



Prevent Litigation

A past study on workers' comp litigation found it results from a number of factors and attitudes. There is no single cause, but the study reveals a central theme: "Uncertainty" creates a fertile atmosphere for litigation. Litigation is not spontaneous. It results from a chain of events, fears and confusion, anxieties and attitudes, worry about lost wages both real and anticipated and questions about future employment. That uncertainty in turn is multiplied by uncertainty of others – family, friends, fellow employees, first-line supervisors and employers; in short, everyone who comes in contact with the employee before he decides he should see an "expert," the attorney.

Study Findings:

- 92 percent of employees reported it was their first work injury
- 85 percent of employees felt their injuries were "serious" or "very serious"
- 74 percent of the sample had no pre-injury knowledge of "workers' compensation benefits"
- 16 percent knew something "but still had a lot to learn"
- The typical litigant most frequently contacts the attorney about two weeks after the injury –in most instances, after contact with the employer, physician and insurer, and after receiving the first payment of benefits

Strategies to reduce litigation

- Complete an accident investigation. List the how, when and where of the accident; witnesses; and what

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will be done to prevent the same thing from happening again.

- At the time of hire, advise all employees of their workers' compensation benefits.
- Train your Employees, Supervisors, and Managers about "Workers' Compensation Benefits."
- Explain the medical and wage replacement benefits to the injured worker. Be their "expert."
- Keep in touch with your injured employees. Let them know what's happening with the company. Follow up on their appointments and ask how they are progressing.
- Have a return to work program in place. Transition the injured employee from modified duties to full duty.
- Have the doctor report on the employee's progress and the date of the next appointment. Discuss the modified duty assignments with the doctor and when he expects the injured to return to full duty.
- Get a doctors "release to full duty" for all employees receiving medical treatment even if it was only first aid.
- Be the employee's advocate. Clear up any misunderstandings or problems. Eliminate the need for a lawyer.

The keys to eliminating litigation are to promptly report the claim, reducing uncertainty in the injured employee. Explain the benefits and your return to work program bring the injured employee back to full duty.

If you have any questions or need assistance contact your CompWest loss control consultant.

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