

Juggling Workers' Compensation & Third Party/Negligence Cases: You Need Someone Who Can Do Both

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Most people don't understand that when you get hurt at work, you not only have the potential for a workers' compensation claim, but also a third party negligence claim. You might wonder, what exactly is the difference between the two?

A workers' compensation claim is against your employer and is intended to recover partial wage benefits and payment of medical bills from your work related injury, if you are injured in the course and scope of your employment. A third party claim, on the other hand, is against someone other than your employer and is intended to recover pain and suffering, lost wages, future wages, and other damages. Because the law does not allow you to sue your employer for negligence, workers compensation is your only remedy against your employer. As a result, you must look to third party to recover your other losses.

For example, let's assume you are working at a construction site and you fall through a hole in the floor. As a result of this fall, you are catastrophically injured. The hole was created by Company A, who did not secure, cover, or provide warning for the hole. You work for Company B. In this type of case, you would be eligible to receive workers' compensation benefits from Company B and pursue a third party negligence case against Company A for failing to secure, cover, or provide warning for the hole.

Very few attorneys handle both of these types of claims. Unfortunately, what usually happens to the average employee is that you go to one attorney for workers' compensation, who then refers the negligence or third party case to another attorney or vice versa. They both promise they will work together. Despite the promise, it rarely happens that they do, and one or both of your cases are put at risk.

This is because whatever testimony or evidence occurs in one matter, affects the outcome of the other matter. Also, at times the attorneys will have competing interests and will do what is best for them in the case they represent you for, and not consider the effect it will have on the other case that they don't represent your for. Attorneys who handle both Workers' Compensation and Third Party/Negligence Cases are better able to look at your case as a whole and not jeopardize your interest in either case.

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