



Consulting Division Newsletter

Thank you for your attention to this 4-part weekly Litigation update by Joel Romero of Consulting. This series will consist of the following:

1. Litigation NorCal v SoCal – who is the real winner
2. Reasons for litigation
3. Costs & Mitigation
4. Future – Trends/Factors & Consulting

Part 2 - Reasons for Litigation in Workers' Compensation

The vast majority of workers' compensation claims are resolved between injured workers and claims administrators with no problems. Injured employees are not required to have an attorney.

However, even when employers and claim administrators have done everything possible to build a good rapport with an employee with a work injury - litigation can still occur.

A recent search indicated there are 4,877 workers' compensation lawyers in California alone. With the internet and advertising on television, radio, billboards, newspaper, and word of mouth there is no shortage of ability to find an attorney.

Litigation in Workers' Compensation can arise for several reasons. Here are some typical causes:

1. **Disputed Claims:** Employers or insurance companies may dispute the validity of a worker's compensation claim, questioning whether the injury is work-related or if it occurred during employment.
2. **Denial of Benefits:** Employees may litigate if their workers' compensation claim is denied, seeking to prove their entitlement to benefits.
3. **Disagreement on Compensation Amount:** There may be disagreements over the amount of compensation or benefits an injured worker should receive, leading to litigation.
4. **Medical Treatment Disputes:** Conflicts can arise over the type or extent of medical treatment required, including disputes over medical evaluations and recommendations.
5. **Permanent Disability Ratings:** Disputes over the degree of permanent disability and the corresponding benefits can lead to litigation.
6. **Return to Work Issues:** Litigation may occur if there are disagreements about an employee's ability to return to work or if suitable accommodation is not provided.
7. **Retaliation Claims:** Employees may file lawsuits if they believe they have faced retaliation from their employer for filing a workers' compensation claim.
8. **Third-Party Claims:** In some cases, litigation may involve third-party claims if another party's negligence contributed to the injury.



These disputes often require legal intervention to resolve, either through negotiation, mediation, or court proceedings.

Some employees feel hiring an attorney can provide them with the necessary support and expertise to navigate the complexities of the workers' compensation system and ensure their rights are protected.

Understanding the common issues that lead to litigation is crucial for employers to navigate this intricate terrain successfully. Heffernan's Consulting Division provides industry leading claims consulting. Our Consultants average 15 years or more of hands-on claims handling experience. We advise all parties on how to effectively manage litigated and non-litigated claims.

Our Consultants are also available to answer general claims and coverage questions as well as provide hands-on support. Please email hibconsulting@heffins.com with any questions.



Meet the Author: Joel has been in the Insurance Industry for more than 25 years. He has experience as an adjuster and supervisor with different carriers handling Workers' Compensation Claims. He also has experience as an outside Investigator. His experience includes claim investigations, catastrophic injuries, and handling complex claims for multiple dedicated accounts.

He started at Heffernan Insurance Brokers in 2015 as a Claims Consultant. In this role he now devotes his expertise to helping Heffernan clients. He uses his experience and works closely with carriers to facilitate proactive claims handling. His overall goal as an Executive Claims Consultant is to review open claims and look for opportunities to reduce reserves and close claims.

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