

School: Claims
Course: Compensability- Determining Arising Out Of and in the Course Of Employment
Faculty: Brian Koch, Partner / Shareholder, Wiedner & McAuliffe

Summary

The course "Compensability – Determining Arising Out Of and In the Course Of Employment," taught by Brian Koch of Wiedner & McAuliffe, delves into the critical concepts of determining compensability in workers' compensation claims. With over two decades of experience, Koch provides an in-depth discussion of the two core elements that must be present for a claim to be considered compensable: the injury must arise out of and occur in the course of employment (AOE / COE).

Koch begins by explaining the significance of these two concepts. "Arising out of Employment" refers to the connection between the worker's injury and their job duties. For instance, if a construction worker hurts their back while lifting materials, the injury clearly arises out of employment because it stems from a work-related task. Koch also discusses risks distinctly associated with employment, such as repetitive motion injuries or accidents involving hazardous conditions on a worksite. In these cases, the worker's job exposes them to a unique risk, making the claim compensable.

On the other hand, Koch distinguishes personal risks — injuries or conditions that an employee brings to the job, such as a pre-existing medical issue. He presents the example of a worker with a history of knee problems who suffers an injury while walking on a flat surface. Since the injury results from a personal condition rather than a workplace risk, it would not be compensable. Koch introduces the term "idiopathic injuries" to describe such personal risks.

Next, Koch explains neutral risks, which involve everyday risks that are not unique to employment, such as slipping on stairs. Neutral risks may or may not be compensable, depending on whether employment exposes the worker to an increased risk. For example, if an employee rushes to complete a work task and trips on the stairs, this could be compensable due to the work-related nature of the activity.

The course also covers the "Course of Employment" component, which refers to the time and place of the injury. For a claim to be compensable, the injury must occur while the employee is engaged in work duties or activities reasonably related to their employment. Koch offers various examples, including traveling employees, whose injuries are often compensable as long as they are engaged in reasonable and foreseeable activities during a business trip.

Koch introduces legal doctrines such as the personal comfort doctrine, which allows for certain off-task activities, like taking a break or grabbing a snack from a vending machine, to be compensable if they occur within reasonable parameters. He also discusses defenses to compensability, including intoxication and horseplay. Intoxication, if proven, may serve as a defense against a claim, but the presumption of intoxication can be rebutted with evidence showing that the intoxication did not contribute to the injury.

Throughout the course, Koch emphasizes the importance of conducting thorough investigations to gather evidence regarding the circumstances of the injury. Statements from the injured worker, witnesses, and medical records all play a role in determining whether the injury arose out of and occurred in the course of employment.

In conclusion, the course provides a thorough analysis of the principles of compensability in workers' compensation claims, equipping professionals with the knowledge needed to assess and defend claims effectively. By understanding the complexities of AOE/COE, professionals can navigate the claims process with greater confidence.

Learning Objectives

1. Understand the legal concepts of "arising out of" (AOE) and "in the course of employment" (COE) as they apply to workers' compensation.
2. Learn how to assess compensability in various workplace injury scenarios.
3. Recognize different types of risks (employment-related, personal, and neutral) and how they impact claims.
4. Explore the impact of jurisdictional differences on compensability and related case law.
5. Understand the factors influencing claim defense, including intoxication and personal deviations from employment duties.

Primary Takeaways

1. Determining compensability requires both AOE and COE to be satisfied in workers' compensation claims.
2. Employment-related risks are more likely to result in compensable claims compared to personal or neutral risks.
3. Intoxication and horseplay can act as defenses against compensability, but claimants can challenge these defenses with sufficient evidence.

4. The "personal comfort doctrine" allows certain off-task activities, such as taking a break or using a vending machine, to be compensable if they occur within employment parameters.
5. For traveling employees, reasonable and foreseeable activities during business travel are often compensable.

Course Outline

- 1) Understanding Compensability in Workers' Compensation
 - a) Introduction to AOE and COE principles.
 - i) Definition of "arising out of" employment.
 - ii) Definition of "in the course of employment."
 - b) The relationship between AOE/COE and compensability.
 - i) Legal basis for determining compensability.
 - ii) Burden of proof and evidence needed for compensable claims.
- 2) Risk Assessment and Legal Considerations
 - a) Types of risks in workplace injuries.
 - i) Employment-related risks (lifting, construction site hazards).
 - ii) Personal risks (pre-existing conditions, idiopathic injuries).
 - iii) Neutral risks (slipping on stairs, unrelated to work tasks).
 - b) Common defenses against compensability.
 - i) Intoxication as a statutory defense.
 - ii) Horseplay and personal deviations from employment duties.
 - c) Special considerations for traveling employees.
 - i) Compensability during business trips and deviations from work tasks.
 - ii) Case examples of compensable and non-compensable travel-related claims.

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