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Protecting the Rights of Working People Since 1954

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Differences Between Workers' Compensation and Personal Injury Claims

Posted: January 13th, 2011

When a person is injured there are two common avenues to seek monetary recovery – a [personal injury](#) lawsuit or a [worker's compensation](#) claim. The two claims are very different, however. In fact, the worker's compensation system was actually designed to prevent personal injury lawsuits and to handle work-related injuries outside of the court system.

The Chicago personal injury and worker's compensation attorneys at [Katz, Friedman](#) have significant experience representing clients in both types of legal actions.

Basic Procedures Involved in Filing Each Type of Claim

A personal injury lawsuit is filed in the applicable state court in which the injured plaintiff seeks to recover from a third party for the damages the victim suffered as a result of injuries to his or her body or property as a result of the negligence of the third party. In a personal injury lawsuit, the defendant may argue that any number of "defenses" prevent the plaintiff from recovering the full-extent, if any, of the compensation that they are requesting.

On the other hand, a worker's compensation claim is filed with the [Illinois Worker's Compensation Commission](#) if, and only if, a person is injured on the job. If it is determined that the employee was, in fact, injured while on the job, he or she will receive compensation (usually on a weekly or biweekly basis) and medical benefits related to the injury. In exchange, the employee usually may not sue the employer in a personal injury lawsuit. The issue of whether the employer was negligent or at fault is irrelevant as long as it can be shown that the employee was injured while performing his or her employment duties. Unlike a personal injury lawsuit, the employer is not entitled to claim any "defenses" since the issue of fault does not come into play. However they are entitled to dispute the claim itself.

It is extremely important that if you have been injured on the job, you promptly notify your employer of the injury in order to protect your rights to a worker's compensation claim.



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While work-related injuries generally exclusively fall under the worker's compensation laws and cannot be brought as a personal injury lawsuit, there are a few specific and sometimes complex exceptions. Moreover, [traveling employees](#) may be entitled to worker's compensation for accidents that typically would not be considered a work-related injury if the employee had not been traveling for his or her job. Accordingly, if you have been injured on the job it is important to consult with an Illinois personal injury attorney that is also experienced with worker's compensation laws in order to assess the pertinent legal issues involved.

Recovery Awards in Worker's Compensation Cases

Another key difference between the two claims is the type of recovery that can be awarded.

State law governs worker's compensation awards. In Illinois, if an injured party has a valid worker's compensation claim, he or she may be entitled to compensation for:

- (1) Medical expenses;
- (2) Temporary total or temporary partial disability (i.e. lost wages in the amount of two-thirds of the employee's average gross weekly wage); and
- (3) Permanency benefits (which compensate an employee for the residual effects of the injury itself).

Worker's compensation benefits are usually paid by the employer's worker's compensation insurance company, which may attempt to quickly settle the claim for an amount less than that which the employee may be entitled. By consulting an experienced Chicago worker's compensation attorney, an injured employee can better evaluate their claim and any amounts offered by the insurance company.

When evaluating the amount of residual benefits an injured employee should receive, the Illinois Worker's Compensation Commission will evaluate the employee's physical state following the conclusion of treatment to see how severely his or her life has been impacted. This varies from case to case and injury to injury. It is very case specific determination.



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Recovery Awards in Personal Injury Cases

Depending on the extent of the plaintiff's injuries and the level of negligence involved in the accident, a personal injury lawsuit can compensate an injured party for specific monetary losses, including past and future medical expenses, lost wages, household services and the value of any projected future earnings. An award in a personal injury lawsuit can also compensate an injured party for pain and suffering, which is not available in a worker's compensation claim.

If you have been injured in an accident or a work-related incident, contact the skilled Chicago-area [personal injury](#) and [worker's compensation](#) attorneys at [Katz, Friedman](#) to discuss how we can help you recover for your injuries.

This article is originally published at
<http://www.theillinoisinjuredworker.com/2011/01/13/differences-between-workers%E2%80%99-compensation-and-personal-injury-claims/>