

TEN WAYS TO WRECK YOUR WORKERS' COMP CLAIM

AVOID THE TRAPS THAT THE INSURANCE
COMPANIES SET FOR YOU,
AND YOU MIGHT WIN YOUR CASE



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Chip is a graduate of North Carolina State University. After graduating with distinction, Chip attended the Cumberland School of Law at Samford University in Birmingham, Alabama. Before he graduated from law school, Chip worked for a prominent workers' compensation defense firm learning firsthand how employers and insurance companies operate under our existing workers' compensation laws. Upon graduating, Chip accepted a position with Todd's first law firm, this time representing injured workers.

Since that time, Chip has limited his practice to representing injured workers. Chip quickly built a reputation as being a skilled workers' compensation attorney. He has proudly represented hundreds of injured workers throughout North Carolina.

TEN WAYS TO WRECK YOUR WORKERS' COMP CLAIM

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PREFACE

There's a lot of wrong thinking out there about workers' compensation. If you watch some of the news shows or listen to the politicians, you'll think that most all workers' compensation claims are frauds which need to be stamped out. It has become a given that every year in Washington, DC, and in Raleigh, NC, some pro-business politician will introduce some legislation to "reform" the "broken" workers' comp system. This shouldn't come as a surprise: The insurance companies and business groups spend tens of millions of dollars every year in lobbying efforts to make it even worse to be an injured worker.

On the other hand, if you read the ads in the Yellow Pages or watch the lawyer ads on television, you'll think that a workers' comp claim is like the lottery. File a claim, cross your fingers and hope for the big payout. And, oh yeah, be sure you hire the attorney who is shouting the most in his thirty-second television advertisement.

Both of these ideas are dead wrong. The workers' compensation system can be abused, but it is manipulated far more often by employers than by an injured worker. Mind you, the politically-appointed bureaucrats at the North Carolina Industrial Commission won't tell you that, even though their own data proves this to be true. And the lawyers who will say just about anything to get you to hire them are equally wrong when they suggest that workers' comp claims are easy money.

The truth is that the laws in North Carolina are tilted heavily in favor of employers and insurance companies. There are almost no protections for injured workers and what little benefits there are often receive little attention or slow attention at the Industrial Commission.

We've seen just about every abuse heaped upon injured workers that you can imagine. And we're sick and tired of it.

You've gained a real advantage by getting this book. This information will be of incredible benefit to any injured person who is bringing a workers' compensation claim in North Carolina. We personally guarantee that after reading it, you will never view your workers' compensation claim the same way.

WHY DID WE WRITE THIS BOOK?

We're attorneys who represent injured workers. We want to try to even out the playing field – to give injured workers a chance at a fair shake before the Industrial Commission. Every year we receive many requests for help on cases, but unfortunately, we cannot handle each of those cases. In fact, many people may not need an attorney at all. While we limit the number of cases which we handle at any given time, we still want to help every person who was injured on the job in North Carolina. This book is our attempt to do that.

Like just about every lawyer, we offer free consultations. If you want one, call us at 1-866-OTP-Law1. Unfortunately, most free consultations are glorified sales pitches for the lawyer. They offer almost no facts about either the lawyer or workers' compensation.

We think that's wrong.

Over the years, we've developed controversial opinions about how lawyers should talk to the public. Some lawyers disagree with this approach, but we believe the best approach is to tell you the truth. Without strings attached. And without making you come in and listen to a sales pitch. We are not salespeople; we are attorneys.

Years ago, we began writing short articles to address questions our clients had about workers' compensation. Over time, we expanded these articles into reports. The reports then turned into books. The result of all this is our series, *The Ultimate Guides to Workers Compensation in North Carolina*.

The great advantage to this approach is that we can spread our views far beyond the number of people with whom we can speak directly. In addition, we provide people with a guide which they can consult time and time again. Let's face it, it's a pain in the neck to go to find a lawyer and go to his office. It's a whole lot easier to get answers to your questions in the comfort of your own home.

WHY SHOULD YOU LISTEN TO US?

As workers' compensation attorneys, we've seen it all. We've seen injured workers that, quite frankly, were trying to make a quick buck. On the other hand, we've seen far more insurance adjusters try to take advantage of hurt workers.

We've handled hundreds of workers' compensation claims practicing all the way up to the North Carolina Supreme Court and back again. We have worked very hard at this, and the result is that other lawyers have come to respect our approach. As a matter of fact, when Martindale-Hubbell asked other lawyers (including opponents), judges and Commissioners to rate our firm. We received the highest rankings of any law firm in the state.

Workers' compensation law is our passion because we can help people. Fortunately, we work with a strong team of attorneys at Oxner Thomas + Permar that enjoy helping injured workers. We have more Board Certified Specialists than any other firm representing injured workers. No one wants to be hurt at work, but if they are, they don't want to be left out in the cold by the legal system.

HOW TO USE THIS BOOK

While we firmly believe in everything we have written in this book, we cannot offer this book as legal advice. We simply don't know the facts of your particular case. We don't know what fits, and what does not. This book is a general guide which gives you a good idea on how to proceed, but unless you ask us to and we agree *in writing* to represent you, we cannot give legal advice.

That brings up an important point. Finding the right attorney may be the single most critical issue you have right now. In fact, hiring the wrong lawyer, often based off of a thirty-second television spot or Yellow Pages ad, is one of the ways to wreck your claim (number 10, as a matter of fact). We are continually amazed at how many lawyers claim to be experts in workers' compensation when they have so little to back up that claim.

We think all sides benefit when there is a perfect match between clients and lawyers. We feel so strongly about that that we'll tell you something many attorneys are too greedy to say: You may not need a lawyer, and if you do, we may not be the right lawyers for you. Still, you are taking the best first step by learning about the process and protecting your rights so that you have the best chance to win your case.

Chapter 1

FAIL TO DOCUMENT AND REPORT YOUR ACCIDENT

One of the easiest ways to wreck your workers' compensation claim is to fail to report your accident as soon as it happens. Many people don't want to make a fuss about it, and they figure they'll get better quickly. But it pays to be overly cautious. This is particularly true if there were no witnesses to the accident.

Remember, workers' compensation insurance companies are in the business of charging the highest premiums the State of North Carolina will permit and paying out the least amount of benefits the State of North Carolina will permit. Everything in between is money in their pockets. In other words, they are in business to make money.

When you delay reporting the claim until after the weekend, you give them a golden excuse to deny your claim. We've often seen insurance companies deny claims on the basis that they were not reported within 24-48 hours, **even though the law says you have 30 days**.

We've had too many injured workers tell us that their employer went so far as to tell them that they could not bring a claim because they didn't report the injury immediately. Of course, that is absolutely false, but it gives you an idea of how employers can react to these claims.

This also brings up a very good point: Your employer is not a lawyer. Chances are, your employer – even with the best intentions – will not give you correct information when it comes to workers' compensation.

You also need to report your accident to the right people. Mentioning it to a co-worker is never enough. As soon as you can, you must find your supervisor and tell him. Insist that he make a

written report of the accident and that he give you a copy of it. Take your time when filling out these reports. Be accurate and provide as much detail as you can.

If there were any witnesses to the accident, be sure to get those co-workers' names and telephone numbers. We recommend that you ask them to do you a favor and just handwrite a quick paragraph about what they saw. Tell them you're being paranoid, and you're sure nothing will ever come of the injury. Most of the time if you ask right away, your co-workers won't have any problem writing a quick note. Later on, when the insurance company instructs your boss to warn the witnesses to shut up and stay away from you, it will be much more difficult for you to get those written statements.

You should always file an Industrial Commission Form 18 as soon as possible and really within 30 days of the accident. (You can obtain one from your employer, the Industrial Commission's Web site – <http://www.comp.state.nc.us/ncic/pages/form18.pdf> – or our office.) Once you have completed the form, do not trust your employer or their insurance company to mail off the copy you gave them. They won't. You need to send it to the Industrial Commission yourself or have an attorney do it for you. Any decent lawyer should be willing to give you a Form 18 and help you send it in without any charge or obligation that you hire them.

We recommend sending the Form 18 by fax and keeping the fax transmission sheet proving that it was received. If you don't have access to a fax machine, you should mail it certified mail, return receipt requested. This will cost you a couple of bucks, but someone in the mail room at the Industrial Commission will have to sign that it was received. You will be returned a green postcard with their signature on it.

We've seen a number of occasions when a client swears she filed the Form 18 with the Industrial Commission, but the Industrial Commission lost it. She shows us a copy of it, initialed by her boss even, but the Industrial Commission claims to have never seen it. Because she cannot prove it was ever filed at the Industrial Commission, her entire claim will be barred.

CASE STUDY

The Case: This client, “John,” came to us when the insurance company denied his back claim. Late on a Friday afternoon John slipped and fell on a wet part of the cement loading dock where he worked. He injured his back and cracked his elbow pretty good when he landed on it. He got up, brushed himself off and looked around. Although shaken up, he didn’t think there was anything seriously wrong.

He stopped by his supervisor’s office, but the boss had left early for a holiday weekend. Figuring that he had a three-day weekend, John decided to take it easy, and if he didn’t feel well, he’d report the claim on Tuesday. That night, John wasn’t feeling great, and by Monday, he was in pain barely able to get out of bed.

First thing Tuesday morning, John was in his supervisor’s office. He explained exactly what happened, and his boss wrote it all down. John was told to go to the local walk-in medical clinic to get checked out. To his horror, John received a letter just a couple of days later from the insurance company. They were denying his claim “on credibility grounds” and basically accused him of injuring his back at home on the weekend and trying to pass it off as a workers’ compensation injury.

Here’s what we did: We explained to John the insurance tactic of “deny and buy.” This is when an insurance company deliberately denies a legitimate claim intending to settle the case cheap when the injured worker starts going broke. We confirmed that John had indeed told the doctor at the clinic that he was hurt on the job. We obtained some short statements from friends who saw him over the weekend and to whom John had described an accident. We noted in John’s employment file there was no mention of his being anything but a perfect employee.

At the mediation prior to the hearing at the Industrial Commission, John settled for most of what he was owed for the case. The insurance company still saved money by using this

unethical tactic; however, we were able to limit that by a great deal. Because he was able to return to work fairly quickly, John wanted to put this behind him rather than waiting the year or more the Industrial Commission would have taken for a decision.

SUMMARY

HOW NOT TO WRECK YOUR CLAIM

- Immediately report your accident.
- Immediately ask co-workers to jot down a quick note of what they saw.
- Complete form 18 and send it in either by fax or registered mail.

Chapter 2

ALLOW THE ADJUSTER TO MANIPULATE THE RECORDED STATEMENT

When you get injured on the job, the workers' compensation insurance company will usually ask you to give a recorded statement. They tell you that the purpose of this statement is "to determine whether your claim is compensable." What it really means is they're looking for a way to deny the claim. Because the recorded statement is so important to your workers' compensation claim, never let the adjuster control the recorded statement.

An "accident" in workers' compensation terminology is "an interruption of the normal work routine." That means something you didn't expect to happen, did happen. The accident must then cause an injury. (There are two exceptions – back pain and hernias. For those, the onset of pain is the accident and injury combined.)

If you do not clearly describe your accident, your claim will probably be denied. A skilled adjuster will ask leading questions: "Nothing unusual happened, did it? You were doing your regular job, weren't you? This kind of situation happened all the time, right?" Just because 99% of what you were doing was normal doesn't mean that there wasn't an accident in that other 1%. Of course, the really sneaky adjusters don't give you a chance to explain that.

Adjusters can be even more unfair when it comes to back pain or hernias. We've heard adjusters ask clients how they knew the hernia occurred at work if the client didn't take off his pants immediately to see the bulge in his lower abdomen. We've heard adjusters flat out lie to clients and tell them that there had to be a slip, trip or fall type of accident in order to bring a back claim.

Before you actually give the recorded statement, be sure you think over the events carefully. It might be a good idea to jot down some notes so that you are able to provide a complete and accurate account of the accident and your injury. Be able to describe something unusual happening. If there were witnesses, be sure that they saw the accident and be sure to give the adjuster their names. A lot of employers will put pressure on witnesses to keep their mouths shut. If the witness doesn't support your story then your claim is going to be in trouble. (Remember in Chapter 1 when we suggested getting a written note from witnesses?) Don't assume that the witness will stick his neck out for you (it's probably nothing personal, he or she is fearful that their job is in jeopardy). We've had cases where the same witness who called the ambulance later told the insurance company he didn't know anything about the accident.

Be sure you can explain what interrupted your normal work routine. Remember, it doesn't have to be a slip, trip or fall. It just has to be an interruption of the normal work routine. Bear in mind, the further the accident is from the obvious type of claims, the more pressure you'll have to explain it thoroughly. Again, having notes handy helps you provide the most accurate account possible.

For example, if you are walking down some stairs at your workplace and injure your knee because your foot slipped off a step, be sure to say so. If the adjuster doesn't give you a chance to say so, you must insist on telling your side of the story before she turns off the tape recorder. If you just say that you were walking down some stairs and you injured your knee, there is a good chance that the adjuster could deny your claim because nothing unusual happened. You should always tell the truth. Don't exaggerate, but never forget to state all of the details that show your injury came from something unusual or unexpected.

Don't expect the adjuster to make this easy for you. They aren't going to go out of their way to help you bring a claim against their company. The job of the adjuster is to save the money of the insurance company. They can't do that if they are paying your legitimate claim.

CASE STUDY

The Case: A warehouse worker, “Laura,” was lifting a box at work when she felt a sudden pulling feeling in her back. Within a very short time, she had pain running down the back of her leg into her foot. She had difficulty lifting her toes up or walking on her heels. Clearly Laura had ruptured a disk in her back and had pinched a nerve. Her doctor took her out of work and recommended surgery.

Here’s what we did: We immediately demanded that the insurance company turn over a copy of the recorded statement. When they refused to do so, we obtained an order from the Industrial Commission requiring them to do so within ten days. Once we got this, we quickly spotted the problem. The adjuster had repeatedly asked the injured worker if “she was doing her regular job” or “if anything unusual had happened.” The adjuster, a professional who was trained in denying or minimizing the cost of workers compensation claims, intentionally avoided any questions about the sudden onset of pain. Thus the recorded statement established that our client had not suffered an accident in the traditional sense of a slip, trip or fall. Additionally, the recorded statement contained no evidence of a specific onset of pain. The adjuster had skillfully prevented the injured worker from describing a compensable back claim.

We immediately filed a hearing request, obtained witness statements from co-workers who confirmed that she had complained of a sudden onset of pain. In the end, we were able to settle the case in a way which left our client very happy.

SUMMARY
HOW NOT TO WRECK YOUR CLAIM

- Don't let the adjuster keep you from telling your side of the story.
- Be sure to truthfully include the facts surrounding the interruption of work and the onset of pain.
- If needed, have notes prepared before the recorded statement is taken so that you can provide the adjuster with a complete recollection of the accident.

Chapter 3

EXAGGERATE YOUR SYMPTOMS

It can be very frustrating when it seems like no one understands the pain you are in. A lot of our clients complain about this to us. Their boss doesn't seem to get it, the rehabilitation nurse only talks about how soon they can return to work and the doctor doesn't act like he's listening to what they are saying.

The worst reaction to this scenario is to play up your symptoms in an effort to get the doctor's attention. Unfortunately, many physicians are skeptical of workers' compensation claimants already. Thus, if you appear to be exaggerating in any way, the doctor will assume that you are just trying to stay out of work. Although it is completely unfair, the doctor will likely put you in the stereotype that the insurance companies have spent millions of dollars creating.

What you probably don't realize is that much of the doctor's physical examination of you is designed specifically to see if you are telling him the truth. Every time he asks you to bend, twist or tell him if something hurts, he is expecting a specific response. He's trained to know what actions will cause which responses.

If there starts to be a separation between your verbal complaints (called subjective complaints) and what he can physically demonstrate (called objective complaints), he will assume that you are not being truthful. That means he'll listen to you even less than you accused him of doing initially.

Another area where this comes up is in physical therapy when you take the Functional Capacities Evaluation (the FCE). The FCE is designed to see what you are physically capable of doing. Your doctor will likely order an FCE before he releases you with permanent restrictions.

Given what is at stake with the FCE, it is very tempting for many injured workers to exaggerate pain and injuries. Unfortunately the FCE is a pretty sophisticated test. Most of today's FCEs use computerized software to pick apart everything you say and do in an effort to sniff out any inconsistencies. For instance, at the outset of the FCE, you will be told to give full effort on all parts of the examination. During the course of the three-hour testing, your back, which was injured in a fall at work, begins to really hurt. But the physical therapist wants you to keep squeezing handgrips to determine your grip strength. You're thinking to yourself "What on earth does this have to do with my back?"

The answer is both nothing and everything. Obviously, a back injury shouldn't affect your grip strength. So it has nothing to do with your back injury. On the other hand if you give inconsistent effort on the handgrip test, the computers will flag you as having "symptom magnification." That's semi-polite medical terminology for calling you an exaggerator. That probably isn't at all true, but it doesn't matter what either you or we think. The FCE report will go to the doctor and to the insurance company before you ever see a copy of it. And stamped all across it will be the claim that you are a symptom magnifier.

In our experience, doctors react very negatively to this. It is not unusual for them to just assign very limited restrictions on the assumption that nothing you've told them was accurate. Thus in an effort to get someone to listen to you, you've ended up with just the opposite.

CASE STUDY

The Case: "Mary" came to us with an accepted claim for a knee injury she suffered while working in a factory. She had had a difficult time with her medical treatment. The insurance company had sent Mary to a doctor who treated most of her employer's workers' comp claimants. It seemed like the doctor gave every benefit of the doubt to the employer and wasn't really listening to Mary at all.

Long before she felt ready, the doctor was talking about Mary returning to her old job. She explained that she still didn't

feel up to it. Her job was pretty physical, and there really wasn't anyone to help her with the heavy parts of the job. The rehab nurse jumped in and assured the doctor that the employer promised to give her an assistant. The doctor ate this up and said he was going to order a Functional Capacities Evaluation to show exactly what Mary could and couldn't do.

On the day of the FCE Mary was a basket case. She was worried about getting through a three-hour physical examination, she was worried about being sent back to work and getting fired, and she hadn't slept a wink the night before. The physical therapist asked her where she hurt and Mary honestly replied "all over." Her leg hurt from the injury, she hadn't slept so her back hurt and her nerves were shot. She tried her best during the FCE, especially on the parts involving her injured leg. In order to preserve her energy, she relaxed a little bit on the parts testing the strength in her back, arms and hands.

Mary was horrified when an angry company doctor called her up and accused her of exaggerating her symptoms and not giving full effort during the FCE. He released her to full duty work and discharged her from his care. Mary called us in a panic.

Here's what we did: We obtained a copy of the FCE and copies of the medical records. We were able to show the doctor that Mary's physical examination had consistently matched her verbal complaints – thus, she hadn't been telling stories all along. We asked for a repeat FCE to try to get better results. The doctor agreed, but the insurance company refused because they had Mary right where they wanted her. We went to the Industrial Commission and obtained an order requiring the insurance company to give Mary a new FCE. We then met with her at length and explained the process of the FCE before she took it again.

This time, the results showed that Mary had given full effort and that she had significant restrictions which would prevent her from doing her old job. Fortunately, however, her employer had an opening for a desk job, and Mary jumped at the opportunity.

SUMMARY
HOW NOT TO WRECK YOUR CLAIM

- Don't exaggerate your injuries.

Chapter 4

RETURN TO A MAKE-WORK POSITION OR WORK IN EXCESS OF YOUR RESTRICTIONS

Another error to avoid on a return to work is any return to a job which is “make-work.” Make-work is essentially any job which no other employer would ever hire you to do or a job which your employer wouldn’t offer to any person not on workers’ compensation. We’ve seen local companies call injured workers “safety instructors” and require them to walk up and down the halls reading aloud from safety manuals. We’ve seen local companies call injured workers “warehouse assistants” and then tell them to just go sit in the back of a warehouse and do nothing. We even had one local company tell a construction worker that he was going to return to work as an inventory control specialist on a construction site. This involved him sitting on a chair in an unheated, unlit, supply trailer in the dead of winter. Why do the employers pay people to do this type of foolishness? Because the insurance companies make them do it. In fact, many insurance companies *require* employers to agree in advance to create a position for any employee who might get injured.

The danger is that once you return to this ridiculous make-work position, your checks stop. Thus, you immediately lose all of your leverage over your employer and the insurance company.

Once you are back at work, your employer and the insurance company are now in control and will move swiftly and ruthlessly to take advantage of the situation. They want you fired because no one wants to pay a worker to perform a meaningless task. If you are late, take too many bathroom breaks or are accused of disobeying a supervisor’s instruction, you can be fired. The insurance companies

favorite trick here is have the employer tell you to do work beyond the doctor's orders. When you protest saying that you cannot do it because of the doctor's instructions, you get fired for disobeying your boss. This is no exaggeration, and we've dealt with it over and over again. In this situation, do you think the insurance company is going to start your checks back up? No way. The insurance company will argue to the Industrial Commission that your being fired from work has nothing to do with your physical disability and is solely the result of your misconduct. Thus, you are not eligible for workers compensation checks.

If the employer cannot find a way to fire you on some made-up charge, they will do the next best thing. They will fire you without a made-up charge. One of the most common lines we hear is "there has been an economic downturn in business" and they don't need that many employees anymore. True, only the employees on workers' compensation were fired. True, the terminations were not based on seniority. True, the employer will probably talk out of the other side of their mouth and tell the Employment Security Commission that you are physically incapable of working and therefore your request for unemployment should be denied.

As outrageous as this is, we've seen the Industrial Commission swallow it hook, line and sinker. It doesn't really matter that we could successfully win your case and have your benefits reinstated. The process is so long – at least a year or more – that most injured workers simply cannot financially survive the time it takes to get their benefits reinstated.

The other thing to be careful about is working in excess of your restrictions. Usually, employers will wait at least three or four hours before they ask an injured worker to violate the doctor's restrictions, and in most instances, it isn't really a request – it's more of an assumption.

Here's a common example: The injured worker is returned to work with a 25-pound lifting restriction. His job routinely requires lifting 75-pounds. The employer promised the doctor, in writing, that they would provide a helper for the lifting. So the out-of-work employee goes back to the job. For the first 90 minutes, he's got all the help he needs. Then after the first smoke break, the helper disappears, and the injured employee is just left to try to get the job

done as best he can. Sadly, most people too proud to admit weakness. They not only further hurt themselves, but they also wreck their claim.

There's a reason the doctor gives restrictions. You're not going to get better if you work beyond them. When your employer asks you or makes you work in excess of your restrictions, they are basically saying, "We don't care if you ever get better. We just want to save money on our insurance."

CASE STUDY

The Case: "George" worked for a heating and air conditioning company for over 20 years. In his younger years, he worked as a technician installing heating and cooling systems. This was a very physical job. As he grew older, he was no longer physically able to work as a technician. Consequently, he took a less physical job with the employer in the shop making duct work. He did this for a number of years until he had an accident at work injuring his knee. The injury was so bad that his doctors recommended a total knee replacement. He was written out of work several weeks.

Nevertheless, within days after the total knee replacement, the employer drove to George's house and urged him to come back to work. He promised George that he would give him a "special" light duty job in the warehouse. Against his better judgment, George decided to take the employer up on his offer and violate his doctor's restrictions. George did not last a day before his knee began to swell so bad that he could hardly stand it. By going back to work prematurely against doctor's orders, he caused additional damage to his knee and delayed his recovery.

Eventually, his doctor released him with very limited work restrictions. His restrictions precluded him performing his old job making duct work. Again, the employer insisted that he take the "special" warehouse job, and George consented. The normal jobs in the warehouse required heavy lifting which George couldn't do. The employer assured George that he

would only have to operate a computer. The problem was that George had no previous computer experience. He assumed that he would be trained to operate the system. He assumed wrong. He never received any training or instruction. After spending several weeks sitting in front of the computer doing nothing, the employer terminated George because he did not know how to operate the computer.

With little hesitation, the employer terminated a 20-year employee because of a pretense. The employer argued that the termination had nothing to do with his workers' compensation injury so he was not entitled to ongoing benefits. Had George initially refused the "make-work" job and he was still out of work because of his compensable injury, the insurance company would have had to pay weekly benefits. To add insult to injury, the employer even contested his claim for unemployment benefits after he was terminated.

Here's what we did: We filed for a hearing and served the employer with a set of questions known as interrogatories. During legal claims, the parties have a legal right to ask the opposing party detailed questions that pertain to the claim. In this case, we asked questions specifically about the "special" warehouse job and how the termination came about. During this process, the employer revealed details which allowed us to convincingly argue that (1) the warehouse job was "make-work" and (2) the George was terminated for reasons related to his workers' compensation claim.

This claim ultimately settled soon after mediation in George's favor, and he was well pleased.

SUMMARY
HOW NOT TO WRECK YOUR CLAIM

- Do not return to work to do a job that no one would hire you to do or would not be a position that is normally filled by your employer.
- If you do return to work, do not work beyond your doctor's restrictions.

Chapter 5

RETURN TO WORK WITHOUT A FOLLOW-UP APPOINTMENT AND OBTAINING BOTH A FORM 28T AND A FORM 28U IN ADVANCE

Very often, the insurance company's chosen doctors will tell you that you can return to work with certain restrictions. (That's why the insurance company chose them in the first place.) These restrictions should limit what you can do with your injured body part. For example if you hurt your back, you should expect limitations on the amount you can lift, carry, push, or pull and limitations on bending, stooping, walking, or standing. If you have carpal tunnel syndrome, you would probably have limitations on repetitive use of your hands or arms. In short, the doctor is saying you can do work – and you should do work – but you cannot do certain tasks.

The insurance company and your employer desperately want to return you to work. This is the quickest, easiest way for them to stop paying you. Once they can legally cut off your checks, you lose all leverage over them, and they know it.

If you return to work on light duty, the insurance company is supposed to send you an Industrial Commission Form 28T (See Appendix B for a copy of this form) which means you are on a nine-month trial return to work. Theoretically this means that you can return to the doctor if you are having trouble with your job and he could write you back out of work on an Industrial Commission Form 28U. In our experience, however, insurance companies provide injured workers with these forms less than half the time. That means the employee has no idea that he can go back out of work if

he is having trouble doing the work.

We say that this “theoretically” occurs because in most instances the insurance company won’t permit the injured worker to even see the doctor. Think about it for a minute. You didn’t get therapy, an MRI or anything else without the adjuster’s authorization. In most instances you probably couldn’t simply call up the doctor’s office and get an appointment. The rehabilitation nurse or the adjuster authorized and scheduled these. Now the adjuster has managed to get you off the insurance company’s payroll; why on earth would she permit you to see the doctor if she has any inkling that the doctor might take you out of work? That’s right; she won’t.

At this point you could go to the Industrial Commission and ask for an order requiring the defendants to authorize a visit to the doctor. Unfortunately, this rarely works. If you don’t phrase the request just right, the Industrial Commission will deny it. If you send it to the wrong person at the Industrial Commission, they will deny it. And even if you do everything exactly right, it will still likely take six months or more and then probably be denied.

The best trick for protecting yourself from this is that when the doctor first suggests you return to work, you immediately ask him to schedule a return appointment a week or two after your start date. It is very difficult for an adjuster to deny the request to see the doctor if it’s being made from the doctor’s office prior to your actually starting work.

If the adjuster refuses to authorize a return visit, you are placed in a difficult position. In most instances, we will prevent our clients from returning to work until the visit is scheduled. This often puts the client at risk for a Form 24 (an *Application to Suspend or Terminate Benefits*) so it is not something you should do without some help.

The other absolutely essential act is to demand that the insurance company give you a Form 28T and a Form 28U. While the Form 28T states that you can obtain a Form 28U from the Industrial Commission, you cannot count on this actually happening. The adjuster may tell you that you don’t need a Form 28U yet because you haven’t even tried to return to work. Do you actually think she’ll give you the form later when you really need to use it? We haven’t seen it happen yet.

CASE STUDY

The Case: “Jerry” worked in the lumber department of a large home improvement store. He injured his back loading bags of concrete onto a cart of a customer. He immediately reported the injury to his superiors. The employer immediately sent him to their company doctor to give a urine sample before they would investigate the claim any further. Once it was proven that he had no drugs in his system, the insurance company permitted him to go through a course of treatment. After several weeks of physical therapy, Jerry’s doctor suggested that he return to work in a light duty position. Jerry was bored stiff from sitting at home and welcomed the opportunity to return to work and see his friends there.

Although the employer had assured the doctor that Jerry would only have to lift 10 pounds, they sent Jerry back to his regular position in the lumber department. On his second day back, a customer asked Jerry to help load some boards onto a cart. Jerry looked quickly for someone else but could find no one. At that point, he decided to help the increasingly impatient customer. As soon as he did so, he knew he’d made a mistake. His back hurt more than ever.

Jerry immediately went to his boss and asked to see the doctor. The employer said they would get back to him. The next morning Jerry couldn’t even get out of bed. He called in, but his boss was non-committal. After two weeks out of work with no income and no word of a doctor’s visit, Jerry came to see us.

Here’s what we did: We immediately called the adjuster and demanded a return visit to the doctor. She agreed that this was necessary, and said she’d schedule it. We confirmed this conversation with a follow-up letter sent by fax. We also wrote to the doctor asking that he write Jerry out of work on a Form 28U. After several days, the adjuster claimed she had been trying to schedule the appointment but that the doctor was unavailable. For his part, the doctor indicated that because this

was a workers' compensation claim, he would only see Jerry if the adjuster wanted him to. The doctor didn't feel comfortable writing Jerry out of work without actually seeing him.

We filed a motion with the Industrial Commission to force the insurance company to authorize the doctor's visit. We attached a copy of our letter to the adjuster, our letter to the doctor and an affidavit of a staff member regarding the doctor's comments regarding not being able to complete the form. The Industrial Commission ordered the insurance company to send Jerry to the doctor. The insurance company appealed this order. We then went back to the Industrial Commission for an order requiring the adjuster to comply pending an appeal. The adjuster attempted to get out of this by seeking a stay of the initial order. We filed an opposition to this, complete with all the relevant correspondence. Fortunately the motion for a stay was denied, and Jerry went to the doctor, who wrote him out of work.

Unfortunately, however, under laws which heavily favor the employers and their insurance companies, the doctor could only write Jerry out of work effective the day of the office visit. This was nearly eight weeks after Jerry originally asked to see the doctor.

SUMMARY

HOW NOT TO WRECK YOUR CLAIM

- Before you leave the doctor's office, request a follow-up visit for about 2 weeks after you return to work.
- Before you return to work, request a Form 28T and a Form 28U from the insurance company.

Chapter 6

IGNORE AN INDUSTRIAL COMMISSION FORM

A lot of injured workers call us frantically after the insurance company stops their weekly checks. The caller is panicking because she's got bills. We're concerned because we have to get things done quickly to avoid an emergency.

We've said many times, once the insurance company starts paying weekly benefits these are supposed to continue unless you return to work or the Industrial Commission grants the defendants permission to stop payments. Obviously, we have to determine if one of these two things has occurred.

Once we establish that the injured person did not return to work, then the obvious question is whether or not the Industrial Commission granted defendants the permission to stop paying benefits. Often the defendants did this without permission. Unfortunately, that is not unusual when an injured worker does not have counsel. In an alarming number of cases, the injured worker doesn't realize this is illegal. The insurance company tells them some made-up story as to why this is right, and the injured worker settles quickly just to pay her bills. If we are retained before this happens, we can move aggressively to have the checks reinstated, often with a penalty added to them.

Occasionally, however, we learn that our new client received an Industrial Commission Form 24 or an Industrial Commission Form 90 (See Appendix B for copies of Industrial Commission forms), and she did nothing about it. This is a serious error which can take months to undo. These two forms demand your close attention.

The first, the Form 24, is defendants' *Application to Suspend or*

Terminate Benefits. The insurance company is required to fill in a blank indicating the date by which you must respond. This is seventeen days after they mail the form to you. If you respond in the allotted time, the Industrial Commission will conduct a telephone hearing during which you will be able to argue for a continuation of your benefits.

The danger is this: If you fail to respond within seventeen days, the Industrial Commission will permit termination of benefits – and they may not even ensure that you find out this occurred. Several times we've had clients who did mail the Form 24 back to the Industrial Commission, but the NCIC promptly lost it. This happens with alarming frequency. We recommend that you fax the Form 24 back and keep the transmission sheet proving you sent it. An alternative would be to send it by certified mail, return receipt requested. That way you have proof that the Industrial Commission received your response.

Insurance companies love to send Forms 24 to unrepresented claimants – especially if they hear the injured worker moved. We know of instances when the insurance company sent the Form 24 to the old address knowing full well that the injured worker would not receive it. Obviously the out-of-work employee cannot respond to what he never gets. The Industrial Commission, of course, doesn't know any better and plays right into the adjuster's tricks when it allows the termination of benefits.

The Form 90 is a similar, but less drastic, situation. The insurance company is permitted to ask you to sign under oath that either you haven't worked, or if you have, how much you earned. The insurance company may do this once every six months. This is the Form 90. Because the Form 90 must be sent to you by certified mail with a green return receipt card for your signature, it will be pretty obvious that it is important.

If, for some reason, you forget to respond within thirty days, the Industrial Commission will grant defendants' request to suspend benefits until you do respond. Under the Industrial Commission rules, the defendants are supposed to wait for the NCIC's permission. This, however, is rarely done, and in our experience, the Industrial Commission does not enforce this provision with any forcefulness. Insurance companies can take advantage of this situation by cutting off checks immediately and only turning them back

on when the completed Form 90 is received.

Theoretically, the Industrial Commission will order a resumption of benefits as soon as you get around to completing the Form 90. In practice, however, the Industrial Commission is extremely slow in forcing insurance companies to reinstate checks. It is not uncommon for this to take up to six months to accomplish even when it is obvious to everyone that payments should never have stopped in the first place.

The other pitfall regarding the Form 90 is that you *must* be truthful. If you're drawing weekly disability checks and secretly working, there is a very good chance the defendants have heard about this already. At least 20% or more of the time when our clients receive a Form 90, it is because the insurance company suspects they may be working on the side. Listen to us carefully: It is far worse to get caught in a lie about working than it is to be caught working. If you've been working and drawing checks at the same time, it is always best to come clean about it.

If you receive either a Form 24 or a Form 90, you should know that the insurance company has decided to put some heat on you. These are often warning signs of more trouble ahead.

CASE STUDY

The Case: "Marc" was a construction worker who was carrying several long sections of pipe with a co-worker when his partner lost his balance and dropped his end. Marc struggled to throw the heavy pipes away from himself but badly twisted his knee in the process. Although this was an obvious interruption of the normal work routine and directly caused an injury to Marc, the adjuster took nearly six weeks to turn on his checks. Marc wiped out his savings and had to borrow money from family to make his rent, utility and car payments.

Marc underwent arthroscopic knee surgery to repair a torn ligament in his knee. His insurance company provided a rehabilitation nurse to coordinate the medical treatment. She asked to meet Marc at his house, but he told her that he'd moved in

with his girlfriend in an effort to save money. The rehabilitation nurse routinely called Marc at his girlfriend's house and sent letters to him at that address.

His employer had never had anything even close to a light duty position but that didn't stop the insurance company from sending the rehabilitation nurse to the doctor with a promise of light duty work. The doctor told Marc that he was inclined to send him back to work on light duty as long as there was no heavy lifting involved. Hearing this, the rehabilitation nurse gave the doctor a letter from the employer stating that there was light duty available for Marc at whatever restrictions the doctor imposed. The doctor limited Marc to no lifting over twenty pounds.

On the way home from the doctor's office, Marc called his boss and asked about the light duty job. He wasn't exactly surprised when he learned that the employer wanted him to do his regular job but that help would be provided if he was really going to be a wimp about it. Marc decided not to report to work the next day. Neither the employer nor the insurance company contacted him about the job again. A month later his workers comp checks stopped.

Marc immediately called the adjuster asking what was up. The adjuster advised him that the Industrial Commission had granted permission to terminate the checks after she filed a Form 24. When Marc said he never saw the Form 24 the adjuster laughed, and said "I guess that's why you didn't respond to it."

Here's what we did: Marc tried to work this out with the adjuster for several weeks before coming to us. By this time, he was just about broke again. The Industrial Commission gave us a copy of the Form 24, and we immediately spotted the problem. The adjuster had sent the Form 24 to Marc's old address.

We asked the Industrial Commission to order a reinstatement of Marc's checks. The adjuster objected and claimed that she had no idea that Marc had moved. When we showed the Industrial Commission the rehab nurse's reports referring to the change of address and listing the new one, the adjuster

claimed she had never actually read that part of the report. Unbelievably, the Industrial Commission initially took the insurance company's side and ruled that because Marc had never told the adjuster directly of the move, the Form 24 could be sent to the last "official" address.

We appealed this horrendous decision. Just prior to the hearing on the appeal we were able to settle Marc's claim for all of the back pay and some money to carry him into the future. We were bitterly disappointed with the Industrial Commission's bias against injured workers, but we and Marc agreed that the settlement was his best option under the circumstances.

SUMMARY

HOW NOT TO WRECK YOUR CLAIM

- Do not ignore a forms sent from the Insurance company – especially Form 24 or Form 90.
- Be truthful when completing Form 90.
- Be aware that when you get a Form 24 or Form 90, the insurance company is probably about to increase the pressure on your claim.

Chapter 7

LET THE INSURANCE COMPANY GET AWAY WITH PAYING YOU LESS THAN THEY SHOULD

This is the “give ‘em an inch, and they’ll take a mile” scenario. Basically, if the insurance company figures out that you don’t know what you’re legally entitled to, they will take advantage of you every single opportunity that they can. They’ll often be really nice to you while they are busy taking advantage of your inexperience in workers’ compensation law. Once or twice a month, we talk to an injured worker who tells us their workers’ compensation insurance company is being real good to them. So we start asking questions about what is really happening. Before the conversation is over, we’ve identified hundreds – if not thousands – of dollars in benefits which the injured worker never received. The prime examples of this occurring are on the amount of weekly checks, mileage reimbursements, prescription reimbursements and attendant care.

If you are completely out of work, you are entitled to be paid two-thirds of your average weekly wage. What most people don’t realize is that your average weekly wage is generally more than your stated salary. Your wage includes overtime, mileage money, per diem, tips and the value of the use of company vehicles – basically anything which comes to you as salary or pay either in cash or goods. It does not include health insurance or other benefits. If you work overtime on a regular basis, you know how important that extra income is to your household. But most of the time, the insurance company will underpay you by claiming that your compensation checks are based only on the forty-hour week. The way they get away with this is on the Industrial Commission Form 19 *Employer’s*

Report of Injury. Here, the employer is supposed to say how many hours you work “including overtime.” After looking at hundreds of these, we have yet to see one which accurately reflected the amount of overtime. If you don’t stand up for yourself, the insurance company will continue to take advantage of you.

The second way that the insurance company will underpay you is on mileage reimbursements. You are entitled to be paid 58.5¢ per mile for all trips to medical providers as long as it is twenty miles or more roundtrip. (Prior to July 1, 2008 it was 54.5 ¢ per mile.) If you don’t live in the same town as your doctor or physical therapist, you know that the mileage can really add up quickly. With gas prices as high as they are, it is very difficult to pay for all of that travel. The insurance company could volunteer to tell you about the mileage reimbursements. Some of them do, but they often do not. Keep in mind, the insurance company wants to keep you in a state of semi-financial distress. This will make it easier for them to settle with you later on in the case.

The third way which the insurance company underpays you is by encouraging you to put your prescriptions on your major medical health insurance. Some of the time, they will reimburse you the co-pay, but often, they will act like it is your responsibility to pay it yourself. When your health insurance company figures out that they’ve been paying for a workers’ comp claim for months and months, they will almost certainly ask for their money back. What happens if you’ve settled your workers’ compensation claim in the interim? No problem. The health insurance company will deny your future claims until they’ve recouped the money they spent on your workers’ compensation prescriptions. While this doesn’t happen as often as the first two examples, it does come up, and if it is not properly addressed in the settlement paperwork, the results can be disastrous.

Finally, the fourth way the insurance company underpays you is by failing to provide for “attendant care.” We believe the law on this is very clear. If you are physically incapable of performing work around the house as a result of your injury, workers’ compensation should hire your family, friends or an outside person to come and do it for you. This is called attendant care. We’ll admit the Industrial Commission doesn’t always get this right, but we believe strongly that this is, in fact, the only proper legal interpretation of the

General Statutes. It is important for the insurance company to realize that you are going to ask for absolutely everything you are entitled to, and then some. Only when the insurance company realizes that you are not going to be nickel-and-dimed, then will they get serious and pay you what you deserve. Thus, even if the Industrial Commission errs by failing to award attendant care, you will win by putting the insurance company on notice that you will not go away cheaply.

CASE STUDY

The Case: “Melissa” was a registered nurse. Because she was the sole breadwinner in her household, she worked for two different medical facilities. Her employers had rules which placed limits on how many hours she could work without rest. For example, she was not allowed to work a 12 hour shift for one facility and immediately work another 12 hour shift for the other facility. This rule made sense for all parties involved. Because she was limited in the shifts she could work, she went out of her way to work weekends and holidays which paid significantly higher hourly rates. Though she was quite busy, she earned a very high wage for her work.

Unfortunately, while caring for a patient, Melissa injured her knee. As a result, she had to have surgery. The workers’ compensation carrier based her weekly compensation benefits on the normal hourly rate for a nurse. They failed take into account that Melissa more often than not worked periods which paid higher than normal. Consequently, Melissa’s weekly compensation rate was significantly less than what it should have been.

Melissa, who was unfamiliar with the workers’ compensation process, was unsure what she was entitled to. She knew workers’ comp paid less than her pre-injury salary. She just assumed that the insurance company would get it right. Thus, for many months she received the incorrect amount without question. This was especially hard for Melissa because her

injury prevented her from doing either job. One painful reality of the workers' comp laws is that benefits are only to be paid based average weekly wage of job in which you were injured. Second or moonlighting jobs are not considered in the equation. It goes without saying that since Melissa was only to receive benefits based on the job in which she was injured, her compensation rate needed to reflect all of her wages, including weekend and holiday rates of pay.

What we did: Soon after meeting with Melissa, we determined that her weekly compensation rate was incorrect. We asked her to produce pay stubs and previous W-2 tax forms. We then demanded that the insurance company complete a Form 22. The Form 22 is a form that the employer must indicate how much the employee was paid each month and how many days he or she worked. With the check stubs and Form 22, we convincingly argued that she should be receiving a higher weekly compensation rate. Furthermore, the insurance company had to go back and pay Melissa the amount they had previously shortchanged her.

For Melissa's sake, the insurance carrier didn't get away with paying less than they were supposed to, but it happens all too often. Never assume that the benefits you are receiving are correct just because the workers' compensation insurance company says so.

SUMMARY

HOW NOT TO WRECK YOUR CLAIM

- Don't let the insurance company pay you less than they owe you under the law.
- The insurance company tries to pay you 2/3 your salary and not 2/3 of your wages which include your overtime, tips, access to vehicles, etc.
- The insurance company is required to pay mileage to and from the doctor's office.
- The insurance company is required to pay for your prescriptions.
- The insurance company is required to pay for attendant care.

Chapter 8

FAIL TO LOOK FOR WORK

Once you have reached maximum medical improvement (the point when you're as good as you're going to get) and the doctor has released you with permanent restrictions, you will come to a cross-road in your case.

If you can return to your old job and actually do it, you are one of the fortunate few. It's great that things have worked out so well, and you'll be able to go back to your old job.

Many times, however, injured people cannot return to their old jobs. The doctor's restrictions are such that they simply cannot do the work anymore. These folks are going to have to make some real decisions. This is a critical point in the case when the insurance companies will be looking for any possible chance to close out your claim. You need to be very, very cautious.

If you're injured to the extent that you can never return to work, you are entitled to draw your weekly checks for the rest of your life. There are no time limits on how long you can draw checks. (Although the insurance companies are pushing for a change in the laws which would limit this to only a few years – even if you are so injured that you need around the clock medical care. Apparently they figure you'll go on welfare.)

Just because you think you can never return to work and even if the Social Security Administration says you are disabled, the Industrial Commission will still let the insurance companies have you looking for work. Todd Oxner handled a case where the injured worker had been out of work for 22 years. The insurance companies were still putting private investigators on him and trying to make him look for junky little jobs.

Fortunately most people are not so injured that they cannot return to some kind of work. You are entitled to be paid for two-thirds of your wage loss if you cannot earn as much as you did before your injury. Don't count on the insurance company to tell you this. In most of the cases we've seen, the adjuster "forgot" to pay the injured worker the wage loss he was due. It is important, however, to not just sit home and watch daytime television. You need to actually be doing something to get back to work. If you don't, the insurance company will quickly file a Form 24 to cut off your benefits.

Now the insurance company will usually try to get you back to work as fast as they can. To help in their efforts to stop paying you weekly benefits, the insurance companies sometimes hire trained professionals under the pretense of helping you find a new job. These people are called vocational rehabilitation professionals, and the process of looking for work that they put you through is called the vocational rehabilitation process. Many adjusters call this process "voking" as in "I'm going to voke your client until she settles."

While we have tremendous respect for anyone who helps an injured worker, we've grown to be skeptical of vocational rehabilitation. The Industrial Commission says that you only have to return to work if it is suitable employment. Suitable employment means that it is reasonably close to your pre-injury wages. However, most vocational rehabilitation professionals will tell you that part-time minimum wage is suitable employment – even if you were making over \$100,000.00 per year! This is not a joke. In fact, as this book goes to press we have a case where that is actually happening. We have spoken to dozens of rehab professionals, and we have yet to find a single one who will put a minimum dollar amount on suitable employment, no matter how much you were making prior to the injury.

The result is that the rehab professional will often have you out looking for all sorts of jobs which you may have no interest in, no aptitude for, little possibility of obtaining and which would guarantee financial ruin for your family if you took it.

Imagine this: You were making \$20.00 per hour prior to your injury. The rehab professional tells you to apply to a part-time job which pays \$8.00 per hour. You refuse. What happens next? The Industrial Commission will almost certainly approve the insurance

company's Form 24 to terminate your benefits.

You're best chance of avoiding this minefield is to do your own job search. If you can prove that you are looking for work on your own, then the Industrial Commission may consider letting you look for \$15-18.00 per hour jobs for a while before settling for something much less. Not only that, your vocational rehab professional will be much more likely to give you the benefit of the doubt if it appears you really are trying to return to work.

What about going to school? Insurance companies hate it. They simply cannot stand it. In our experience, they will do almost anything to avoid your going back to school to improve yourself. Why? We're not really sure. It probably has to do with the fact that they will have to keep you on weekly checks the whole time you're in school. That shouldn't really matter if it results in you getting a high paying job. Yes, the insurance company will have to pay you full checks for a while longer, but hopefully you'll have no wage loss later on. That should be an overall savings to the insurance company. But still, they avoid it like anything.

Your best chance of getting this approved is if you start the schooling process as soon as possible, even before you're released by your doctor. If you are already back in school, it is much more likely that the Industrial Commission will allow you to finish your course of study.

CASE STUDY

The Case: Before his accident, "Richard" was a skilled electrician. Unfortunately, one day while at work, he fell off a ladder rupturing a disk in his back. The road to recovery was a long one – first surgery, then physical therapy. His doctors even sent him to work conditioning (a form of therapy designed to simulate the work environment). At the conclusion of his treatment, he underwent a functional capacities examination. The examination revealed that Richard had permanent physical restrictions that prevented him from being an electrician.

After this happened, Richard's employer informed him that they had no job available within his restrictions. Richard

was very concerned. He could no longer do job which he had knowledge and experience doing. He was unsure about his future. When the workers' comp vocational rehab professional contacted him initially, he was thrilled. He had been looking for work on his own but had had no luck. He thought that maybe the vocational rehab professional would send him back to school to learn a new trade in a less physical field. He was very disappointed to learn that was not the case.

From the beginning, the vocational rehab professional provided Richard with a handful of menial job leads. Most of the jobs she suggested were outside of his restrictions. Many of the jobs were miles away from his home. One thing all of the jobs lead had in common, they paid significantly less than his old job as an electrician.

In addition to relying on the voc rehab professional's leads, Richard was instructed to look for additional leads on his own. Each week, he would search the classifieds and go down to the local EEOC office search for job postings. Unfortunately, neither he nor the voc expert could find him a job.

Weeks turned into months, and months became a year. Richard noticed that the voc rehab professional seemed to become increasingly frustrated. She started accusing him of not fully cooperating with voc rehab. Their weekly meetings became very uncomfortable. Her monthly reports started including comments about him failing to follow instructions. She urged Richard not to mention his back injury when applied for work. He began to feel that she wanted him to be less than honest with prospective employers. The tensions grew each week. Before too long, the voc rehab professional accused him of failing to look for work on his own. That's when Richard learned firsthand that the voc rehab professional's reports had an impact on his case.

The workers' compensation carrier, based on the voc rehab professional's account, threatened to terminate Richard's weekly benefits for failure to cooperate. Had they have been successful, Richard could have gone months without benefits waiting for a hearing to prove that he had been cooperative.

What we did: We informed Richard from day one the perils of not cooperating with vocational rehabilitation. When he was released to work by his doctors, we told him to keep a journal of what potential employers he contacted and whether he would be appropriate for such jobs. Fortunately, this information allowed us to counter the false claims by the voc rehab professional. Without it, it is likely that the carrier would have filed for motion to terminate benefits.

This claim settled recently at mediation. Richard is considering going into business for himself in a less physical capacity using his settlement proceeds as start-up money.

SUMMARY

HOW NOT TO WRECK YOUR CLAIM

- If you are able to work at all (even not at the same job doing the same tasks), you will be required to look for work.

Chapter 9

SIGN A FORM 21 WHILE YOU ARE STILL OUT OF WORK

After you've been hurt on the job and have completed your treatment with the doctor, he usually says that you've reached a point called maximum medical improvement (MMI). This is a term used in North Carolina workers' compensation cases that means your as good as you're going to get. The doctor normally puts you at MMI when he is done treating you as a patient. At the same time, the doctor will decide whether or not you have any permanent disability – however minor – as a result of your injury. This is expressed as a percentage and is known as the permanent partial disability rating (PPD). This is also when the doctor gives you permanent work restrictions.

A disability rating is a tool the doctor uses to show how bad of an injury you suffered. For instance, the doctor may say that you have a 10% disability. Basically, this means that the injured body part is only 90% as good as it used to be. The North Carolina Legislature has set out the value of almost every body part in the Workers' Compensation Act. This table is found in Appendix A.

As you can see from that table, the legislature has decided that your arm is worth 200 weeks of your compensation rate (which is two-thirds of your average weekly wage). As an example then, let's say you made \$600.00 a week before you got hurt. If that's true, you should have been paid \$400.00 a week while you were out of work. If the doctor assigns a 10% PPD, you are entitled to \$9,600.00 in compensation for the permanent injury to your arm. (The arm is 240 weeks, so 10% of that is 24 weeks, times the compensation rate of \$400.00.)

At this point you should probably expect the adjuster to swoop in and try to get you to sign an Industrial Commission Form 21 to accept that \$8,000.00 payment. (See Appendix B for a copy of Industrial Commission Forms.) The adjuster may even offer to throw in an extra thousand bucks if you give up the right to future medical care. You may be willing to take this, but you shouldn't unless you've already returned to work making as much or more as you did when you were first hurt.

Under our laws if you are totally disabled from work, you get paid up to two-thirds of your average weekly wage. If you are partially disabled, which is you are able to work but you are not able to earn as much as you did before you got hurt, you are entitled to be paid for two-thirds of the difference between what you used to make and what you can make now.

Confused? Most people are. Let's put it in context. Using the example from above, the injured worker was originally capable of earning \$600.00 per week. Let's assume that as a result of his injury he can now only work part-time at \$7.00 per hour. So he's only making \$210.00 per week. At this point he has a wage loss of \$390.00 per week. So workers compensation has to pay two-thirds of that partial disability, or \$260.00 weekly.

How long do those workers compensation payments continue? Good question. In what is probably the single most unfair law in the entire Workers' Compensation Act, this wage loss is limited to 300 weeks from the date of injury.

What the adjuster probably won't tell you is that you don't have to take the rating. If you think your wage loss is going to payout more than the payout for your rating, go that route. Well, adjusters hate that because it makes them keep their files on you open as they keep writing you checks week after week after week. They'd rather tell you all you can have is your rating and hope you believe them.

Should you take the rating or the wage loss? In the example we've been using, let's assume that the injured worker gets that low-paying, part-time job exactly one year, 52 weeks, after the date of his injury. If that's true, then he's entitled to draw wage loss checks for another 248 weeks. If he were never to get a raise or increase his hours, the insurance company would have to pay him \$64,480.00. See why the adjuster wants him to sign the Form 21 locking him into taking the rating?

The Form 21 also impacts your ability to get other benefits. In fact, if you sign the Form 21 and then go out of work again – even for the same injury – the insurance company will argue that you don't get more in benefits because you “elected” to receive the rating instead of ongoing temporary benefits. It is a tricky maneuver that insurance companies use to take money away from injured workers. That's money that the legislature said is intended to be paid to injured workers, but the insurance companies slip in and take advantage of them.

CASE STUDY

The Case: “Maurice” injured his back when he was pushing loaded carts at his hospital job. His workers' compensation adjuster accepted the claim without delay and always paid Maurice on time. Although Maurice lived near a university hospital, the adjuster had him get treatment from a doctor in the next county over. Maurice started to complain about it, but he was pretty grateful that the adjuster was providing medical treatment and weekly checks. He'd heard horror stories from other injured workers so he decided to be happy with what he had.

Maurice's back didn't get better quickly. He went through physical therapy, had injections and finally had to have back surgery. Only a few weeks after his back surgery, the insurance company's doctor released him to return to work with 25-pound lifting restrictions, 50-pound restrictions on pushing and pulling, and a 10% permanent partial disability rating to his back.

Maurice didn't think he was really in shape to go back to work, but the doctor assured him that he was. Maurice asked his adjuster if he could get a second opinion. To his surprise the adjuster said “sure” and even offered to set it up for him. Maurice went to see the other doctor who had an odd office out by the airport and didn't appear to have a lot of patients waiting to see him. Maurice began telling him about the difficulties he would have returning to work. At this point, the doctor cut him off saying that the second opinion was only for a

rating and not for any return to work issues. Flustered, Maurice asked if he could call the adjuster real quickly. The doctor agreed and Maurice managed to get the adjuster on the phone. "Yes," the adjuster stated, "the second opinion is only on the rating. That's all the law of the North Carolina allows. I wish there was more I could do for you, but it's the law." The doctor then gave Maurice a 5% rating to his back.

Fortunately, Maurice's employer said they would accommodate him at a new job which didn't require lifting over 25 pounds. Unfortunately he was going to have to take a \$3.00 an hour pay cut to do so. The day before Maurice was scheduled to start work again, his boss called him in. Sitting on the desk was a Form 21 which the insurance adjuster had sent over to the company. It provided that Maurice would be paid for a 7.5% rating to his back, or 22.5 weeks of his compensation rate. The adjuster had sent a note along with this explaining that North Carolina law required her to average the two ratings together and that as soon as Maurice signed the Form 21 she could get him his settlement money. Maurice signed as his boss and the adjuster asked him to.

Within a couple of weeks on the new job Maurice was having real trouble with his back again. The adjuster didn't respond to his telephone calls and so he came to us.

Here's what we did: We explained to Maurice that his adjuster had taken advantage of him by getting him to sign the Form 21. His wage loss would pay a great deal more than the rating would, and quite frankly, we weren't even sure that he could do this job.

We immediately checked with the Industrial Commission. Unfortunately the Form 21 had already been approved. Our next step was to move to reopen the claim. This requires a change of condition which in back claims can be very tricky. As we expected, the adjuster declined to reopen the claim and announced that she thought Maurice might have a new claim for a new onset of back pain that would have to be investigated. What the adjuster didn't say but we knew full well, is that any new claim would be at the reduced wage rate.

We wrote to the doctor asking his opinion regarding Maurice's new symptoms. At the same time we arranged for Maurice to be seen by a different doctor entirely. At this point we got the break we needed. The newest doctor felt that this was all a continuation of the original injury, and Maurice should be out of work. The insurance adjuster balked at this but didn't take advantage of the opportunity to further direct Maurice's medical care. The result was that we were able to build up a substantial amount of evidence supporting Maurice's position that he should be drawing weekly checks again.

We requested a hearing before the Industrial Commission. Following the hearing, we took depositions of each of Maurice's doctors. During these, we were able to persuade the physicians that Maurice's current condition was nothing more than a change of his old condition. The insurance company quickly settled with Maurice.

SUMMARY

HOW NOT TO WRECK YOUR CLAIM

- Don't sign a Form 21 while you are still out of work.
- You can choose to either take a rating (see Appendix B) or take payments based on the wage loss.

Chapter 10

HIRE AN ATTORNEY BASED ON TV OR YELLOW PAGE ADS

We've all seen the ads: "Don't Settle for Less," "Put My Years of Experience Behind You," "We'll Fight for You," "We'll Stand Up for You," blah, blah, blah. North Carolina does essentially nothing to monitor lawyer advertising, and we all suffer as a result of it.

Think about the lawyer ads on television: They all sound the same. Is there anything said which would help you pick between Lawyer A and Lawyer B? Would it even be possible to do that in a thirty-second ad? What about the Yellow Pages? They're all the same too. Some ads are bigger, some in color but they all are essentially the same. It's like a rule or something: A lawyer cannot give an injured worker ANYTHING which will help that person make a wise decision about hiring the lawyer.

We think that is ridiculous. We said it right up front: We may not be the right attorneys for you. Your case may not be the right one for us. But we think that any decent attorney should establish that he or she really knows what they're talking about before making an injured worker come to the office for a "free consultation" or high-pressured sales pitch.

There is no magic shortcut to finding the right lawyer, but the following eight tips should help.

Tip #1: Learn about workers' compensation. Turn off the television and close the Yellow Pages and look at the lawyer's Web site. What can they tell you about workers' comp? Is it just generalities? Do they have specifics about cases they've handled? Can they explain why they do certain things? Do they prove in their material that they really know what to do in a workers' compensation case?

Tip #2: The law is far too complicated for you to trust your case to a general practice lawyer. Look for lawyers who specialize in workers' compensation and related fields like personal injury and Social Security disability. Avoid lawyers which do traffic tickets on Mondays and Tuesdays, divorces on Thursdays and Fridays, and will squeeze in the workers' compensation cases on Wednesday morning while saving Wednesday afternoon for wills. Hey, the insurance companies hire lawyers who do nothing but injury defense work. If the "other side" is using a lawyer who does workers comp 40 hours a week, you probably don't want a lawyer who only does this three or four hours per week.

Tip #3: Call three or four firms which seem to limit themselves to representing injured people. Do you speak to a lawyer or to a paralegal? Have them send you information about workers' compensation. Can they increase your knowledge about workers' compensation? Do they only want to talk to you on their home turf? You know, the "free consultation" in which they want you to sign a fee contract? What can they send you to build your base of knowledge? If they offer to come and see you, ask them if this is free or not. One of the biggest advertising firms with ten offices offers to come to your house or the hospital. What they don't tell you upfront is that they'll bill you \$125.00 in "expenses" for the visit.

Tip #4: Ask this short list of lawyers directly – how many cases have they taken to an Opinion and Award? How many appeals have they handled? Have they been to the Court of Appeals and the North Carolina Supreme Court? If they try to tell you they're reputation is so powerful that they can settle favorably without going to hearings, you should run. Quickly. It just doesn't work that way. Many lawyers have the reputation of always settling before a hearing. Rest assured, the insurance companies know who they are and never offer top dollar to settle. The insurance company doesn't have to. If the lawyer tells you that he's only had ten or twelve Opinion and Awards, that shouldn't necessarily exclude him from your consideration. Ask about the other lawyers in his firm. How many decisions do they have? How is the firm structured? Do the lawyers work together on the files?

Tip #5: Find out the lawyer's reputation. Have they been sanctioned by the State Bar? How do their peers view them? The best

source for this information is www.Martindale.com. This is the gold standard for evaluations of lawyers. They rank lawyers with a “V” for “very high ethics.” If the lawyer cannot muster the “V,” Martindale goes no further with them. If the lawyer is known for his high ethics then he’ll be ranked an “AV,” “BV,” or “CV.” AV is the highest ranking, one which Martindale reserves for lawyers whose “peers rank him or her at the highest level of professional excellence. A lawyer must be admitted to the bar for 10 years or more to receive an AV rating.” Nearly all of the other “ranking” organizations allow a lawyer to buy standing – in other words, ranking from other organizations are probably junk.

Tip #6: Ask them a trick question: What is this claim worth? Any lawyer who tells you a dollar amount without having reviewed your medical records, your employment history, your functional capacities evaluation, your vocational opportunities, etc., is probably just telling you what they think you want to hear. There is simply no way that the lawyer can assess the value of your claim at that initial meeting. If you press them, they may speak in general ranges but will throw in lots of qualifications about this.

Tip #7: Interview the lawyer in person. That’s right. Interview them. You’re going to be spending a lot of time with them. Make sure it’s a good fit. If they don’t like spending time talking to you when they are hoping to make a good impression and have you hire them, how do you think they’re going to be down the road when you’re on the hook? It’s vitally important that you can trust your lawyer. If you can’t trust him or her, how can you know that they have your best interests in mind?

Tip #8: Look at the fee contract. In workers’ compensation, cases the Industrial Commission sets the fees. It should be no more than 25%. In a personal injury case, it is common for an attorney’s fee to go up in percentage if the case goes to a trial, but that is never the case in workers’ compensation. You should immediately turn down any lawyer who wants to increase the fee from 25% to 33 1/3% if you don’t settle your case at mediation. Let’s say that you’re offered \$100,000.00 at mediation. That means that your lawyer would get \$25,000.00, and you would get \$75,000.00. What if \$100,000.00 isn’t enough? Well then you go to a hearing. If after the hearing you get \$100,000.00 in a settlement, the lawyer wants to

increase his fee to \$33,333.33 leaving you with just \$66,666.67. Except that the Industrial virtually never approves a one-third fee; a fact the attorney won't tell you. This fee contract allows the lawyer to really pressure you to settle at mediation. Hearings are a lot of work for lawyers, and some of them are so scared of them that they never go to hearing. By threatening you with an increase in the fees, the lawyer can get you to settle at mediation, saving himself the possible embarrassment of revealing he doesn't really know what to do in a hearing.

EPILOGUE

Hopefully, this book has provided you some guidance in protecting your workers' comp claim. Frankly, it's disappointing that a book like this has to be written, but unfortunately, average people who are hurt at work are often faced with insurmountable odds: A team of attorneys and insurance adjusters that want to give you as little money as it will take for your claim to go away.

As you move forward in your workers' compensation claim, be sure to get as much information as possible, and make sure that the information is specific to North Carolina – the laws in other states could be different. If you are looking for more information, we are happy to provide other reports and books at our Web site: www.otplaw.com.

We hope that this book has answered many of your initial questions about workers' compensation claims. Of course, if you have additional questions, we are happy to help. We would also be excited to hear any feedback you have about this book or any of our other workers' compensation materials. If this book or any of our materials helps you win your case, we'd love to hear that too! We can be reached at 1-866-OTP-Law1 (866-687-5291) or by email info@otplaw.com.

Good luck!

Appendix A

THE VALUE OF BODY PARTS
PURSUANT TO N.C.GEN.STAT. § 97-31

<i>Back</i>	300 weeks
<i>Leg</i>	200 weeks
<i>Foot</i>	144 weeks
<i>Great toe</i>	35 weeks
<i>Any other toe</i>	10 weeks
<i>Arm</i>	240 weeks
<i>Hand</i>	200 weeks
<i>Thumb</i>	75 weeks
<i>First finger</i>	45 weeks
<i>Second finger</i>	40 weeks
<i>Third finger</i>	35 weeks
<i>Fourth finger</i>	20 weeks
<i>Hearing (one ear)</i>	70 weeks
<i>Hearing (both ears)</i>	150 weeks

Any other important internal or external organ may be compensated at up to \$20,000.00 a piece.

Appendix B

SELECTED INDUSTRIAL COMMISSION FORMS

- Form 18* Notice of Accident to Employer and Claim of Employee, Representative, or Dependant
- Form 19* Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission
- Form 21* Agreement for Compensation for Disability
- Form 22* Statement of Days Worked and Earnings of Injured Employee
- Form 24* Application to Terminate or Suspend Payment of Compensation
- Form 25C* Authorization for Rehabilitation Professional to Obtain Medical Records of Current Treatment
- Form 25P* Itemized Statement of Charges for Drugs
- Form 25T* Itemized Statement of Charges for Travel
- Form 28T* Notice of Termination of Compensation by Reason of Trial Return to Work
- Form 28U* Employee's Request that Compensation be Reinstated After Unsuccessful Trial Return to Work
- Form 33* Request that Claim be Assigned for Hearing
- Form 33R* Response to Request that Claim be Assigned for Hearing

- Form 60* Employer's Admission of Employee's Right to Compensation
- Form 61* Denial of Workers' Compensation Claim
- Form 63* Notice to Employee of Payment of Compensation Without Prejudice
- Form 90* Report of Earnings

Form 18

North Carolina Industrial Commission

NOTICE OF ACCIDENT TO EMPLOYER AND CLAIM OF EMPLOYEE, REPRESENTATIVE, OR DEPENDENT (G.S. 97-22 THROUGH 24)

The Use of This Form is Required Under The Provisions of The Workers' Compensation Act

IC File # _____
Emp. Code # _____
Carrier Code # _____
Employer FEN _____
The I.C. File # is the unique identifier for this injury. It will be provided by return letter and is to be referenced in all future correspondence.

Employer's Name _____	Employer's Name () Telephone Number _____
Address _____	Employer's Address City State Zip _____
City State Zip _____	Insurance Carrier _____
Home Telephone () _____	Work Telephone () _____
Social Security Number _____	Sex <input type="checkbox"/> M <input type="checkbox"/> F Date of Birth / / _____

EMPLOYEE – This form must be filed with the Industrial Commission within two years of the date of injury or occupational disease or your claim may be barred. Notice shall be given to the employer as soon as the accident occurred or as soon thereafter as practicable and within 30 days. (This form should also be used for occupational disease claims; however, for asbestosis, silicosis and byssinosis, Form 18B is to be used.)

Notice is hereby given, as required by law, that the above-named employee sustained an injury or contracted an occupational disease, described as follows: _____ on _____ at _____ Describe the injury or occupational disease, including the specific body part involved (e.g., right hand, left hand) _____
Date (Required) _____ City and County _____
Describe how the injury or occupational disease occurred: _____

Occupation when injured: _____ Nature of employer's business: _____
Disability began: _____ Date _____ Return to work date or period of estimated disability: _____ Date _____
Weekly wage: _____ Number of hours worked per day: _____ Days worked per week: _____

EMPLOYER: This notice is being sent to you in compliance with requirements of the North Carolina Workers' Compensation Act, in order that the medical services proscribed by the Act may be obtained; and, if disability extends beyond 7 days duration, or if death ensues, compensation may be paid according to law.

Signature of (Check One) <input type="checkbox"/> Employee, <input type="checkbox"/> Attorney, <input type="checkbox"/> Representative, or <input type="checkbox"/> Dependent _____	Telephone Number () _____
Address _____	City State Zip Date Completed _____

NOTE –If injured is unable to sign this, another may sign for him. This form should be typewritten if possible. Employee should retain one signed copy of this notice, mail one signed copy to Industrial Commission at the address below, and furnish employer with one signed copy.

For IC Use ONLY
Nature _____
Body _____
Cause _____
SIC _____
Coder _____

FORM 18
2/01
PAGE 1 OF 1

FORM 18

MAIL TO:
NCIC - STATISTICS SECTION
4334 MAIL SERVICE CENTER
RALEIGH, NORTH CAROLINA 27699-4334
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349

Form 19

North Carolina Industrial Commission

EMPLOYER'S REPORT OF EMPLOYEE'S INJURY OR OCCUPATIONAL DISEASE TO THE INDUSTRIAL COMMISSION

IC File # _____

Emp. Code # _____

Carrier Code # _____

Employer FEIN _____

Carrier File # _____

To the Employer:

The filing of this report is required by law. It does not satisfy the employee's obligation to file a claim. **This form MUST be transmitted to the Industrial Commission through Your Insurance Carrier.**

To the Employee:

This Form 19 is not your claim for workers' compensation benefits. To make a claim, you must complete and sign the enclosed Form 18 and mail it to Claims Administration, N.C. Industrial Commission, 4334 Mail Service Center, Raleigh, NC 27699-4334 within two years of the date of your injury or last payment of medical compensation. For occupational diseases, the claim must be filed within two years of the date of disability and the date your doctor told you that you have a work-related disease, whichever is later.

The IC File # is the unique identifier for this injury. It will be provided by return letter and is to be referenced in all future correspondence.

The use of this form is required under the provisions of the Workers' Compensation Act.

Employee's Name _____		Employer's Name _____		Telephone Number _____	
Address _____		Employer's Address _____		City _____ State _____ Zip _____	
City _____ State _____ Zip _____		Insurance Carrier _____		Policy Number _____	
Home Telephone _____		Work Telephone _____		Carrier's Address _____	
Social Security Number _____		Sex _____ Date of Birth _____		Carrier's Telephone Number _____ Fax Number _____	

Employer	1. Give nature of employer's business _____				
	2. Location of plant where injury occurred _____				
Time And Place	County _____		Department _____		State of employer's premises _____
	3. Date of injury / /		4. Day of week _____		Hour of day : <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
Person Injured	5. Was employee paid for entire day _____				
	6. Date disability began / /				
Cause And Nature Of Injury	7. Date you or the supervisor first knew of injury / /				
	8. Name of supervisor _____				
Person Injured	9. Occupation when injured _____		10. (a) Time employed by you _____ (b) Wages per hour \$ _____		
	11. (a) No. hours worked per day _____		(b) Wages per day \$ _____		(c) No. of days worked per week _____
Cause And Nature Of Injury	12. Describe fully how injury occurred and what employee was doing when injured _____				
	(Statement made without prejudice and without vouching for correctness of information)				
Fatal Cases	13. List all injuries and specify body part involved (e.g. right hand or left hand) _____				
	14. Date & hour returned to work / / at : _____ M.		15. If so, at what wages \$ _____ per _____		
Fatal Cases	16. At what occupation _____		17. Employee's salary continued in full? _____		
	18. Was employee treated by a physician _____				
Fatal Cases	19. Has injured employee died _____				20. If so, give date of death (Submit Form 29) / /

Employer name _____ Date Completed / /

Signed by _____ Official Title _____

OSHA 301 Information:			
Case Number from Log _____	Date Hired: / /	Time Employee began work on date of incident: <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	If off-site medical treatment provided, answer entire next line.
Name of facility _____	Address: Street/City/Zip/Telephone _____		ER visit? <input type="checkbox"/> Yes <input type="checkbox"/> No
			Overnight stay? <input type="checkbox"/> Yes <input type="checkbox"/> No

Attention: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.

FORM 19
8/2006
PAGE 1 OF 2

For IC use ONLY

Nature _____
Body _____
Cause _____
SIC _____
Coder _____

FORM 19

SELF-INSURED EMPLOYER OR CARRIER MAIL TO:
NCIC - CLAIMS ADMINISTRATION
4334 MAIL SERVICE CENTER
RALEIGH, NORTH CAROLINA 27699-4334
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349

Employer must furnish a copy of this form, as completed, to the employee or the employee's representative when submitted to the Insurance Carrier or Claims Administrator for transmission to the Commission. Every question must be answered. This report must be transmitted to the Commission through your insurance carrier/claims administrator, and is required by law to be filed within 5 days after knowledge of accident.

IMPORTANT INFORMATION FOR EMPLOYEE

Reporting an Injury

If you do not agree with the description or time of the accident given on this form, you should make a written report of injury to the employer within thirty (30) days of the injury.

Making A Claim

To be sure you have filed a claim, complete a Form 18, Notice of Accident, within two years of the date of the injury and send a copy to the Industrial Commission and to your employer. The employer is required by law to file this Form 19, but the filing of the Form 19 does not satisfy the employee's obligation to file a claim. The employee must file a Form 18 even though the employer may be paying compensation without an agreement, or the Commission may have opened a file on this claim. A claim may also be made by a letter describing the date and nature of the injury or occupational disease. This letter must be signed and sent to the Industrial Commission and to your employer.

FOR ASSISTANCE OR TO OBTAIN A FORM 18 FROM THE INDUSTRIAL COMMISSION, YOU MAY CALL (800) 688-8349

USE YOUR I.C. FILE NUMBER (IF KNOWN) OR SOCIAL SECURITY NUMBER ON ALL FUTURE CORRESPONDENCE WITH THE COMMISSION

[SPANISH TRANSLATION]

INFORMACIÓN IMPORTANTE PARA LOS EMPLEADOS

Reporte de una Lesión (Reporting an Injury)

Si usted no está de acuerdo con la descripción o la hora del accidente que aparece en el formulario, debe hacer un reporte de la lesión por escrito y dárselo a su empleador dentro de un periodo de treinta (30) días a partir de la fecha de la lesión.

Cómo Presentar una Reclamación (Making a Claim)

Para cerciorarse de que ha presentado una reclamación, complete el Formulario 18 Notificación de Accidente dentro de un periodo de dos años a partir de la fecha de la lesión y envíe una copia a la Comisión Industrial y una copia a su empleador. Por ley, el empleador debe presentar el Formulario 19, sin embargo, el presentar el Formulario 19 no cumple con la obligación que tiene el empleado de presentar una reclamación. El empleado debe presentar el Formulario 18 aunque el empleador esté pagando compensación sin tener un acuerdo o si la Comisión ha creado un expediente con respecto a esta reclamación. También se puede presentar una reclamación por medio de una carta explicando la fecha y la naturaleza de la lesión o la enfermedad ocupacional. Esta carta se debe firmar y enviar a la Comisión Industrial así como al empleador.

PARA RECIBIR ASISTENCIA O PARA OBTENER EL FORMULARIO 18 DE LA COMISIÓN INDUSTRIAL, USTED PUEDE HABLAR AL (800) 688-8349

EN TODA LA CORRESPONDENCIA QUE ENVÍE A LA COMISIÓN INDUSTRIAL, POR FAVOR ESCRIBA EL NÚMERO DE CASO DESIGNADO POR LA COMISIÓN [I.C. FILE NUMBER] (SI LO SABE) O SU NÚMERO DE SEGURO SOCIAL.

Form 19
8/2006
Page 2 of 2

FORM 19

**SELF-INSURED EMPLOYER OR CARRIER MAIL TO:
NCIC - CLAIMS ADMINISTRATION
4334 MAIL SERVICE CENTER
RALEIGH, NORTH CAROLINA 27699-4334
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349**

Form 21

North Carolina Industrial Commission

AGREEMENT FOR COMPENSATION FOR DISABILITY

(G.S. 97-82)

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

Employer FEIN _____

Employee's Name	Employee's Name	Telephone Number
Address	Employer's Address	City State Zip
City State Zip	Insurance Carrier	City State Zip
Home Telephone	Work Telephone	Carrier's Address
Social Security Number	Date of Birth	Carrier's Telephone Number
<input type="checkbox"/> M <input type="checkbox"/> F	Sex	Fax Number

WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. All parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and _____ is the carrier/administrator for the employer.
2. The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on or by _____.
3. The injury by accident or occupational disease resulted in the following injuries: _____
4. The employee was/ was not paid for the entire day when the injury occurred.
5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$ _____ subject to verification unless otherwise agreed upon in line 9 below.
6. Disability resulting from the injury or occupational disease began on _____.
7. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate of \$ _____ per week beginning _____ and continuing for _____ weeks.
8. The employee has / has not returned to work for _____ on _____ at an average weekly wage of \$ _____.
9. State any further matters agreed upon, including disfigurement, permanent partial, or temporary partial disability: _____
10. If applicable, the Second Injury Fund Assessment is \$ _____. Check is is not attached.
11. The date of this agreement is _____ Date of first payment: _____ Amount: _____

Name Of Employer _____ Signature _____ Title _____

Name Of Carrier / Administrator _____ Signature _____ Title _____

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on the reverse side of this form.

Signature of Employee _____ Address _____

Signature of Employee's Attorney _____ Address _____

CHECK BOX IF NO ATTORNEY RETAINED.

CHECK BOX IF EMPLOYEE IS IN MANAGED CARE.

NORTH CAROLINA INDUSTRIAL COMMISSION THE FOREGOING AGREEMENT IS HEREBY APPROVED:	
CLAIMS EXAMINER _____	DATE _____
ATTORNEY'S FEE APPROVED _____	

FORM 21
10/2006
PAGE 1 OF 2

FORM 21

**IMPORTANT NOTICE TO EMPLOYEE CLAIMING
ADDITIONAL WEEKLY CHECKS
OR LUMP SUM PAYMENTS**

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

**IMPORTANT NOTICE TO EMPLOYEE
INJURED BEFORE JULY 5, 1994
CLAIMING ADDITIONAL MEDICAL BENEFITS**

If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

**IMPORTANT NOTICE TO EMPLOYEE
INJURED ON OR AFTER JULY 5, 1994
CLAIMING ADDITIONAL MEDICAL BENEFITS**

If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must apply to the Industrial Commission in writing within two years, or your right to these benefits may be lost. To apply you may also use Industrial Commission Form 18M.

IMPORTANT NOTICE TO EMPLOYER

The employee must be provided a copy when the agreement is signed by the employee. Failure to file Form 28B, Report Of Compensation And Medical Compensation Paid, within 16 days after last payment pursuant to this agreement may subject the employer or carrier/administrator to a penalty. Pursuant to Rule 501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission, or show good cause for not submitting the agreement.

NEED ASSISTANCE ?

If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.

FORM 21
10/2006
PAGE 2 OF 2

FORM 21

SELF-INSURED EMPLOYER OR CARRIER, MAIL TO:

**NCIC - CLAIMS SECTION
4335 MAIL SERVICE CENTER
RALEIGH, NC 27699-4335
TELEPHONE: (919) 807-2502**

Form 22

North Carolina Industrial Commission

STATEMENT OF DAYS WORKED AND EARNINGS OF INJURED EMPLOYEE

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employer FEIN _____

Employer's Name _____

Employer's Name () - Telephone Number _____

Address _____

Employer's Address _____ City _____ State _____ Zip _____

City _____ State _____ Zip _____

Insurance Carrier _____

Home Telephone () - _____

Carrier's Address _____ City _____ State _____ Zip _____

Sex M F Date of Birth: / /

Carrier's Telephone Number () - _____ Fax Number _____

Date of Injury: / /

Year:	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Amount Earned		
200																																		
Jan.																																		
Feb.																																		
Mar.																																		
Apr.																																		
May																																		
June																																		
July																																		
Aug.																																		
Sept.																																		
Oct.																																		
Nov.																																		
Dec.																																		
																																		Total

Was this employee given free rent, lodging, or board or other allowances made in lieu of wages? _____

If so, state weekly value thereof: \$ _____

FORM 22
10/2006
PAGE 1 OF 2

FORM 22

SELF-INSURED EMPLOYER OR CARRIER MAIL TO:

NCIC - CLAIMS SECTION
4335 MAIL SERVICE CENTER
RALEIGH, NC 27699-4335
TELEPHONE: (919) 807-2502
OMBUDSMAN: (800) 688-8349

The undersigned employer of _____
(Name of Employee)
who alleges an injury on the _____ of _____, 200
(Day) (Month) (Year)

while in the employment of the undersigned, does hereby certify that the above is a true and correct statement of days worked and earnings of this employee during the 52 weeks immediately preceding the injury (or during the above weeks and parts thereof, if employed for less than 52 weeks) and while engaged in the occupation in which the employee was allegedly injured.

Employer
By _____
Authorized Signature
/ / 200
Date Signed

To Employer: Making a false statement for the purpose of denying workers' compensation benefits may result in civil or criminal penalties.

INSTRUCTIONS

This form must be completed and filed with the Commission in all cases resulting in death unless maximum compensation rate is stipulated. It must also be filed in any other case if there is a disagreement about earnings or if the Commission requests it.

In preparing this form, place an X in the proper squares to indicate days paid in full. Days the employee is on paid vacation leave and/or paid sick leave should be marked with an X. Leave blank squares to indicate days not paid in full for any reason. Total earnings for each pay period should be placed in the proper column. If the employee's job or pay rate was changed during the reported period, this should be noted, with an indication as to the nature of the change.

The employer code number and the carrier code number, if any, must be inserted in the proper place at the upper right-hand corner of the form.

FORM 22
10/2006
PAGE 2 OF 2

FORM 22

SELF-INSURED EMPLOYER OR CARRIER MAIL TO:

NCIC - CLAIMS SECTION
4335 MAIL SERVICE CENTER
RALEIGH, NC 27699-4335
TELEPHONE: (919) 807-2502
OMBUDSMAN: (800) 688-8349

Form 24

North Carolina Industrial Commission

APPLICATION TO TERMINATE OR SUSPEND PAYMENT OF COMPENSATION (G.S. 97-18.1)

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

Employer FEIN _____

The Use of This Form is Required Under The Provisions of The Workers' Compensation Act

Employee's Name	Employer's Name () Telephone Number
Address	Employer's Address City State Zip
() City State Zip	Insurance Carrier
Home Telephone () M () F () / / Work Telephone	Carrier's Address City State Zip
Social Security Number Sex Date of Birth	Carrier's Telephone Number () Fax Number

IMPORTANT NOTICE TO EMPLOYEE: YOUR BENEFITS MAY BE STOPPED UNLESS YOU OBJECT IMMEDIATELY. IF YOU BELIEVE YOUR BENEFITS SHOULD NOT BE STOPPED, YOU MUST FILL OUT SECTION B. OF THIS FORM AND RETURN ONE COPY OF THIS FORM TO THE INDUSTRIAL COMMISSION. IF THE INDUSTRIAL COMMISSION HAS NOT RECEIVED THE COMPLETED COPY OF THIS FORM FROM YOU BY _____, YOUR BENEFITS MAY BE STOPPED WITHOUT FURTHER NOTICE TO YOU. IF YOU OBJECT, YOU MAY HAVE THE RIGHT TO AN INFORMAL HEARING BY THE INDUSTRIAL COMMISSION BEFORE YOUR BENEFITS CAN BE STOPPED. [THE DATE TO BE INSERTED ABOVE BY THE EMPLOYER OR CARRIER/ADMINISTRATOR SHALL BE 17 DAYS AFTER THIS APPLICATION WAS MAILED TO THE INDUSTRIAL COMMISSION.]

SECTION A. To Be Completed By The Employer Or Carrier/Administrator:

1. Date of injury by accident : _____ Date disability began : _____
2. Nature and extent of injury: _____
3. Number of weeks compensation paid: _____ From : _____ To : _____
4. Total amount of indemnity compensation paid to date: \$ _____
5. Check applicable box(es):
 - a. An agreement was approved by the Industrial Commission on _____
 - b. The employer admitted employee's right to compensation pursuant to N.C. Gen. Stat. § 97-18(b).
 - c. The employer paid compensation to employee without contesting claim within the statutory period provided under N.C. Gen. Stat. § 97-18(d).
 - d. Other: _____
6. Application is made to terminate or suspend compensation to the employee on the grounds that

7. Check box if employee is in managed care.

FORM 24
2/01
PAGE 1 OF 2

FORM 24

MAIL TO:
NCIC - EXECUTIVE SECRETARY
4333 MAIL SERVICE CENTER
RALEIGH, NC 27699-4333
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349

In addition to filing the original of this application and supporting documents with the Industrial Commission, I hereby certify that a copy of this application, together with all supporting documents, was mailed to the employee at

(address) _____

and employee's attorney of record, if any, on _____
The attached documents consist of _____ (number) pages.

SIGNATURE OF EMPLOYER OR CARRIER/ADMINISTRATOR PRINTED NAME TELEPHONE NUMBER DATE

TO BE COMPLETED BY THE EMPLOYEE

SECTION B. IF YOU THINK YOUR COMPENSATION SHOULD NOT BE STOPPED, YOU SHOULD COMPLETE THIS SECTION.

1. I do not think my compensation should be stopped because: _____

2. Enclose and specify the number of pages of documents the Industrial Commission should consider:
_____ (number).
3. Give a telephone number at which you can be reached when the informal hearing is scheduled, from Monday through Friday between 8:00 a.m. and 5:00 p.m.: _____. The Industrial Commission will notify you of the date and time of the hearing.

SIGNATURE OF EMPLOYEE WITNESS DATE

If you need assistance in completing this form, you may contact the Industrial Commission at (800) 688-8349. You must contact the Office of the Executive Secretary at (919) 807-2500 to obtain an extension of time in which to submit medical records, or to obtain documents you have not been able to obtain.

EMPLOYEE: SEND A COPY OF THIS FORM AND SUPPORTING DOCUMENTS TO THE EMPLOYER AND CARRIER/ADMINISTRATOR FROM WHOM YOU ARE RECEIVING COMPENSATION. SEND THE ORIGINAL TO: INDUSTRIAL COMMISSION, OFFICE OF THE EXECUTIVE SECRETARY, 4333 MAIL SERVICE CENTER, RALEIGH NC 27699-4333.

FORM 24
2/01
PAGE 2 OF 2

MAIL TO:
NCIC - EXECUTIVE SECRETARY
4333 MAIL SERVICE CENTER
RALEIGH, NC 27699-4333
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349

FORM 24

Form 25C

North Carolina Industrial Commission

**AUTHORIZATION FOR REHABILITATION PROFESSIONAL
TO OBTAIN MEDICAL RECORDS OF CURRENT TREATMENT**

IC File # _____
Emp. Code # _____
Carrier Code # _____
Carrier File # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employer FEIN _____

Employer's Name _____		Employer's Name _____		Telephone Number _____	
Address _____		Employer's Address _____		City _____	State _____ Zip _____
City _____	State _____	Zip _____	Insurance Carrier _____		
Home Telephone _____	Work Telephone _____		Carrier's Address _____		City _____ State _____ Zip _____
Social Security Number _____	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth _____	Carrier's Telephone Number _____		Fax Number _____

I, _____, the employee-claimant, hereby authorize the
(Please Print)
release of all my medical records of treatment resulting from a work-related injury/occupational
disease that occurred/was contracted on _____ to the Rehabilitation
(Please Print)
Professional assigned to me. That Rehabilitation Professional is:

Name: _____
Address: _____
Telephone: _____

Employee's Signature _____ Date _____

NOTE: THE REFUSAL OF THE CLAIMANT TO SIGN THIS FORM UPON THE REQUEST OF THE REHABILITATION PROFESSIONAL MAY BE DEEMED BY THE INDUSTRIAL COMMISSION TO BE NONCOMPLIANCE WITH REHABILITATION AND MAY RESULT IN THE SUSPENSION OF BENEFITS.

PLEASE MAIL THIS COMPLETED FORM TO THE REHABILITATION PROFESSIONAL NAMED ABOVE.

FORM 25C
1/2004
PAGE 1 OF 1

FORM 25C

**NORTH CAROLINA INDUSTRIAL COMMISSION
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349**

Form 25P

North Carolina Industrial Commission

ITEMIZED STATEMENT OF CHARGES FOR DRUGS

IC File # _____

Emp. Code # _____

Carrier Code # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act Employer FEIN _____

Employee's Name	Employee's Name () Telephone Number
Address	Employer's Address City State Zip
City State Zip	Insurance Carrier
Home Telephone () ()	Carrier's Address City State Zip
Social Security Number <input type="checkbox"/> M <input type="checkbox"/> F Sex Date of Birth / /	Carrier's Telephone Number () () Fax Number

DATE	DRUG STORE	CITY	NAME OF DRUG & PRESCRIPTION NO.	PHYSICIAN	AMOUNT
TOTAL					\$

This is to certify that the drugs listed above were related to my workers' compensation injury. (Receipts must be furnished for carrier's file)

Employee signature

Carrier's approval

Reimburse employee
Yes no

Reimburse drug store
Yes no

EMPLOYEE: Mail your bill in duplicate promptly to employer and/or insurance carrier

EMPLOYER OR CARRIER/ADMINISTRATOR: DRUGS MAY BE REIMBURSED DIRECTLY TO THE EMPLOYEE OR DRUG STORE. IT IS NOT NECESSARY TO SUBMIT BILLS TO THE COMMISSION FOR APPROVAL. PAY AND RETAIN COPY IN CARRIER'S FILE.

FORM 25P
2/01
PAGE 1 OF 1

FORM 25P

**NCIC - MEDICAL BILLING SECTION
4337 MAIL SERVICE CENTER
RALEIGH, NC 27699-4337
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349**

Form 25T

North Carolina Industrial Commission

ITEMIZED STATEMENT OF CHARGES FOR TRAVEL

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employer FEIN _____

Employee's Name ()	Employee's Name () Telephone Number
Address	Employer's Address City State Zip
City State Zip	Insurance Carrier
Home Telephone () <input type="checkbox"/> M <input type="checkbox"/> F	Carrier's Address City State Zip
Social Security Number Sex Date of Birth	Carrier's Telephone Number () Fax Number

Employees are entitled to reimbursement of \$0.485 a mile for mileage traveled for medical treatment in workers' compensation cases, providing they travel 20 miles or more roundtrip on or after January 1, 2007. (The mileage rate is \$0.445 for mileage traveled from January 18 to December 31, 2006, and \$0.31 for mileage traveled before that date.) Special consideration will be given to employees who are totally disabled. No reimbursement is allowed for trips to purchase medications or supplies unless medically necessary. These items must be purchased on visits to medical providers (G.S. § 97-25).

DATE	NAME OF MEDICAL PROVIDER	CITY	TOTAL MILES ROUNDTRIP
OTHER EXPENSES	If overnight stay is necessary, the following items will be approved as submitted. (Receipts must be furnished for carrier's file.)	Total motel expense (\$45.00 per day): Total meal expense (\$6.00 Breakfast, \$8.00 Lunch, and \$14.00 Dinner): Total parking & cab expense (actual charge): Total for other expenses:	Total Miles: X [mileage rate] Other expenses: Total all expenses:

*The rate per mile is \$0.485 for mileage traveled on or after January 1, 2007; \$0.445 for mileage traveled from January 18 to December 31, 2006, and \$0.31 for mileage traveled before that date.

I hereby certify that I have incurred all expenses listed above as a result of my workers' compensation injury.

Employee signature

Carrier's approval

Employee:
Mail your bill in duplicate promptly to employer and/or insurance carrier

Employer or Carrier/Administrator: Travel may be reimbursed directly to the employee. It is not necessary to submit bills to the Commission for approval. Pay and retain copy in carrier's file.

FORM 25T
1/07
PAGE 1 OF 1

FORM 25T

FOR ASSISTANCE, CALL:
N.C. INDUSTRIAL COMMISSION
MAIN TELEPHONE: (919) 807-2500
WORKERS' COMPENSATION INFORMATION
SPECIALISTS: (800) 688-8349

Form 28T

North Carolina Industrial Commission

NOTICE OF TERMINATION OF COMPENSATION BY REASON OF TRIAL RETURN TO WORK G.S. 97-18.1(b) AND G.S. 97-32.1

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

The Use Of This Form is Required Under The Provisions of The Workers' Compensation Act Employer FEIN _____

Employee's Name _____	Employer's Name () Telephone Number _____
Address _____	Employer's Address _____ City _____ State _____ Zip _____
City _____ State _____ Zip _____	Insurance Carrier _____
Home Telephone () _____	Work Telephone () _____
Social Security Number _____ Sex <input type="checkbox"/> M <input type="checkbox"/> F _____	Carrier's Address _____ City _____ State _____ Zip _____
Date of Birth _____	Carrier's Telephone Number () _____ Fax Number _____

Important Notice To Employee: Your disability compensation has been stopped because you have returned to work. You are entitled to a trial return to work for a period not to exceed nine months, unless you have been released by an authorized treating physician to unrestricted work, in which case your trial return to work may be limited to 45 days. During your trial return to work, you may be entitled to partial disability compensation if, because of your on-the-job injury, you earn less wages now than before your injury. In order to request that your compensation be reinstated if your trial return to work is unsuccessful, you should complete Form 28U, which may be obtained by calling (800) 688-8349. In addition, you should notify an appropriate person at the company named below in order to request that your compensation be reinstated:

NAME OF EMPLOYER OR CARRIER/ADMINISTRATOR _____	ADDRESS _____	TELEPHONE NUMBER _____
---	---------------	------------------------

When an employee returns to work other than on a trial return to work basis [see I.C. Rule 404A(7)], Form 28 must be used.

Employee: Complete The Following.

1. Date of injury: _____ 2. Date disability began: _____
3. Date temporary total compensation was/will be terminated: _____
4. Date the employee returned/will return to work: _____
 at the same or greater wages, than received at the time of injury, or
 at reduced wages which were/are paid at the rate of \$ _____ weekly.
 If employee has returned to work at reduced wages, is employee entitled to compensation for partial disability pursuant to N.C. Gen. Stat. § 97-30? yes no
 If "Yes", submit proper Form, such as Form 26 or Form 52
 If not, explain: _____
5. If different employment has been verified, name of employer: _____
 Address: _____
 Telephone: () _____

SIGNATURE OF EMPLOYER OR CARRIER/ADMINISTRATOR _____	TITLE _____	DATE _____
--	-------------	------------

Employer: The original of this form shall be mailed to the address below, and a copy sent to the employee and the employee's attorney of record, if any. Form 28B must be filed to report the amount and last date compensation and/or medical compensation were paid.

FORM 28T
2/01
PAGE 1 OF 1

MAIL TO: **NCIC CLAIMS SECTION**
4335 MAIL SERVICE CENTER
RALEIGH, NC 27699-4335
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349

FORM 28T

Form 28U

North Carolina Industrial Commission

EMPLOYEE'S REQUEST THAT COMPENSATION BE REINSTATED AFTER UNSUCCESSFUL TRIAL RETURN TO WORK (G.S. 97-32.1)

IC File # _____
Emp. Code # _____
Carrier Code # _____
Employer FEIN _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name _____	Employee's Name () Telephone Number _____
Address _____	Employer's Address _____ City _____ State _____ Zip _____
City _____ State _____ Zip _____	Insurance Carrier _____
Home Telephone () _____	Work Telephone () _____
Social Security Number _____ M F _____	Carrier's Address _____ City _____ State _____ Zip _____
Sex _____ Date of Birth _____	Carrier's Telephone Number () _____ Fax Number _____

SECTION A.

EMPLOYEE: COMPLETE AND MAIL TO EMPLOYER AND CARRIER/ADMINISTRATOR, AND TO THE INDUSTRIAL COMMISSION AT THE ADDRESS BELOW.

1. I request that my total disability compensation be resumed immediately. I had a trial return to work with _____ (name of employer) from _____ (date first worked) until _____ (date last worked).
The date of my injury by accident or the date of disability from my occupational disease was _____.
2. Explain in detail the reasons you are no longer working: _____

3. The employee **MUST** obtain the following from an authorized treating physician:

TREATING PHYSICIAN'S STATEMENT			
This is to certify that the employee is unable to continue the trial return to work due to the employee's injury for which compensation has been paid. My medical specialty is: _____			
SIGNATURE OF AUTHORIZED TREATING PHYSICIAN _____	PRINTED NAME _____	DATE _____	
ADDRESS _____	CITY _____	STATE _____	ZIP _____

IF RETURN TO WORK WAS WITH THE EMPLOYER FROM WHOM YOU HAVE RECEIVED WORKERS' COMPENSATION, SIGN HERE AND DO NOT COMPLETE THE REMAINDER OF THIS FORM. IF RETURN TO WORK WAS WITH A DIFFERENT EMPLOYER, COMPLETE SECTION B. BELOW.

SIGNATURE OF EMPLOYEE _____ DATE _____

SECTION B.

EMPLOYEE'S RELEASE OF EMPLOYMENT INFORMATION

I hereby request and authorize my last employer, _____ (Name and address of last employer) to release to my prior employer and carrier/administrator listed above, or their attorney of record, the following information relating to my trial return to work: first and last date worked, total wages earned, and the reasons this employee is no longer so employed.

READ BEFORE SIGNING

SIGNATURE OF EMPLOYEE _____ DATE _____

SEND A COPY OF THIS FORM TO THE EMPLOYER AND CARRIER/ADMINISTRATOR FROM WHOM YOU WERE RECEIVING WORKERS' COMPENSATION. SEND THE ORIGINAL TO THE INDUSTRIAL COMMISSION AT THE ADDRESS BELOW.

FORM 28U
6/02
PAGE 1 OF 1

MAIL TO: **OFFICE OF THE EXECUTIVE SECRETARY**
4333 MAIL SERVICE CENTER
RALEIGH, NC 27699-4333
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349

FORM 28U

Form 33

North Carolina Industrial Commission

REQUEST THAT CLAIM BE ASSIGNED FOR HEARING

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

Employer FEIN _____

The Use of This Form is Required Under The Provisions of The Workers' Compensation Act

Employee's Name _____	Employee's Name () Telephone Number _____
Address _____	Employer's Address City State Zip _____
() City State Zip _____	Insurance Carrier _____
Home Telephone () _____	Carrier's Address City State Zip _____
Social Security Number () M () F Sex Date of Birth / / _____	Carrier's Telephone Number () Fax Number _____

I, _____, respectfully notify you that the above named parties have failed to reach an agreement in regard to compensation, and I request a hearing.
 We have been unable to agree because (state reason with specificity): _____

Employee believes he or she is entitled to the following workers' compensation benefits (check all that apply):

- Payment of compensation for days missed (give dates): _____
- Payment of medical expenses/treatment: _____
- Payment for permanent partial disability: _____
- Payment for permanent and total disability: _____
- Payment for scars: _____
- Other: _____

Has claimant participated in mediation? Yes No

Date of injury: _____ Part of body: _____

City and county wherein injury occurred: _____

Estimated length of hearing: _____

Below is a list of names and addresses of all witnesses, including doctors, whose testimony is to be taken by the requesting party. Doctors outside the county of hearing are not required to attend this hearing.

NAME	ADDRESS

MAIL TO:
NCIC - DOCKET SECTION
4336 MAIL SERVICE CENTER
RALEIGH, NC 27699-4336
MAIN TELEPHONE: (919) 807-2500
OMBUDESMAN: (800) 688-8349

FORM 33
 2/01
 PAGE 1 OF 2

FORM 33

When a date of hearing is set, I respectfully request the Commission to send me signed subpoenas for my witnesses. When I receive these subpoenas, I will deliver them to the Sheriff of the county or counties in which each witness resides so that the subpoenas may be served.

(Signature of party requesting hearing, or attorney)

(Title)

(Address: street and number, city, state and zip)

(Date of notice)

CERTIFICATION

I, _____ hereby certify that this case is ready for hearing. This case will be set in the county where the injury occurred unless good reason is shown for a different location. If you want the hearing in a different county, name the county below and your reason for that location.

(County)

(Reason for setting)

(Signature)

Note: A copy of this form must be sent to opposing parties. The original of this form must be sent to the Industrial Commission at the address below:

FORM 33
2/01
PAGE 2 OF 2

FORM 33

MAIL TO:
NCIC - DOCKET SECTION
4336 MAIL SERVICE CENTER
RALEIGH, NC 27699-4336
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349

Form 33R

North Carolina Industrial Commission

RESPONSE TO REQUEST THAT CLAIM BE ASSIGNED FOR HEARING

IC File # _____
 Emp. Code # _____
 Carrier Code # _____
 Carrier File # _____
 Employer FEIN _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name	Employer's Name () Telephone Number
Address	Employer's Address City State Zip
() City State Zip	Insurance Carrier
Home Telephone ()	Carrier's Address City State Zip
Social Security Number <input type="checkbox"/> M <input type="checkbox"/> F Sex Date of Birth / /	Carrier's Telephone Number () Fax Number

In response to the Request for Hearing filed we have been unable to agree to the benefits claimed because (state reason with specificity):

DEFENDANT AGREES TO THE FOLLOWING:

Compensability Denied

Subject to Act: _____
 Employment relationship: _____
 Insurance coverage: _____
 Date of injury: _____
 Injury by accident _____
 Arising out of and in the course of employment: _____
 Occupational disease _____
 Average weekly wage \$ _____
 Other: _____

Compensability Admitted

Form 21 approved on: _____
 Form 60 approved on: _____
 Temp. total paid from: _____
 to _____
 Temp. partial paid from: _____
 to _____
 Perm. partial paid from: _____
 to _____
 for _____ % ppd of _____
 Form 26 approved on: _____
 Form 24 approved on: _____
 Form 28B filed on: _____
 Other: _____
 Part of body: _____

City and county wherein injury occurred: _____
 Estimated length of hearing: _____

FORM 33R
 2/01
 PAGE 1 OF 2

MAIL TO:
NCIC - DOCKETS SECTION
4336 MAIL SERVICE CENTER
RALEIGH, NC 27699-4336
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349

Below is a list of names and addresses of all witnesses, including doctors, whose testimony is to be taken by the undersigned. Doctors outside the county of hearing are not required to attend this hearing.

NAME	ADDRESS
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

When a date of hearing is set, I respectfully request the Commission to send me signed subpoenas for my witnesses. When I receive these subpoenas, I will deliver them to the Sheriff of the county or counties in which each witness resides so that the subpoenas may be served.

(Signature) Title

(Address: street and number, city, state and zip)

(Date)

Note: A copy of this form must be sent to opposing parties. The original of this form must be sent to the Industrial Commission at the address below:

FORM 33R
2/01
PAGE 2 OF 2

MAIL TO:
NCIC – DOCKETS SECTION
4336 MAIL SERVICE CENTER
RALEIGH, NC 27699-4336
MAIN TELEPHONE: (919) 807-2500
OMBUDESMAN: (800) 688-8349

FORM 33R

Form 60

North Carolina Industrial Commission

EMPLOYER'S ADMISSION OF EMPLOYEE'S RIGHT TO COMPENSATION (G.S. §97-18(b))

IC File # _____
Emp. Code # _____
Carrier Code # _____
Carrier File # _____

The Use of This Form is Required Under The Provisions of The Workers' Compensation Act Employer FEIN _____

Employee's Name _____		Employer's Name _____		Telephone Number _____	
Address _____		Employer's Address _____		City _____	State _____
City _____	State _____	Zip _____	Insurance Carrier _____	Policy Number _____	
Home Telephone _____	Work Telephone _____	Carrier's Address _____		City _____	State _____
Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth _____	Carrier's Telephone Number _____	Fax Number _____		
Social Security Number _____					

TO EMPLOYEE: Your employer admits your right to compensation for an
 injury by accident on _____, or
 occupational disease as of _____.

THE FOLLOWING ITEMS 1 THROUGH 4 ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND DO NOT CONSTITUTE AN AGREEMENT:

1. The description of the injury by accident or occupational disease is: _____

2. The employee was paid for the entire day of injury. Yes No
3. The employee's average weekly wage, including overtime and all allowances, was \$ _____, which results in a weekly compensation rate of \$ _____.
 - a. Temporary total compensation is being paid at the compensation rate above.
 - b. Temporary partial compensation is being paid in the amount of \$ _____.
 - c. Medical only (skip Line 4)
 - d. Other: _____
4. The disability resulting from the injury began on _____, and compensation commenced on _____.

SIGNATURE EMPLOYER OR CARRIER/ADMINISTRATOR _____	TITLE _____	DATE _____
---	-------------	------------

EMPLOYER: Failure to file Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after last payment pursuant to an agreement or award subjects employer or carrier/administrator to a penalty pursuant to N.C. Gen. Stat. § 97-18(b). Form 30 must be used for compensable injuries resulting in death. A copy of this Form 60 shall be provided to the employee and the employee's attorney of record, if any, and the original provided to the Industrial Commission at the address below.

FORM 60
10/2006
PAGE 1 OF 1

**MAIL TO: NCIC - STATISTICS SECTION
4334 MAIL SERVICE CENTER
RALEIGH, NC 27699-4334
TELEPHONE: (919) 807-2506
OMBUDSMAN: (800) 688-8349**

FORM 60

Form 61

North Carolina Industrial Commission

DENIAL OF WORKERS' COMPENSATION CLAIM (G.S. §97-18(c) AND G.S. §97-18(d))

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act Employer FEIN _____

Employer's Name _____		Employer's Name _____		() - Telephone Number	
Address _____		Employer's Address _____		City _____	State _____ Zip _____
City _____		State _____	Zip _____	Insurance Carrier _____	Policy Number _____
() - Home Telephone _____		() - Work Telephone _____		Carrier's Address _____	
Social Security Number _____		Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth _____	() - Carrier's Telephone Number _____	
Date of Injury _____				() - Fax Number _____	

To EMPLOYEE (TO DEPENDENT(S)) OR NEXT OF KIN IN CASE OF DEATH:

This is to inform you that the claim for the injury on _____, or occupational disease as of _____, or death on _____

is **DENIED** for the following reasons:

SIGNATURE EMPLOYER OR CARRIER/ADMINISTRATOR TITLE DATE

Employer/Insurance Carrier must provide a detailed statement of the grounds for denying compensability of the claim or liability for the claim where payments have previously been made without prejudice under N.C. Gen. Stat. § 97-18(d). Failure to specify a particular ground may preclude asserting certain defenses at a later date pursuant to N.C. Gen. Stat. § 97-18(f).

Employee: If you disagree with this denial, you are entitled to request a hearing by submitting a Form 33. If you need assistance you may contact the Industrial Commission at the address below or telephone the Industrial Commission at (800) 688-8349.

Employer: A copy of this form shall be sent to the employee and employee's attorney of record, if any, and all known health care providers which have submitted bills to the employer/carrier. The original of this form shall be sent to the Industrial Commission at the address below.

FORM 61
10/2006
PAGE 1 OF 1

FORM 61

MAIL TO: NCIC - CLAIMS SECTION
4335 MAIL SERVICE CENTER
RALEIGH, NC 27699-4335
TELEPHONE: (919) 807-2502
OMBUDSMAN: (800) 688-8349

Form 63

North Carolina Industrial Commission

NOTICE TO EMPLOYEE OF PAYMENT OF COMPENSATION WITHOUT PREJUDICE (G.S. §97-18(d))

IC File # _____

Emp. Code # _____

Carrier File # _____

Carrier Code # _____

The Use of This Form is Required Under The Provisions of The Workers' Compensation Act

Employer FEIN _____

Employee's Name _____		Employer's Name _____		Telephone Number _____	
Address _____		Employer's Address _____		City _____	State _____ Zip _____
City _____	State _____	Zip _____	Insurance Carrier _____	Policy Number _____	
Home Telephone _____	<input type="checkbox"/> M <input type="checkbox"/> F	Work Telephone _____	Carrier's Address _____	City _____	State _____ Zip _____
Social Security Number _____	Sex _____	Date of Birth _____	Carrier's Telephone Number _____	Fax Number _____	

To EMPLOYEE (TO DEPENDENT(S) OR NEXT OF KIN IN CASES OF DEATH):

This is to inform you with regard to your claim for

- injury on _____
- occupational disease as of _____
- death on _____

payments of workers' compensation benefits will be made without prejudice to deny your claim or our liability at a later time. This notice is not an admission of liability.

Compensation may be continued during our current investigation of your claim. Our investigation may take up to 90 days, with a possible 30 day extension. However, during this time we may accept liability; contest your claim or our liability; or by our lack of action waive our right to contest your claim or our liability.

The date on which the employer first had written or actual notice of employee's injury or employee's death was _____.

The disability began on _____. The first payment will be made to you on _____.

We understand that your average weekly wage, including overtime and allowances, is \$ _____.

The rate of compensation (66 2/3 percent of the average weekly wage) is \$ _____.

_____/_____/_____
SIGNATURE EMPLOYER OR CARRIER/ADMINISTRATOR TITLE DATE

EMPLOYER: A copy of this form shall be sent to the employee and the original of the form shall be sent to the INDUSTRIAL COMMISSION at the address below. If you need assistance, you may telephone the Industrial Commission at (800) 688-8349. Failure to file Form 28B, Report Of Compensation And Medical Compensation Paid, within 16 days after last payment pursuant to an agreement or award may subject the employer or carrier/administrator to a penalty.

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FORM 63

MAIL TO: NCIC - CLAIMS SECTION
4335 MAIL SERVICE CENTER
RALEIGH, NC 27699-4335
TELEPHONE: (919) 807-2502
OMBUDSMAN: (800) 688-8349

Form 90

North Carolina Industrial Commission

REPORT OF EARNINGS

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employer FEIN _____

(EMPLOYER/INSURANCE CARRIER TO COMPLETE THIS SECTION)

Employer's Name _____			Employer's Name () _____			Telephone Number _____		
Address _____			Employer's Address _____			City State Zip _____		
City _____			State _____			Zip _____		
Home Telephone () _____			Work Telephone () _____			Insurance Carrier _____		
<input type="checkbox"/> M <input type="checkbox"/> F			/ /			Carrier's Address _____		
Social Security Number _____			Sex _____			Date of Birth _____		
						Carrier's Telephone Number _____		
						Fax Number _____		

To Employees: The Employer/Insurance Carrier periodically needs to verify your continuing eligibility for workers' compensation benefits and to update their records. You are required to complete Page 2 of this Report of Earnings and return it to the insurer or employer address provided on page 2 of this form within 15 days after receipt of this form, even if you have no earnings.

****YOUR WORKERS' COMPENSATION BENEFITS MAY BE SUSPENDED IF YOU FAIL TO COMPLETE THIS REPORT IN A TIMELY MANNER.****

NOTICE TO EMPLOYEES RECEIVING WORKERS' COMPENSATION

When you are receiving weekly workers' compensation benefits, YOU MUST REPORT ANY EARNINGS YOU RECEIVE TO THE INSURANCE CARRIER (OR EMPLOYER IF THE EMPLOYER IS SELF-INSURED) THAT IS PAYING YOU THE BENEFITS. "Earnings" include any cash, wages or salary received from self-employment or from any employment other than the employment where you were injured. Earnings also include commissions, bonuses, and the cash value for all payments received in any form other than cash (e.g., a building custodian receiving a rent-free apartment). Commissions, bonuses, etc., earned before your disability do not constitute earnings that must be reported.

You must report any work in any business, even if the business lost money or if profits or income were reinvested or paid to others.

Your endorsement on a benefit check or deposit of the check into an account is your statement that you are entitled to receive workers' compensation benefits. Your signature on a benefit check is a further affirmation that you have made no false claims or statements or concealed any material fact regarding your right to receive workers' compensation benefits.

MAKING FALSE STATEMENTS FOR THE PURPOSE OF OBTAINING WORKERS' COMPENSATION BENEFITS MAY RESULT IN CIVIL AND CRIMINAL PENALTIES.

TIME PERIOD COVERED BY THIS REPORT: _____ to _____
 (Employer/Insurance Carrier must complete)

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FORM 90

NORTH CAROLINA INDUSTRIAL COMMISSION
4319 MAIL SERVICE CENTER
RALEIGH, NORTH CAROLINA 27699-4319
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349

EMPLOYEE: COMPLETE SECTION BELOW	
(1) Did you receive earnings from work during the time period indicated on Page 1? <input type="checkbox"/> YES <input type="checkbox"/> NO	(2) Did you work for a business or any person during that time period? <input type="checkbox"/> YES <input type="checkbox"/> NO
(3) If you answered NO to both questions 1 and 2, sign and return the form to the insurance carrier or to the individual identified by the insurance carrier or employer listed below.	
(4) If you answer YES to either question, complete item 5 below , sign and return the form to the insurance carrier or to the individual identified by the insurance carrier or employer listed below. For the purposes of this statement, "Gross Earnings" include all pre-tax earnings, bonuses, commissions, and/or the cash value of any payment received in any form other than cash.	
(5) 1st Employer or Business Name (include self-employment):	
Location: _____	
Dates worked: _____	
Gross Earnings: _____	
Next Employer or Business Name (include self-employment):	
Location: _____	
Dates worked: _____	
Gross Earnings: _____	
Attach additional page(s) if necessary.	
Employee Signature: _____	Date: _____
(Required)	

NOTICE TO EMPLOYEE:

- Failure to report earnings as defined herein may subject you to criminal prosecution and civil liability including the suspension or forfeiture of your benefits. This form must be signed and returned to the insurance carrier listed below even if you have no earnings.
- If the Commission suspends benefits for failure to complete and return a Form 90 Report of Earnings, the self-insured employer, insurance carrier or third party administrator shall immediately reinstate benefits to the employee with back payment as soon as the Report of Earnings is submitted by the employee.
- If benefits are not immediately reinstated, the employee should submit a written request for an Order from the Executive Secretary instructing the employer or insurance carrier to reinstate benefits. An application for reinstatement of benefits should be addressed to North Carolina Industrial Commission, Office of the Executive Secretary, 4333 Mail Service Center, Raleigh, NC 27699-4333.

Insurance carrier or Employer must list the name and address below of the person to whom this form must be returned and mail this form to the employee by certified mail return receipt requested, and include a self-addressed stamped envelope for the return of the Form.

Name: _____

Address: _____

City State Zip

NOTICE TO INSURER OR EMPLOYER:

Any person who willfully makes a false statement or representation of a material fact for the purpose of denying or assisting another in denying any benefit or payment under the Workers' Compensation Act shall be guilty of a Class 1 misdemeanor if the amount at issue is less than \$1000. Violation is a Class H felony if the amount at issue exceeds \$1000. Any person who threatens an employee with criminal prosecution under the provisions of the Act for the purpose of coercing or attempting to coerce an employee into agreeing to compensation under the Act shall be guilty of a Class H felony.

