

# Call To Counsel:

## What Drives Injured Workers to Seek Legal Advice

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# Reason For Call – Example

- *Fired 2 weeks after filing WC claim (on grounds "left 7 min early") just had major back surgery*

# Agenda

- What Does This Guy Know?
- Introduction
- The Work Comp Process
  - Pre Injury
  - Post Injury
- Where Things Go Wrong
- Questions / Discussion

# Reason For Call – Example

- *Injured at work, provided ER w/ doctor's note on 7/29 and planned RTW 8/4. Employer threatened termination for no call no show.*

# What Does This Guy Know?

- Bill Parsons
- 20+ years as a WI Work Comp Attorney
  - Talked to thousands of injured workers
- Owner of a Small Business
  - Not an HR expert
  - But worked with a lot of employees over the years

# Reason For Call – Example

- *TTD has not been paid PNC has been having issues resolving the situation with the carrier. PNC is having surgery next week and will not be able to continue handling communications with the carrier. She is looking for an attorney to assist with resolving the TTD issue while she is recovering*

# What Are We Talking About?

- Why Injured Worker's Seek Legal Advice?
  - What is the Subtext of That question?
  - Legal Advice is Bad?
- Really Talking About Avoiding Nasty / Difficult / Expensive/ Time Consuming Litigation with Injured Workers
- How Do We Do That?
  - Preventing Workplace Injuries
  - Treating Employees With Respect, Honesty, and Compassion
  - Educating Employees About Their Rights Before & After Injuries Occur
  - Good Communication
  - Pay People Correctly & On Time
  - Don't Be Petty!

# Reason For Call – Example

- *Employer wasn't respecting restrictions*

# The Work Comp Process

- Wisconsin Has the Oldest WC System in the Country – 1911!
- Set Up Because People Get Hurt At Work
- Requires Employers to Insure Against This Because People Get Hurt At Work
- Grand Bargain: Administrative Process / Limited Recovery

# The Work Comp Process

- When Does the Process Start?
- Technically with an Injury At Work
- I Would Argue It Really Starts Before That
- People Get Hurt / Some Jobs Are Dangerous / Harder Than Others
  - How Does the Employer Make Employees Feel About This?
  - Does It Seem Like The Employer Is Doing Everything They Can To Keep Employees Safe?
  - Are They Up Front About the Job Duties & Risks?
  - Does The Employer Offer Education / Training on Workplace Safety?
  - Is This the Type of Place That Actively Discourages Making WC Claims?
  - Does The Employee Feel Like The Employer Cares About Them as a Person?
- This All Plays Into How An Employee Reacts When They Are Hurt

# The Work Comp Process

- An Injury Occurs / Injury Is Reported
- Employee Already Is Bringing Context to Process (see previous slides)
- What Happens Next is Very Important
  - How Does The Employer React?
  - How Does The Insurance Company Communicate?

# Where Things Go Wrong

- 7 Reasons Why Injured Workers Call an Attorney
- People Do Not Want to Talk to Lawyers
  - Lots of folks tell me they have never done this before / do not want to do this
- People Call Because they Feel Like They Have To
- Sometimes Unavoidable, But Not Always

# Reason For Call – Example

- *I sent in my medical bills and I'm not getting a response from the WC carrier*

# Where Things Go Wrong

- Reason # 1 For A Call to an Attorney
- Employee Does Not Know Their WC Rights
  - Lots of Calls From Injured Workers Who Just Want to Know Their Basic Rights
  - Why Aren't They Getting This From HR or the Insurance Company?
  - Decline of Unions
  - Alternatively, Getting This Information But There Is a Lack of Trust (see pre-injury slides)

# Where Things Go Wrong

- Reason # 2 For A Call to an Attorney
- Employer Is Discouraging / Actively Preventing Employee From Filing a WC Claim
  - This is not the type of place you file a WC claim
  - Last person to file a claim got fired
  - If you get hurt, you are in the doghouse
  - Employer refuses to file the WC Claim
  - Employer is offering to pay for medical bills out of their own pocket – not through WC

# Where Things Go Wrong

- Reason # 3 For A Call to an Attorney
- Insurance Carrier Is Not Communicating
  - This is a huge reason for calls to my office
  - Adjustor has too many claims
    - Leads to lack of communication
    - Or worse, rude & unprofessional communication
- Remember This is a Human Who Is Hurt And Likely Not Working
  - They are hurt and stressed
  - They need reassurance and information
  - They are not WC experts – they need to process explained – maybe multiple times

# Where Things Go Wrong

- Reason # 4 For A Call to an Attorney
- Insurance Carrier Is Not Paying The Claim
  - Another Big Reason for Calls
  - People are Living Paycheck to Paycheck
    - At the start of the claim they need to know when they will get paid, how much, and why it is that amount. Explain that.
  - Ongoing claims need to be paid timely and regularly. People are counting on this money. If payments are late / delayed – tell them and explain why
  - Pay the medical bills – this really stresses people out. They will call an attorney.
  - If Additional Information Is Needed
    - Communicate that in Advance
    - Give Reasonable Response Dates
    - Ideally, continue making good faith payments

# Where Things Go Wrong

- Reason # 5 For A Call to an Attorney
- IME Gets Scheduled
  - Part of the process – but leads to anxiety
  - Explain this to Injured Worker

# Where Things Go Wrong

- Reason # 6 For A Call to an Attorney
- Employee Cannot Return To Work
  - Employee Needs to Know What's Next
  - Has DVR / LOEC been Explained to Them?
  - If not, they will call us to figure out what to do

# Where Things Go Wrong

- Reason # 7 For A Call to an Attorney
- Pettiness
  - Conceded back claim
  - Everything going smoothly
  - Insurance carrier wants to dispute 8% PPD rating with a 5% PPD rating
  - Calls my office, turns into a significant LOEC claim

# Reason For Call – Example

- *After he got hit by a forklift, PNC was told to “shut the f\*\*\* up” about it, and that he was overreacting because he suffered no injury*

# Takeaways

- No One Wants To Get Hurt At Work
- Employers Don't Want Workers To Get Hurt
- People Don't Want to Talk to Lawyers
- Treat People With Respect
- Communicate Well
- Don't Miss Payments on Conceded Claims
- Explain Worker's Rights

Questions?

**THANK YOU!**

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