



SCHOOLCOMP PROGRAM MANAGER

Workers' Compensation Newsletter

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OTHER EXCEPTIONS TO LIABILITY

An insurance carrier is not liable for compensation in a workers' compensation claim if the employee's injury:

- occurred while the employee was in a state of intoxication;
- was caused by the employee's willful attempt to injure him/herself or to unlawfully injure another;
- was caused by another person because of a personal reason unrelated to the employment;
- arose out of an Act of God (unless the employee was exposed to a risk greater than the general public);
- was caused by the employee's horseplay.



WORKERS' COMP LIABILITY: THE SOCIAL, RECREATIONAL EXCEPTION

When Fun and Games Take A Bad Turn

Phyllis and her co-worker Sarah won the hula-hoop contest and the balloon toss making them the favorites to also win the three-legged sack race. However, they didn't win the sack race because Phyllis fell during the competition and injured her shoulder. Phyllis' injury occurred during a school picnic held on a Saturday. Is Phyllis entitled to workers' compensation benefits for her injury?

When Legislators passed the Texas Workers' Compensation Act, they built certain defenses into the law that would relieve employers and their insurers of liability for a claim. One of these defenses is referred to as the Off-Duty Social, Recreational Exception.

How The Off-Duty Social, Recreational Defense Works

Legislators included this defense because they believed that employee injuries, which occur at company social events like picnics, carnivals, and after-hour fundraisers, are not the type of occupational injuries that workers' compensation was designed to cover. The application of this defense is perfectly legitimate when an event is voluntary. But with an increased focus on workplace team-building and employee fitness programs, the line between what is a voluntary work event, and what is a mandatory work event, quickly becomes blurred.

The outcome of these claims usually hinges on the answers to the following questions:

- Did the employer expressly or impliedly require the employee to participate in the event?
- Was the activity part of the services of the employee?
- Did the employer derive substantial direct benefit from the activity beyond the intangible benefit of increased employee health and morale?

In short, if Phyllis' participation in the school picnic was required or even encouraged by school administrators or supervisory personnel, then her shoulder injury will most likely give rise to a compensable claim. But if her participation at the school picnic was strictly voluntary, then she will not be entitled to income and medical benefits under workers' compensation law.

OFFICE HAZARDS

If you don't believe that slipping, tripping and falling are big issues in offices, consider that the National Safety Council has reported that employees are two and half times more likely to suffer a disabling fall in an office setting than any other work environment. In fact, slips, trips and falls are the most common source of office injuries—and nearly all are preventable.

Fall injuries often occur when employees try to reach objects in high places by standing on furniture. Employees who need to access objects on high shelves or in tall cabinets should use stepladders (and never climb higher than what's indicated on the ladder). Desks, tables and other types of furniture are unsafe substitutes for ladders. And employees should never use an office chair as a ladder. We have seen these claims before and (spoiler alert!) the chair will roll and they will fall.

Another common cause of trip and fall injuries in an office setting is wiring and cords that run through traffic areas. Any wiring or cord that is not permanently installed should be placed in an out-of-the-way area so that employees don't become entangled in them.

Flooring also plays a key role in slips and falls. Uprturned edges on carpets or mats invite tripping. Surfaces such as tile and terrazzo can become slick when wet or dusty. In addition to proper cleaning, the use of mats at exterior doors will keep employees and visitors from tracking in rain and snow that can contribute to slippery conditions.

Last but not least, clutter is a major contributor of trip and fall injuries. An employee who is focused on a task may not look down and notice the hazard in time to avoid falling. File and desk drawers that are left open can also result in injuries to unsuspecting employees.

Safety is everyone's responsibility! If we all take just a minute to proactively identify and eliminate potential hazards, we can make our office a safer place to work.



THE AGING SPINE

Like any other part of the body, our spine is subject to everyday stresses that can produce wear and tear over time. Specifically, the disks that act as cushions between the spine's vertebrae begin to shrink and dry out. As a result the vertebral bones begin to rub against one another causing back pain and stiffness.

Meanwhile, the column that surrounds and protects the spinal cord begins to narrow over time. This condition, known as spinal stenosis, can be quite painful when the spinal cord and nerves are compressed. These and other aspects of the aging process may be accelerated if you've previously had a spinal injury. Additionally, if you are overweight, if you smoke, or if your daily activities subject your spine to a greater-than-average amount of wear and tear, you are a candidate for back pain.

While not all back pain can be avoided, the time to start protecting yourself against preventable spine problems is now. This begins with exercising regularly to keep off excess weight and strengthening the core muscles in your back and abdomen. You can accomplish this with targeted stretches as well as safe aerobic activity such as walking, bicycling, swimming and yoga.

You also need to be mindful of your posture at all times—especially when seated at your desk while at work. Make needed adjustments to your chair and computer screen, make sure you have the proper lumbar support, and stretch and warm your muscles before any physical activity. You should also avoid lifting heavy objects by yourself whenever possible, and always use correct bending, twisting and lifting techniques. With a few simple changes, you can decrease your likelihood of experiencing chronic back pain as you age.

Excerpted from How To Keep Your Spine Healthy As You Age by Spine Health Institute.

