

METTLER & LeCUYER, P.C., ATTORNEYS AT LAW

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Legal Options for On-The-Job Injuries

Although it is not unusual for a worker to be injured on the job, the legal rights and procedures that are available are not always clearly understood. One injured worker may be able to obtain a much more adequate remedy than another, depending upon the situation.

In most cases, there will be Workers' Compensation coverage available. Workers' Compensation laws provide certain benefits to any injured worker, regardless of whether the injury was the fault of the employer, the worker, someone else, or no one's fault. The benefits provided by Workers' Compensation do not depend upon how the accident happened, but are set according to the seriousness of the injury.

Workers' Compensation pays for all of the medical treatment required for an on-the-job injury, including reimbursing to the worker the cost of traveling to the doctor or therapist. However, the employer may have the right to choose the doctor or clinic. It also pays the worker for the time that he is off work,

recovering from the injury. This payment is less than the person's regular wage, usually two-thirds as much. If there is a permanent injury, then Workers' Compensation will make additional payments. Finally, some Workers' Compensation laws also require the employer to pay for vocational rehabilitation, if the injured worker cannot return to the same kind of work.

The laws that set up Workers' Compensation also say that the worker cannot bring any other lawsuit against his employer or any of his coworkers. They make Workers' Compensation the "exclusive remedy" against the employer. For that reason, an injured worker cannot sue the employer for his pain and suffering and other damages, even if the accident was the employer's fault.

However, the "exclusive remedy" provision does not prevent a worker from suing some other company or person who caused the accident. This is called a third-party lawsuit, because it is not between the worker and his own employer. For example, if the accident was

a car accident, the worker could sue the other driver. If the accident was caused by another person working on the same jobsite, but for another company, the injured worker may be able to sue the other company. Another kind of third-party case our office has handled is a "product liability" case, a lawsuit claiming that an injury was caused by unsafe equipment that the worker had to use on the job.

In a third-party lawsuit, the worker can try to recover not just his lost wages, but all other damages arising from the injury. If the worker is successful however, he may have to pay some of the recovery back to the Workers' Compensation program.

Workers' Compensation is generally a state law. Some government employers have their own Workers' Compensation programs. For example, both the United States government and the Navajo Nation government have Workers' Compensation programs that just apply to their own employees.

Mettler & LeCuyer, P.C., is a law firm serving the Navajo Reservation area from its office at Shiprock, handling primarily personal injury and accident cases, on-the-job injuries, medical claims, disability and insurance claims, uranium miners and Social Security. The firm has a branch office in Albuquerque. The office in Shiprock is located on Highway 64, just east of Foutz Trading Co., and is open 9:00a.m. - 4:00p.m. Monday through Thursday.

