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