



## November 2010 Blog Posts

### [WCIRB: WORK COMP PREMIUMS CONTINUE TO MOUNT IN FIRST HALF OF 2010](#)

Wednesday, November 3, 2010

In recent workers' compensation defense news, a report by the Workers' Compensation Insurance Rating Bureau of California (WCIRB) has revealed both good news and bad news for employers. The bad news? The cost of work comp premiums has risen over the first half of the year. The good news? The amount of the increase was relatively minor.

To illustrate, the WCIRB determined that over the first six months of 2010, California employers paid an average of \$2.44 out of every \$100 for work comp coverage. This is roughly three percent higher than employers paid in the first six months of 2009.

It is worth noting, however, that it is still almost 62 percent less than the average rate paid by California employers in the second half of 2003, before the state enacted its overhaul of the workers' compensation system.

The WCIRB also determined the following:

- The total amount of workers' compensation premiums collected for the first half of 2010 was \$5.2 billion, an increase of more than 16 percent from the first half of 2009.
- Workers' comp insurers spent roughly 71 cents of every dollar collected on claims (before expenses). In addition, the claim frequency for lost work time was determined to be similar to last year.

A full summary of the WCIRB report may be found [here](#).

This post was provided for informational purposes only and is not to be construed as legal advice.

Stay tuned for further developments in the area of workers' compensation defense law ...

#### **Related Resources:**

[Workers' Comp Premium Inches Higher](#) (Silicon Valley/San Jose Business Journal)

### [11/05 - A BRIEF SUMMARY OF CALIFORNIA WORKERS' COMPENSATION NEWS](#)

Friday, November 5, 2010

*Today's post will briefly examine workers' compensation defense news from around the state.  
Report: California has fifth highest work comp rates in the United States*

Every two years, the Oregon Department of Consumer and Business Services compiles its "Workers' Compensation Premium Rate Ranking Summary" for the Oregon state legislature. The report ranks every state - from highest to lowest - according to their workers' compensation premium rates.

The 2010 report yielded some very interesting results:

- The state of North Dakota had the lowest workers' compensation premium rates in the entire nation. An average of only \$1.02 of every \$100 of payroll went to pay work comp premiums. This represented a mere 50 percent of the national median - determined by the Department of Consumer and Business Services to be \$2.04 for every \$100 of payroll.
- The state of Montana had the highest workers' compensation premium rates in the entire nation. An average of \$3.33 of every \$100 of payroll went to pay work comp premiums. This represented almost 163 percent of the national median.
- The state of California was number five in the nation for workers' compensation premium (up from 13 in 2008). An average of \$2.68 of every \$100 of payroll went to pay work comp premiums. This represented 131 percent of the national median.

The top ten states were:

1. Montana
2. Alaska
3. Illinois
4. Oklahoma
5. California
6. Connecticut
7. New Jersey
8. Maine
9. New Hampshire
10. Alabama

*Dave Jones Elected New Insurance Commissioner*

In other workers' compensation related news, California elected a new Insurance Commissioner this past week.

Assemblyman Dave Jones (D-Sacramento) defeated Assemblyman Mike Villines (R-Clovis) in a hotly contested election battle for the position currently held by Steve Poizner.

Jones had enjoyed the backing of California trial lawyers and labor unions, while Villines enjoyed the backing of the insurance industry.

Insurance Commissioner is an extremely important governmental post. The holder of the office is responsible for not only managing the Department of Insurance but also overseeing California's massive insurance industry.

Stay tuned for further other developments in the area of [workers' compensation defense](#) ...

This post was provided for informational purposes only and is not to be construed as legal advice.

#### **Related Resources:**

[2010 Oregon Workers' Compensation Premium Rate Ranking Summary](#) (Oregon Department of Consumer and Business Services)

[Dave Jones Elected California Insurance Commissioner](#) (The Los Angeles Times)

#### **[10 YEARS FOR ORANGE CO. CONTRACTOR CONVICTED OF WORK COMP FRAUD](#)**

Tuesday, November 9, 2010

In a very interesting workers' compensation defense story, a Laguna Hills man has been sentenced by an Orange County judge to 10 years in prison for orchestrating what prosecutors called one of the largest work comp fraud schemes in California history.

Prosecutors alleged that Michael Vincent Petronella, 51, (along with his wife Devon Lynn Kile, 44, who is facing separate charges) owned three roofing/general contracting businesses, and engaged in a complex pattern of fraudulent practices regarding work comp premiums and work comp claims.

Specifically, prosecutors claimed that Petronella:

- Submitted 42 fraudulent workers' compensation claims, resulting in a \$253,000 loss for the state of California
- Reported \$3 million in payroll to the State Compensation Insurance Fund while his actual payroll was closer to \$32 million, an action that resulted in million dollar losses for the state of California
- Provided state agencies with false employee/payroll records for auditing purposes

Petronella was convicted last February of 33 felony counts of [insurance fraud](#).

Law enforcement officials became suspicious of Petronella's activities following a March 2006 accident involving one of his employees. The injured employee stated that his employer was Western Cleanoff Inc., a Petronella-owned company. However, the company was neither registered nor insured by the State Compensation Insurance Fund.

Petronella and Kile were eventually arrested in April 2009 following a lengthy investigation. After executing a search warrant, law enforcement officials discovered \$51,000 in cash and over \$500,000 worth of jewelry. The couple also owned several expensive automobiles, as well as five properties in both California and Texas.

The judge gave Petronella credit for 833 days served, meaning he could be eligible for release after 2 and a half years in prison. In addition to the incarceration, he was ordered to pay multiple fines, including \$500,000 in restitution and another \$500,000 fine.

A pretrial hearing for Devon Lynn Kile is scheduled for later this week. However, prosecutors have already indicated they will probably seek a plea deal due to her limited involvement in the alleged work comp fraud scheme.

Stay tuned for further developments from our [workers' compensation defense](#) blog ...

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#### **Related Resources:**

[Contractor Gets 10 Years in Workman's Comp Fraud \(Los Angeles Wave\)](#)

#### **[CWCI: WORKPLACE INJURIES AND ILLNESSES DECLINE BY 9% IN 2009](#)**

Thursday, November 11, 2010

Recent workers' compensation defense posts discussed the Bureau of Labor Statistics (BLS) release of the 2009 Survey of Occupational Injuries and Illnesses. While this survey identified trends on a national level, noticeably absent was in-depth information regarding the incidence of workplace injuries and illnesses among California employees.

Fortunately, the California Workers' Compensation Institute (CWCI) recently released its own report on this very subject.

The survey, which utilized data supplied by the Division of Labor Statistics and Research, contains some very interesting revelations for [employers](#) and employees alike.

Some of the findings of the report include:

- There were approximately 492,000 workplace injuries and illnesses reported among California's nearly 15 million public and private sector employees. This represented an overall decline of 9.2 percent from 2008.
- Over half of these 492,000 workplace injuries and illnesses resulted in work restrictions, time away from work or transfers to another position. This represented a decline of 9.8 percent from 2008.

- There were 4.2 workplace injuries/illnesses for every 100 full-time employees in California. This represented a decline from 2008's 4.4 workplace injuries/illnesses for every 100 full-time employees.
- There were 2.3 serious and costly workplace injuries/illnesses for every 100 full-time employees in California. This represented a decline from 2008's 2.4 serious and costly workplace injuries/illnesses for every 100 full-time employees.

Interestingly, CWCI also determined that government employees continue to be more predisposed to workplace injuries and illnesses than other groups of employees.

"As usual, work injuries and illnesses were common among local government workers, who account for one out of nine jobs in the state - including occupations such as public safety officers, transit workers and teachers," the report stated.

Stay tuned for further developments from our [workers' compensation defense](#) blog ...

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#### **Related Resources:**

[Work-Related Injuries Decline in California](#) (Sacramento Business Journal)

#### **[ERGONOMICS: A NECESSARY CONSIDERATION FOR CALIFORNIA EMPLOYERS](#)**

Wednesday, November 17, 2010

*Today's workers' compensation defense post will explore how the proper implementation of an ergonomics plan can greatly reduce common injuries suffered by employees in office settings.*

Visit any office in the state of California, and you will see workers performing a variety of tasks requiring them to sit at a workstation for prolonged periods while using telephones or computers. While these types of tasks may seem low impact in nature, they can actually cause potentially debilitating injuries to the neck, wrist, hands or lower back, resulting in decreased production and increased legal fees.

Fortunately, [employers](#) who are aware of these potential injuries can take steps to implement the necessary safety measures, saving their organization both time and money.

Today's post will examine the proper working posture that employees who use computers can adopt to reduce the frequency and duration of serious work injuries.

#### **Neck, Head and Back**

Employees using a computer should attempt to keep their heads and necks straight - avoiding positions leaving them bending downward, backward or sideways. In addition, their heads and necks should be positioned to look directly at the computer monitor in front of them.

Unnecessary bending of the head and neck - looking over the shoulder - can create unnecessary muscle strain.

Employees should also take care to sit with their backs perpendicular to the floor (i.e., straight) and avoid hunching their shoulders.

### **Hands and Wrists**

It is critical that employees who use a computer avoid bending their wrists either upward or downward for prolonged periods. Instead, they should try to keep them at a 90-degree angle. (Making sure employees are educated about proper hand/wrist positioning can help prevent serious injuries such as carpal tunnel syndrome.)

### **Arms and Shoulders**

Employees should try to keep their arms parallel to the floor and avoid prolonged reaching or elevation. The upper arms and shoulders should also be kept close to the body and the forearms relatively straight.

### **Legs and Feet**

Employees positioned in front of a computer screen should try to keep their feet resting on an ergonomic footrest or flat on the floor.

Regarding the positioning of the legs, the lower legs should typically be kept perpendicular to the floor while their upper legs should be parallel to the floor.

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Stay tuned for further developments in the area of [workers' compensation defense law](#) ...

### **Related Resources:**

[OSHA Ergonomic Solutions: Computer Workstations](#) (Occupational Safety and Health Administration)

### **[OSHA: RETAIL STORES NEED PROPER CROWD MANAGEMENT OVER HOLIDAYS](#)**

Friday, November 19, 2010

Next Friday, people all over the United States will gather outside the front doors of major retail stores and other establishments for the official start of so-called "Black Friday" sales. While these sales offer substantial savings, they also present potential safety hazards to store

employees if the rather large crowds are not properly managed. Unfortunately, this can lead to serious injuries, decreased production and the potential need for legal assistance from a workers' compensation defense attorney.

While this concept may seem far-fetched, consider an incident back in 2008 in which a retail store employee was fatally trampled by a mob pouring into a store when the doors opened upon a Black Friday sale.

In light of this potential threat to store employees and in keeping with its stated objective of preventing workplace dangers, the United States Department of Labor's Occupational Safety and Health Administration (OSHA) recently sent a letter and fact sheet ("Crowd Management Safety Guidelines for Retailers") to the chief executive officers of the 14 largest retail stores in the United States.

"Crowd-related injuries during special retail sales and promotional events have increased during recent years," said Dr. David Michaels, Assistant Secretary for OSHA. "Many of these incidents can be prevented by adopting a crowd management plan, and this fact sheet provides retail employers with guidelines for avoiding injuries during the holiday shopping season."

A complete analysis of fact sheet sent to the CEOs is clearly beyond the scope of this blog entry. However, it is still worthwhile to examine a few of the more noteworthy recommendations regarding planning for Black Friday sales or other large-scale store promotions:

- Formulate a comprehensive staffing plan that accounts for such variables as crowd size, number of employees required to man entrances and exits, etc.
- Retain the services of trained personnel, security or police officers to manage the large crowds.
- Create an emergency plan that accounts for potential hazards to employees (crowd crushes/overly large crowds, crowd violence and a fire)
- Train all on-site employees in the emergency plan

The fact sheet goes on to provide safety recommendations covering the pre-event setup, the actual sales event and emergency procedures.

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#### **Related Resources:**

[US Labor Department's OSHA Encourages Major Retailers to Provide Crowd Management Measures to Protect Workers During Black Friday, Other Sales Events](#) (U.S. Department of Labor)

## [11/23 - A BRIEF SUMMARY OF CALIFORNIA WORKERS' COMPENSATION NEWS](#)

Tuesday, November 23, 2010

*Today's post will briefly examine workers' compensation defense news from around the state.*

*Proposed increase in work comp premiums rejected by Ins. Commissioner Poizner*

This past summer, the Workers' Compensation Insurance Rating Bureau (WCIRB) recommended a 27.7 percent increase in workers' compensation premiums to Insurance Commissioner Steve Poizner.

In recent developments, Poizner has rejected this recommendation, opting instead to recommend that the amount paid by California employers to insurance companies for work comp premiums remain unchanged.

Poizner's justification for the rejection was that substantial increases in workers' compensation base rates would create additional costs for employers during already perilous economic times.

"Our nation and our state are in the midst of a recession and unemployment rates are sky high," said Poizner. "This is absolutely the wrong time for workers' compensation rates to increase."

Poizner - who will be leaving the post of Insurance Commissioner in January - also advised work comp insurers that they could likely lower their costs considerably through the implementation of several reforms previously approved by state legislators.

These reforms include: implementation of faster methods to approve treatment, quicker resolution of treatment disputes and more regular use of coordinated healthcare provider networks and.

"Once again, workers' compensation insurers have failed to demonstrate that they have adopted procedures to control costs or that they are operating efficiently," said Poizner. "Even in a better economy, I still wouldn't budge on rate increases without the industry first implementing the efficiencies we have recommended."

Commissioner Poizner also asserted that workers compensation insurers had posted profits for several years.

However, many of the major figures in the insurance industry indicated that this assertion was misguided and failed to account for current economic conditions.

"Pointing out profits is the wrong way to go," said vice president of the American Insurance Association Steve Suchil. "All workers' compensation payers and employers are facing similar cost pressures. The issue is underlying costs."

Suchil pointed out that last year, workers compensation insurers paid \$1.24 for every \$1 collected.



California's licensed workers' comp companies may accept or reject Poizner's recommendation and establish their own rates. (However, they typically use the Insurance Commissioner's recommendations as their primary benchmark.)

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Stay tuned for further developments in the area of workers' compensation defense law ...

**Related Resources:**

[Proposed 28% Increase in Workers' Comp Rates Blasted](#) (The Los Angeles Times)

[Calif. Insurance Head Rejects Workers Comp Rate Hike Request](#) (Business Insurance)