

Workers' Compensation Law

TOP 5 ITEMS TO CONSIDER IN DEFENDING WORKERS' COMPENSATION CLAIMS

1. The cheapest injury is one that never occurs in the first place. Develop a safety culture that provides for measurable results with accountability. Institute systems and processes that encourage employee involvement and a sense of ownership in the safety program.
2. Begin the accident analysis immediately after the injury. The supervisors and safety personnel should conduct the investigation. The supervisors should be aware of any information such as personal problems or non-occupational habits of the claimant that may be valuable in determining the credibility of the claimed injury. Interview all witnesses, secure factual descriptions of the incident, and obtain signatures and dates on the statements.
3. Complete accident reports timely. Include information about the "who, what, when, where, how and why" of the situation. Record dates, times, exact location of the incident, and exactly what happened. Note any potential inconsistencies on the accident report. Take photographs and videos of the accident site and all involved equipment.
4. Organize all witness statements, supervisor statements, accident reports, and photographs in to a file. Records, documents, and statements completed and secured proximate in time to the injury have great probative and persuasive evidentiary value in the event of a disputed claim requiring adjudication.
5. Train and alert supervisors about substance abuse and intoxication behavior patterns. If there is a "reasonable suspicion" that drugs or alcohol are involved, document this fact in the witness statements and accident reports. Require a post-accident drug test pursuant to the provisions of Ohio Revised Code 4123.54 immediately after the injury. Although employers have the right to test employees for controlled substances, the test results will only affect their right to workers' compensation if there was "reasonable suspicion" before the drug test is administered of alcohol or drug intoxication.

For more information on workers' compensation law, please feel free to contact the labor and employment attorneys at Robison, Curphey & O'Connell.

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