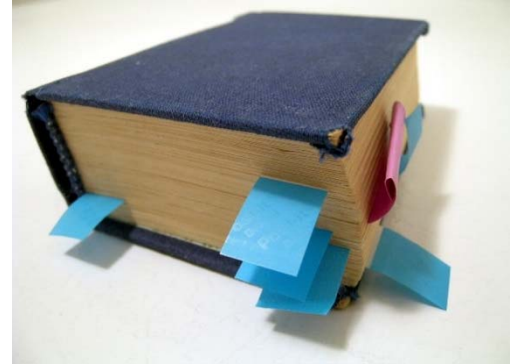
Cassie's Final Grade: F

- × Getting additional medical treatment
- × Keeping the claim going
- × Getting a good lawyer



A Note on Choosing an Attorney

All attorneys are not created equally. The North Carolina State Bar certifies some lawyers who take classes yearly on workers' comp and related laws, have tried many workers' compensation cases, and have passed an exam. These lawyers are board-certified specialists. The State Bar lists specialists at <http://www.nclawspecialists.gov/directory.pdf>. I have been board certified since 2000 and chaired the committee that qualified lawyers as specialist. My law partner, Leto Copeley, is also board certified. If you hire an attorney, it should be me or another specialist on that list. Board-certified workers' compensation specialists know the workers' comp laws in North Carolina and will fight for your rights.



Summary

It's hard out there for injured workers. There is the trauma of the injury and the hardships that come from getting medical treatment to make the condition better. Return to work issues are confusing. The financial and emotional strains that come with workers' compensation claims can put anyone in a bind. And workers' compensation is complicated and always subject to change.

Don't let your workers' comp case turn into a failure. Take action and get expert legal advice. Call or email me if you need help around the state.

Valerie A. Johnson
Board Certified Specialist in
Workers' Compensation Law

Copeley Johnson & Groninger PLLC
Offices in Durham and Charlotte
Valerie@cjglawfirm.com
www.cjglawfirm.com
919.240.4054



Resources

The North Carolina Industrial Commission is the state agency that oversees workers' comp claims. The agency accepts claims from injured workers, conducts hearings in denied claims to determine whether the case must be accepted, and decides disputes in accepted claims. You can find information concerning workers' compensation at the website at <http://www.nc.ic.gov>. Many injured workers' call the information specialists at the Industrial Commission. The numbers are 800.688.8349 or 919.807.2501.

Appendix

List of Weeks of Benefits for Permanent Partial Disability....	44
Form 18: Notice of Accident to Employer.....	45
Form 23: Application to Reinstate Payment.....	47
Form 24: Application to Terminate or Suspend Payment of Compensation.....	50
Form 25P: Reimbursement for Charges for Drugs.....	51
Form 25T: Reimbursement for Charges for Travel.....	52
Form 26A: Employer's Admission of Employee's Right to Permanent Partial Disability.....	53
Form 33: Request for Hearing.....	56
Form 60: Employer's Admission of Employee's Right to Compensation.....	58
Form 61: Denial of Workers' Compensation Claim.....	59

You can download the above forms

at

<http://www.ic.nc.gov/forms.html#claims>

Permanent Partial Disability

If after the employee has fully healed there is still permanent damage to one of the body parts listed below, the employee may receive a set period of benefits whether or not the employee can earn wages. The number of weeks of benefits available per body part is listed below:

Thumb.....	75 weeks
First or index finger.....	45 weeks
Second or middle finger.....	40 weeks
Third or ring finger.....	25 weeks
Fourth or little finger.....	20 weeks
Great toe.....	35 weeks
Any other toe.....	10 weeks
Hand.....	200 weeks
Arm.....	240 weeks
Foot.....	144 weeks
Leg.....	200 weeks
Eye.....	120 weeks
Hearing (one ear).....	70 weeks
Hearing (both ears).....	150 weeks
Back.....	300 weeks

NOTICE OF ACCIDENT TO EMPLOYER AND CLAIM OF EMPLOYEE, REPRESENTATIVE, OR DEPENDENT (G.S. §§97-22 THROUGH 24)

IC File # _____

Emp. Code # _____

Carrier Code # _____

Employer FEIN _____

The I.C. File # is the unique identifier for this injury. It will be provided by return letter and is to be referenced in all future correspondence.

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name, Address, Telephone Number, Insurance Carrier, Policy Number, Social Security Number, Sex, Date of Birth, etc.

EMPLOYEE - This form must be filed with the Industrial Commission within two years of the date of injury or occupational disease or your claim may be barred. Notice shall be given to the employer immediately after the accident or as soon as practicable and within 30 days.

Notice is hereby given, as required by law, that the above-named employee sustained an injury or contracted an occupational disease, described as follows: _____ on ____/____/____ at _____. Describe the injury or occupational disease, including the specific body part involved (e.g., right hand, left hand) _____ Describe how the injury or occupational disease occurred: _____

Occupation when injured: _____ Nature of employer's business: _____ Number of days out of work due to injury: _____ Medical treatment received? [] Yes [] No Weekly wage: \$ _____ Number of hours worked per day: _____ Days worked per week: _____

NOTE: If employee is unable to sign this form, another may sign for him. This form should be typed or printed by hand in black ink, if possible. Employee should retain one signed copy of this notice, mail one signed copy to the Industrial Commission at the address below, and provide one signed copy to employer.

Signature of (Check One) [] Employee, [] Attorney, [] Representative, or [] Dependent Telephone Number _____ Address _____ City _____ State _____ Zip _____ Date Completed _____

EMPLOYER: This notice is being sent to you in compliance with requirements of the North Carolina Workers' Compensation Act, in order that the medical services prescribed by the Act may be obtained; and, if disability extends beyond 7 days duration, or if death ensues, compensation may be paid according to law.

FOR IC USE ONLY RESEARCHER: _____ CC: _____ EC: _____ DATA ENTRY: _____

MAIL TO:

NCIC - CLAIMS ADMINISTRATION 4335 MAIL SERVICE CENTER RALEIGH, NORTH CAROLINA 27699-4335 MAIN TELEPHONE: (919) 807-2500 HELPLINE: (800) 688-8349 WEBSITE: HTTP://WWW.IC.NC.GOV/

GENERAL INFORMATION ON THE FORM 18

1. What does a Form 18 do?

A Form 18 establishes a legal claim of injury on your behalf if filed within two years of the date of injury or occupational disease, and gives the required written notice to the employer if a copy is submitted to the employer within 30 days of the injury. The employer is required by law to file a Form 19 if the employee misses more than one day of work due to the injury or if the medical bills exceed \$2,000.00. However, the employer's filing of a Form 19 does not satisfy the employee's obligation to file a claim. In order to ensure the employee's rights are protected, the employee must file a Form 18 even though the employer may be paying compensation or the Industrial Commission may have opened a file for the injury.

2. To whom should the Form 18 be sent?

The original Form 18 should be submitted to the Industrial Commission. The injured worker should keep one copy for his or her records and one copy should be submitted to the employer at the time of the injury.

3. What numbers do I write in the upper right corner?

You do not need to fill in the spaces on the upper right corner of the Form 18. If you know that your employer has already filed a report of injury, (Form 19) and you know what your I.C. (Industrial Commission), File Number is, you may write the number in the "I.C. File No." space. If you do not already have an I.C. File Number, the Industrial Commission will assign one upon receipt of the Form 18. The other three spaces, "Emp. Code No.," "Carrier Code No.," and "Employer FEIN" are for internal use only.

4. What if I do not know who my employer's insurance carrier is?

If you do not know who the employer's insurance carrier is you may either ask your employer for the information, call the Industrial Commission's Claims Administration Section at (800) 688-8349 then press "1" after the prompt, or simply leave the line blank.

5. When listing the number of days out of work, do I count partial days?

Yes, you include partial as well as whole calendar days not worked. However, the days do not need to be consecutive.

6. What happens after I file the Form 18?

The Industrial Commission will mail an acknowledgement letter to you after your Form 18 is processed. Processing time varies according to current workload. The Industrial Commission will mail a copy of the acknowledgement letter to the employer or its workers' compensation insurance carrier asking them to contact you and inform you if compensation will be paid to you voluntarily.

APPLICATION TO REINSTATE PAYMENT OF DISABILITY COMPENSATION (G.S. 97-18(k))

IC File # _____
Emp. FEIN # _____
Carrier FEIN # _____
Carrier File # _____

Employee's Name _____
Address _____
City _____ State _____ Zip _____
Home Telephone (____) _____
Sex M F
Social Security Number _____
Date of Birth ____/____/____

Employer's Name _____ Telephone Number (____) _____
Employer's Address _____ City _____ State _____ Zip _____
Insurance Carrier _____
Carrier's Address _____ City _____ State _____ Zip _____
Carrier's Telephone Number _____ Fax Number _____

IMPORTANT NOTICE TO EMPLOYER: The employee in this claim has applied for reinstatement of compensation. If the employer or carrier believes that compensation should not be reinstated, the employer or carrier must respond to this Application by completing Section B of this Form and returning one copy to the Industrial Commission. If the Industrial Commission has not received the completed copy of this Form from the employer or carrier by _____, an Order may be issued reinstating compensation. If the employer or carrier timely objects to reinstatement, the matter will be scheduled for informal telephonic hearing. (The date to be inserted above by the employee shall be 17 days after this Application was sent to the employer or carrier and Industrial Commission, whether by mail, facsimile, or e-mail.)

SECTION A. TO BE COMPLETED BY THE EMPLOYEE:

1. Date of injury by accident or occupational disease: _____
2. Nature and extent of injury or occupational disease: _____
3. (a) Has your claim been accepted or determined to be compensable by the Industrial Commission: Yes: No:
(b) If so, how: Form 21 Form 60 Form 63 Opinion and Award
Other _____
4. Number of weeks compensation already paid: _____ From: ____/____/____ To: ____/____/____
5. Date from which seeking compensation: _____
6. Application is made to reinstate compensation on the grounds that: _____

YOU MUST ATTACH DOCUMENTATION TO SUPPORT THIS APPLICATION FOR REINSTATEMENT OF COMPENSATION.

NUMBER OF PAGES ATTACHED: _____

GIVE A TELEPHONE NUMBER AT WHICH YOU CAN BE REACHED IF AN INFORMAL HEARING IS SCHEDULED, FROM MONDAY THROUGH FRIDAY BETWEEN 8:00 A.M. AND 5:00 P.M.: _____ THE INDUSTRIAL COMMISSION WILL NOTIFY YOU IF AN INFORMAL HEARING IS SCHEDULED.

IN ADDITION TO FILING THE ORIGINAL OF THIS APPLICATION AND SUPPORTING DOCUMENTS WITH THE INDUSTRIAL COMMISSION, I HEREBY CERTIFY THAT A COPY OF THIS APPLICATION, TOGETHER WITH ALL SUPPORTING DOCUMENTS, WAS SENT TO THE EMPLOYER OR CARRIER/ADMINISTRATOR AT: (ADDRESS/FAX NO): _____

SIGNATURE OF EMPLOYEE OR ATTORNEY: _____ DATE: _____

**SEND TO: NCIC - EXECUTIVE SECRETARY
4333 MAIL SERVICE CENTER
RALEIGH, NC 27699-4333
MAIN TELEPHONE: (919) 807-2501
FAX NUMBER: (919) 733-5389
HELPLINE: (800) 688-8349
WEBSITE: <http://www.ic.nc.gov/>**

SECTION B. TO BE COMPLETED BY THE EMPLOYER OR CARRIER/ADMINISTRATOR

1. THE EMPLOYER/CARRIER MUST COMPLETE EITHER 1.(a) OR 1.(b)

(a) If reinstatement of compensation is not contested, complete the following:

Compensation in the amount of \$ _____ per week was or will be reinstated from _____ / _____ / _____
commencing on: _____ / _____ / _____

If compensation is reinstated on a date other than the date requested by the employee in Section A.5., please explain: _____

(b) Compensation should not be reinstated because: _____

2. (a) Specify whether this claim has been accepted, denied or determined compensable by the Industrial Commission: _____

(b) How: Form 61 Form 21 Form 60 Form 63 Opinion and Award

Other _____

3. If compensation has been paid, provide the number of weeks: _____ From: _____ / _____ / _____ To: _____ / _____ / _____

IF REINSTATEMENT OF COMPENSATION IS CONTESTED, GIVE A TELEPHONE NUMBER AT WHICH YOU CAN BE REACHED WHEN THE INFORMAL HEARING IS SCHEDULED, FROM MONDAY THROUGH FRIDAY BETWEEN 8:00 A.M. AND 5:00 P.M. _____ AND A FACSIMILE NUMBER OR E-MAIL ADDRESS FOR SERVICE OF THE HEARING NOTICE AND ANY OTHER CORRESPONDENCE: _____

IN ADDITION TO FILING THE ORIGINAL OF THIS RESPONSE WITH THE INDUSTRIAL COMMISSION, I HEREBY CERTIFY THAT A COPY OF THIS RESPONSE, TOGETHER WITH SUPPORTING DOCUMENTS, WAS SENT TO THE EMPLOYEE OR THE EMPLOYEE'S ATTORNEY OF RECORD, IF ANY, AT (ADDRESS/FAX No:) _____

ON _____

SIGNATURE OF EMPLOYER,
CARRIER/ADMINISTRATOR OR
ATTORNEY: _____

DATE: _____

APPLICATION TO TERMINATE OR SUSPEND PAYMENT OF COMPENSATION (G.S. 97-18.1)

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employer FEIN _____

Employee's Name _____

Employer's Name _____ Telephone Number _____

Address _____

Employer's Address _____ City _____ State _____ Zip _____

City _____ State _____ Zip _____

Insurance Carrier _____

Home Telephone _____ Work Telephone _____

Carrier's Address _____ City _____ State _____ Zip _____

Social Security Number _____ Sex M F Date of Birth _____

Carrier's Telephone Number _____ Fax Number _____

IMPORTANT NOTICE TO EMPLOYEE: YOUR BENEFITS MAY BE STOPPED UNLESS YOU OBJECT IMMEDIATELY. IF YOU BELIEVE YOUR BENEFITS SHOULD NOT BE STOPPED, YOU MUST FILL OUT SECTION B. OF THIS FORM AND RETURN ONE COPY OF THIS FORM TO THE INDUSTRIAL COMMISSION. IF THE INDUSTRIAL COMMISSION HAS NOT RECEIVED THE COMPLETED COPY OF THIS FORM FROM YOU BY _____, YOUR BENEFITS MAY BE STOPPED WITHOUT FURTHER NOTICE TO YOU. IF YOU OBJECT, YOU MAY HAVE THE RIGHT TO AN INFORMAL HEARING BY THE INDUSTRIAL COMMISSION BEFORE YOUR BENEFITS CAN BE STOPPED. (THE DATE TO BE INSERTED ABOVE BY THE EMPLOYER OR CARRIER/ADMINISTRATOR SHALL BE 17 DAYS AFTER THIS APPLICATION WAS MAILED TO THE INDUSTRIAL COMMISSION.)

SECTION A. TO BE COMPLETED BY THE EMPLOYER OR CARRIER/ADMINISTRATOR:

1. Date of injury by accident : _____ Date disability began : _____

2. Nature and extent of injury: _____

3. Number of weeks compensation paid: _____ From : _____ To : _____

4. Total amount of indemnity compensation paid to date: \$ _____

5. Check applicable box(s):
- a. An agreement was approved by the Industrial Commission on _____
 - b. The employer admitted employee's right to compensation pursuant to N.C. Gen. Stat. § 97-18(b).
 - c. The employer paid compensation to employee without contesting claim within the statutory period provided under N.C. Gen. Stat. § 97-18(d).
 - d. Other: _____

6. Application is made to terminate or suspend compensation to the employee on the grounds that _____

7. Check box if employee is in managed care.

**MAIL TO: NCIC - EXECUTIVE SECRETARY
4333 MAIL SERVICE CENTER
RALEIGH, NC 27699-4333
MAIN TELEPHONE: (919) 807-2500
HELPLINE: (800) 688-8349
WEBSITE: HTTP://WWW.IC.NC.GOV/**

In addition to filing the original of this application and supporting documents with the Industrial Commission, I hereby certify that a copy of this application, together with all supporting documents, was mailed to the employee at

(address) _____

and employee's attorney of record, if any, on _____.

The attached documents consist of _____ (number) pages.

SIGNATURE OF EMPLOYER OR CARRIER/ADMINISTRATOR

PRINTED NAME

TELEPHONE NUMBER

DATE

TO BE COMPLETED BY THE EMPLOYEE

SECTION B. IF YOU THINK YOUR COMPENSATION SHOULD NOT BE STOPPED, YOU SHOULD COMPLETE THIS SECTION.

1. I do not think my compensation should be stopped because: _____

2. Enclose and specify the number of pages of documents the Industrial Commission should consider:
_____ (number).

3. Give a telephone number at which you can be reached when the informal hearing is scheduled, from Monday through Friday between 8:00 a.m. and 5:00 p.m.: _____. The Industrial Commission will notify you of the date and time of the hearing.

SIGNATURE OF EMPLOYEE

WITNESS

DATE

If you need assistance in completing this form, you may contact the Industrial Commission at (800) 688-8349. You must contact the Office of the Executive Secretary at (919) 807-2500 to obtain an extension of time in which to submit medical records, or to obtain documents you have not been able to obtain.

EMPLOYEE: SEND A COPY OF THIS FORM AND SUPPORTING DOCUMENTS TO THE EMPLOYER AND CARRIER/ADMINISTRATOR FROM WHOM YOU ARE RECEIVING COMPENSATION. SEND THE ORIGINAL TO: INDUSTRIAL COMMISSION, OFFICE OF THE EXECUTIVE SECRETARY, 4333 MAIL SERVICE CENTER, RALEIGH NC 27699-4333.

ITEMIZED STATEMENT OF CHARGES FOR DRUGS

IC File # _____

Emp. Code # _____

Carrier Code # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act Employer FEIN _____

Employee's Name _____
 Address _____
 City _____ State _____ Zip _____
 Home Telephone () _____ Work Telephone () _____
 Social Security Number _____ Sex M F Date of Birth / / _____

Employer's Name _____ Telephone Number _____
 Employer's Address _____ City _____ State _____ Zip _____
 Insurance Carrier _____
 Carrier's Address _____ City _____ State _____ Zip _____
 Carrier's Telephone Number () _____ Fax Number () _____

DATE	DRUG STORE	CITY	NAME OF DRUG & PRESCRIPTION NO.	PHYSICIAN	AMOUNT
TOTAL					\$

This is to certify that the drugs listed above were related to my workers' compensation injury. (Receipts must be furnished for carrier's file)

Employee signature

Carrier's approval

Reimburse employee
 Yes no

Reimburse drug store
 Yes no

EMPLOYEE: Mail your bill in duplicate promptly to employer and/or insurance carrier

EMPLOYER OR CARRIER/ADMINISTRATOR: DRUGS MAY BE REIMBURSED DIRECTLY TO THE EMPLOYEE OR DRUG STORE. IT IS NOT NECESSARY TO SUBMIT BILLS TO THE COMMISSION FOR APPROVAL. PAY AND RETAIN COPY IN CARRIER'S FILE.

ITEMIZED STATEMENT OF CHARGES FOR TRAVEL

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

Employer FEIN _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name _____	Employee's Name _____	Telephone Number _____
Address _____	Employer's Address _____	City _____ State _____ Zip _____
City _____ State _____ Zip _____	Insurance Carrier _____	
() - _____	Carrier's Address _____	City _____ State _____ Zip _____
Home Telephone _____	Work Telephone _____	() - _____ () - _____
	Carrier's Telephone Number _____	Fax Number _____

Employees are entitled to reimbursement of **\$0.565** per mile for travel for medical treatment, provided they travel 20 miles or more roundtrip, starting January 1, 2013. Special consideration will be given to employees who are totally disabled. No reimbursement is allowed for trips to purchase medications or supplies unless medically necessary. These items must be purchased on visits to medical providers (G.S. §97-25).

DATE	NAME OF MEDICAL PROVIDER	CITY	TOTAL MILES ROUNDTRIP
/ /			
/ /			
/ /			
/ /			
/ /			
OTHER EXPENSES	If overnight stay is necessary, the following items will be approved as submitted. (Receipts must be furnished for carrier's file.)	Total motel expense (\$45.00 per day):	Total Miles:
		Total meal expense (\$6.00 Breakfast, \$8.00 Lunch, and \$14.00 Dinner):	X [mileage rate]*
		Total parking & cab expense (actual charge):	Other expenses:
		Total for other expenses:	Total all expenses:

*Prior mileage rates are as follows: (a) **\$0.555** for July 1, 2011 - December 31, 2012; (b) **\$0.51** for January 1, 2011 - June 30, 2011; (c) **\$0.50** for 2010; (d) **\$0.55** for 2009; (e) **\$0.585** for July 1, 2008 - December 31, 2008; (f) **\$0.505** for January 1, 2008 - June 30, 2008; (g) **\$0.485** for 2007; (h) **\$0.445** for January 18, 2006 - December 31, 2006; and (i) **\$0.31** for travel before January 18, 2006.

I hereby certify that I have incurred all expenses listed above as a result of my workers' compensation injury.

Employee signature

Carrier's approval

Employee:

Mail your bill in duplicate promptly to employer and/or insurance carrier

Employer or Carrier/Administrator:

Travel may be reimbursed directly to the employee. It is not necessary to submit bills to the Commission for approval. Pay and retain copy in carrier's file.

EMPLOYER'S ADMISSION OF EMPLOYEE'S RIGHT TO PERMANENT PARTIAL DISABILITY (G.S. §97-31)

IC File # _____
Emp. Code# _____
Carrier Code# _____
Carrier File # _____
Employer FEIN _____

The Use of This Form Is Required Under the Provisions of The Workers' Compensation Act

Employee's Name _____
Address _____
City _____ State _____ Zip _____
() _____ () _____
Home Phone _____ Work Phone _____
Social Security Number _____ M F / / _____
Date of Birth _____

Employer's Name _____ Phone _____
Employer's Address _____ City _____ State _____ Zip _____
Insurance Carrier _____
Carrier's Address _____ City _____ State _____ Zip _____
() _____ Ext. _____ () _____
Carrier's Telephone Number _____ Carrier's Fax Number _____

WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:

- All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and _____ is the Carrier/Administrator for the Employer.
 - The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on _____.
 - The injury by accident or occupational disease resulted in the following injuries: _____.
 - The employee was was not paid for the 7 day waiting period.
If not, was salary continued? yes no. Was employee paid for the date of injury? yes no
 - The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$ _____.
This results in a weekly compensation rate of \$ _____.
 - The employee has has not returned full time to work for _____
on _____, at an average weekly wage of \$ _____.
 - Claimant was released with permanent restrictions without permanent restrictions.
 - Permanent partial disability compensation will be paid to the injured worker as follows:
____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)
____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)
____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)
- Total amount of permanent partial disability compensation is \$ _____. Date of first payment: _____.
- State any further matters agreed upon, including disfigurement, loss of teeth, election of temporary partial disability, waiting period or other: _____.

10. An overpayment is claimed in the amount of \$_____. Overpayment was calculated as follows:_____.
If overpayment claimed, a Form 28B is attached. yes no

11. If applicable, the Second Injury Fund Assessment is \$ _____. A check is is not included.

The undersigned hereby certify that the material medical and vocational reports related to the injury have been provided to the employee or his attorney and have been filed with the Industrial Commission for consideration pursuant to G.S. 97-82(a) and Industrial Commission Rule 501(3).

Name of Employer Signature Title Date

Name of Carrier/ Administrator Signature Direct phone number Title Date

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on page 3 of this form.

Signature of Employee Address Date

Signature of Employee's Attorney Address Date

Check box if no attorney retained.

North Carolina Industrial Commission
The FOREGOING AGREEMENT IS HEREBY APPROVED:

NCIC Claims Examiner/ Special Deputy/ Other

\$ _____
ATTORNEY FEE APPROVED

**IMPORTANT NOTICE TO EMPLOYEE CLAIMING
ADDITIONAL WEEKLY CHECKS
OR LUMP SUM PAYMENTS**

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

**IMPORTANT NOTICE TO EMPLOYEE
INJURED BEFORE JULY 5, 1994
CLAIMING ADDITIONAL MEDICAL BENEFITS**

If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

**IMPORTANT NOTICE TO EMPLOYEE
INJURED ON OR AFTER JULY 5, 1994
CLAIMING ADDITIONAL MEDICAL BENEFITS**

If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must apply to the Industrial Commission in writing within two years, or your right to these benefits may be lost. To apply you may also use Industrial Commission Form 18M.

IMPORTANT NOTICE TO EMPLOYER

The employee must be provided a copy when the agreement is signed by the employee. Failure to file Form 28B, Report Of Compensation And Medical Compensation Paid, within 16 days after last payment pursuant to this agreement may subject the employer or carrier/administrator to a penalty. Pursuant to Rule 501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission, or show good cause for not submitting the agreement.

NEED ASSISTANCE?

If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.

REQUEST THAT CLAIM BE ASSIGNED FOR HEARING

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File# _____

Employer FEIN _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name _____			Employer's Name _____ () _____ Telephone Number _____	
Address _____			Employer's Address _____ City _____ State _____ Zip _____	
City _____ State _____ Zip _____		Insurance Carrier _____		
() _____		() _____		
Home Telephone _____		Work Telephone _____		Carrier's Address _____ City _____ State _____ Zip _____
() _____		() _____		Carrier's Telephone Number _____ Fax Number _____
Social Security Number _____	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth _____ / _____ / _____		

I, _____, respectfully notify you that the above named parties have failed to reach an agreement in regard to compensation, and I request a hearing.

We have been unable to agree because (state reason with specificity): _____

Employee believes he or she is entitled to the following workers' compensation benefits (check all that apply):

- Payment of compensation for days missed (give dates): _____
- Payment of medical expenses/treatment: _____
- Payment for permanent partial disability: _____
- Payment for permanent and total disability: _____
- Payment for scars: _____
- Other: _____

Has claimant participated in mediation? Yes No

Date of injury: _____ Part of body: _____

City and county wherein injury occurred: _____

Estimated length of hearing: _____

Below is a list of names and addresses of all witnesses, including doctors, whose testimony is to be taken by the requesting party. Doctors outside the county of hearing are not required to attend this hearing.

NAME	ADDRESS
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**MAIL TO: NCIC - DOCKET SECTION
4336 MAIL SERVICE CENTER
RALEIGH, NC 27699-4336
MAIN TELEPHONE: (919) 807-2500
HELPLINE: (800) 688-8349
WEBSITE: HTTP://WWW.IC.NC.GOV/**

When a date of hearing is set, I respectfully request the Commission to send me signed subpoenas for my witnesses. When I receive these subpoenas, I will deliver them to the Sheriff of the county or counties in which each witness resides so that the subpoenas may be served.

(Signature of party requesting hearing, or attorney)

(Title)

(Address: street and number, city, state and zip)

(Date of notice)

CERTIFICATION

I, _____, hereby certify that this case is ready for hearing. This case will be set in the county where the injury occurred unless good reason is shown for a different location. If you want the hearing in a different county, name the county below and your reason for that location.

(County)

(Reason for setting)

(Signature)

Note: A copy of this form must be sent to opposing parties. The original of this form must be sent to the Industrial Commission at the address below:

EMPLOYER'S ADMISSION OF EMPLOYEE'S RIGHT TO COMPENSATION (G.S. §97-18(b))

IC File # _____
 Emp. Code # _____
 Carrier Code # _____
 Carrier File # _____
 Employer FEIN _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name		Employer's Name		() - Telephone Number	
Address		Employer's Address		City	State Zip
City	State	Zip	Insurance Carrier	Policy Number	
() - Home Telephone	() - Work Telephone	Carrier's Address		City	State Zip
- - Social Security Number	<input type="checkbox"/> M <input type="checkbox"/> F Sex	/ / Date of Birth	() - Carrier's Telephone Number	() - Fax Number	

TO DEFENDANTS: Describe with particularity the body part(s) or condition(s) for which you are admitting liability and compensability.
TO EMPLOYEE: Your employer admits your right to compensation for an

- injury by accident on ___ / ___ / ___ (date) (Specify body part(s) involved):

- occupational disease on ___ / ___ / ___ (date) (Specify condition(s) and body part(s) involved):

THE FOLLOWING ITEMS 1 THROUGH 4 ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND DO NOT CONSTITUTE AN AGREEMENT:

1. The description of the injury or occupational disease, including body parts involved is:

2. The employee was paid for the entire day of injury. Yes No
3. The employee's average weekly wage, subject to verification, including overtime and all allowances, was \$_____, which results in a weekly compensation rate of \$_____.
 - a. Temporary total compensation is being paid at the compensation rate above.
 - b. Temporary partial compensation is being paid in the amount of \$_____.
 - c. Other: _____
4. The disability resulting from the injury began on ___ / ___ / ___ (date), and compensation commenced on ___ / ___ / ___ (date).

SIGNATURE OF EMPLOYER OR CARRIER/ADMINISTRATOR	TITLE	DATE
--	-------	------

EMPLOYER: Failure to file Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after last payment pursuant to an agreement or award subjects employer or carrier/administrator to a penalty pursuant to N.C. Gen. Stat. §97-18(h). Form 30 must be used for compensable injuries resulting in death. A copy of this Form 60 shall be provided to the employee and the employee's attorney of record, if any, and the original provided to the Industrial Commission at the address below.

DENIAL OF WORKERS' COMPENSATION CLAIM
(G.S. §97-18(c) AND G.S. §97-18(d))

IC File # _____
 Emp. Code # _____
 Carrier Code # _____
 Carrier File # _____
 Employer FEIN _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name		Employer's Name		Telephone Number	
Address		Employer's Address		City	State Zip
City	State	Zip	Insurance Carrier	Policy Number	
Home Telephone		Work Telephone		Carrier's Address	
Social Security Number		Sex	Date of Birth	Carrier's Telephone Number	
Date of Injury:				Fax Number	

TO EMPLOYEE (TO DEPENDENT(S) OR NEXT OF KIN IN CASE OF DEATH):

This is to inform you that the claim for the injury on _____, or
 occupational disease as of _____, or
 death on _____

is **DENIED** for the following reasons:

_____/_____/_____
 SIGNATURE EMPLOYER OR CARRIER/ADMINISTRATOR TITLE DATE

Employer/Insurance Carrier must provide a detailed statement of the grounds for denying compensability of the claim or liability for the claim where payments have previously been made without prejudice under N.C. Gen. Stat. § 97-18(d). Failure to specify a particular ground may preclude asserting certain defenses at a later date pursuant to N.C. Gen. Stat. § 97-18(f).

Employee: If you disagree with this denial, you are entitled to request a hearing by submitting a Form 33. If you need assistance you may contact the Industrial Commission at the address below or telephone the Industrial Commission at (800) 688-8349.

Employer: A copy of this form shall be sent to the employee and employee's attorney of record, if any, and all known health care providers which have submitted bills to the employer/carrier. The original of this form shall be sent to the Industrial Commission at the address below.