



NWPA ALF News

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Did my injury occur on the job? – Course of employment.

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SPECIAL POINTS OF INTEREST:

The NWPA ALF's jurisdiction covers 19 Pennsylvania Counties: Armstrong, Beaver, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Venango, Warren and Westmoreland. We produce this newsletter for the members of our affiliates.

Any comments or questions about this newsletters or its contents should be sent to the NWPA ALF is located at 1276 Liberty St. Ste. 2 in Franklin, PA 16323.

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When an individual suffers an injury, it is not always obvious as to whether they are covered under the Pennsylvania Workers' Compensation Act. The Act does not require an individual to punch the clock prior to an incident for it to be considered work related. One common area of dispute is commuting to and from work. The general rule is that commuting to and from work is not in the course of employment. This is known as the "coming and going rule". However, there are four exceptions to this rule which should be considered when one suffers an injury.

The first exception is where the employee has no fixed place of work. For example, a traveling employee may be a worker only briefly stopping at the main office in the morning for assignments and equipment and travels the rest of the day to multiple customer locations.

The next exception is where an employment contract includes transportation to and from work. To meet this exception, the employee must prove that the injury occurred while commuting to or from work, a travel allowance is related to the actual expense and time involved in the employee's commute, and the employer provided or controlled the means of the commute.

The third exception is where the employee is on a special assignment from the employer. For this exception to apply, the assignment cannot be part of the employee's regular duties. An example would be an employee who is hired to work in one office but was traveling to another location for work related duties.

The fourth exception is where special circumstances are such that the employee was furthering the business of the employer.

Another course of employment area of dispute involves parking lot cases. This situation usually arises where an individual works at a fixed location but the employer has a designated parking lot. Injuries can occur once the individual arrives at the designated parking location but before they start their work shift.

The determinative question here is not who owns or controls the premises, but whether the site of the accident is so connected with the employer's business that it is an integral part of the business. Even if an employee is not required to use the premises, that property may be considered part of the employer's premises if it is a means of access that the employees customarily used to come and go from the workplace.

If an employer denies a workers' compensation case on the basis that an individual was not in the course of their employment, the employee should investigate and possibly challenge the denial. Many of the cases which involve course of employment defenses are very fact specific. If challenged, the injury may be considered within an individual's employment and therefore a work injury covered under the Pennsylvania Workers' Compensation Act. If you have any questions regarding course of employment or any of our other personal injury practice areas, please give us a call at our toll-free number.

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