

AVOIDING LITIGATION 2023

Employers

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Agenda

- Introduction
- Primary goals
- Questions
- Your Best strategies for Avoiding Litigation

What can I do before the claim is filed to avoid litigation?

- Train employees well and create a safety culture to avoid injuries
- Have a good relationship with employees- Problems should be solved with phone calls not petitions
- Having an always fight approach to workers comp is not a winning strategy- know that it isn't always worth the fight
- Seek out legal counsel that knows your business and understands your goals in case management
- Deal with bad employees before the injury occurs
Document progressive disciplinary actions to avoid the appearance of retaliatory firing

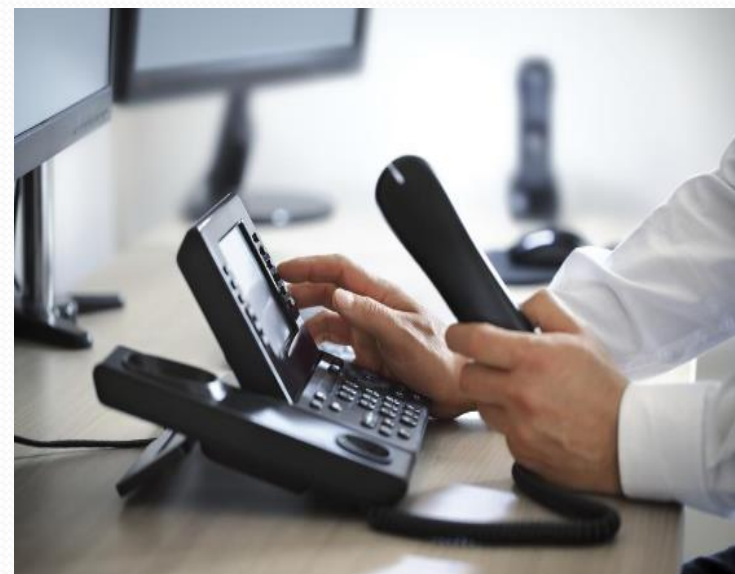
It all Starts at the beginning....

- **Did you communicate what will happen to the employee when the injury occurred?**
- **Reassure employee vs Adversarial relationship**
- **Let employees know what their wages will be**
- **Explain how Medical bills will be handled**
- **Train supervisors to support employee, do not threaten the employee's job!**



After a claim is filed, now what?

- Investigate Early, get witness statements and take pictures as necessary
- Respond to employee Concerns promptly
- Communication is key!
- Multiple messages unanswered to WC department or adjuster leads to employee seeking counsel
- Sometimes employees need to hear that there is nothing wrong



The Great PT Debate

EMPLOYERS

- COMMUNICATED AHEAD OF TIME
- PT AFTER OR BEFORE HOURS ONLY

ATTORNEYS

- SHOULD BE ALLOWED TO GO DURING WORK TO GIVE A GOOD FAITH EFFORT
- AVOIDS CONSCIOUS RELATIONSHIP

The use of a NTCP to avoid Litigation

- Less Confrontational, Denials upset employees and draw Petitions
- Employee refuses to follow necessary Medical Treatment - You don't get the information in a timely manner to make a decision
- Within 90 days of the Injury-You need more time and can't decide if the Mechanism of injury is related to the work injury
 - **NTCP IS NOT AN ADMISSION OF LIABILITY IF YOU DENY IN A TIMELY FASHION LATER**

How to handle these problems to avoid litigation

- **Employee No Shows to an IME**
 - Seeking an IME within 90 days- Are there any risks?
- **Employees videotaping conversations with your Workers Comp staff**
- **Difference in opinion between treating physician and IME physician on modified work vs full recovery**
 - It is always difficult to challenge an adverse opinion of a panel MD
- **The accepted injury controls the claim, be mindful of injury descriptions**
- **Problems with pay are a number one reason that employees seek counsel- encourage direct deposit to avoid pay issues**

Take note of when Documents convert or when they should close

- 1st Date of Disability vs Injury date if Med only
- Med Only NCP Scenario
- Close Documents- Suspend or modify benefits- problem if they go back out and there is no closing document

More Avoiding Litigation Tips

- ATTORNEYS NEED TO HAVE HARD CONVERSATIONS WITH THE CLAIMANT ABOUT LASHING OUT AND FILING MULTIPLE PETITIONS- (They can't always have it all)
- IF THE EMPLOYEE IS RELEASED TO RETURN TO WORK, OFFER A JOB IF AVAILABLE(SEND THE LIBC 757 FIRST!)
- EMPLOYERS DON'T TAKE THE ADVICE OF LEGAL COUNSEL AND THIS CAN SOMETIMES BE A BIG MISTAKE!

Questions

and

What are **your** best strategies for avoiding litigation?

Send your comments and suggestions for your best strategies to avoid litigation to

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