I. Introduction

“Workmen’s compensation,” it has been written, “is in many ways the poor stepchild of law school education.” According to Professor Richard Epstein, who made this statement in 1977:

The massive volume of cases decided under the workmen’s compensation statutes alone gives us sufficient reason to subject them to detailed analysis and scrutiny. Yet the entire topic is all too often treated as a mysterious and arcane branch of the law that refuses to yield any of its mysteries in an academic setting.…¹

This was a shame, he declared, because workers’ compensation’s no-fault model could serve as a basis for reform of tort liability in the motor vehicle accident and consumer product usage contexts. “Today,” he declared, “the study of workmen’s compensation has a new urgency ….”²

Epstein’s comments were foreshadowed long before by the renowned Harvard-trained Massachusetts lawyer, Samuel Horovitz. In his 1949 article, The Need for Teaching the Rights

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²Id.
Horovitz argued that workers’ compensation, as a critical field of the law, should be taught in law schools. Very few law schools, he observed, then offered such a course. Horovitz, who was the founder of the National Association of Compensation Claimants’ Attorneys (later to become ATLA), explained that he had just finished up a three-month tour around the country (in a car pulling a trailer), speaking about workers’ compensation and his new organization. He addressed state bar associations, legislative committees, and law schools – encouraging deans to offer courses in the field.

Epstein asserted that workers’ compensation should be taught so that the law and experience of no-fault liability could better be appreciated as a theoretical matter. In contrast, Horovitz’ advocacy was pragmatic. Approximately 2,000,000 work accidents are reported each year, he pointed out. This mighty army of injured worker-victims, he argued, “demands your best talents.”

Horovitz also set forth a special admonition: the workers’ compensation lawyer should know not merely the law of his own state, but those of others as well. In this way the lawyer could do two things: “(1) where there are no cases in his own state he can point out broad and liberal cases in other states, (2) where the amount of compensation given is inadequate in his own state, a knowledge that other states give larger amounts and of the methods by which these amounts are given, is highly essential, if he is to convince his own legislature to increase the benefits.”

Where better to start thinking outside the box about workers’ compensation, with its many nuances, than in law school?

In the present day, many law schools provide workers’ compensation courses. At least fifteen such courses are taught by members of the College of Workers’ Compensation Lawyers (an ABA affiliate). All but one of the current panel are adjuncts at law schools teaching such classes. There are also undergraduate and graduate programs in industrial relations, labor relations, and/or human resource management that offer courses in employment law for students not in law school. John Burton, one of the members of the panel, taught employment law courses for undergraduate and graduate students for many years at Rutgers using the Willborn et al. casebook referenced below.

One should also recall that while many law schools do not offer a discrete course in the field, many may feature a class that includes workers’ compensation as an important component. This writer (Torrey) was introduced to the subject in Torts. Panel Member John Burton notes, meanwhile, that two other types of classes may also prominently feature workers’ compensation:

- **Employment Law courses.** Such courses cover topics from employment-at-will to ERISA to the ADA to workers’ compensation, etc. The casebook (see below) that Panel member John Burton co-edits (with Steven Willborn, Stewart Schwab, and Gillian Lester), will soon be published in its 5th edition, and competing.

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versions of employment law casebooks exist that include workers’ compensation.

- **Workplace safety and health/workers’ compensation courses.** Several courses, according to panel member John Burton, teach workers’ compensation in this broader context, including a course taught by Professor Ellen Dannin at Penn State. Professor Dannin, notably, uses the Willborn et al. book (see below) as the basis for the course.⁴

At least three law school textbooks, notably, treat the matter discretely or in essential aspect. These are:


It would surely be a mistake, however, to imagine that the field was never the subject of a course until lately. Author Douglas Campbell, a California referee, who penned a magnificent treatise, proudly identified himself on the title page of his book as a teacher of workers’ compensation at the University of California.⁶ In the 1970’s, meantime, the influential Pennsylvania WCJ Irvin Stander was a Lecturer in Law at Temple University Law School in Philadelphia. The academics Marcus L. Plant (University of Michigan) and Wex S. Malone (LSU), meanwhile, taught workers’ compensation courses in the 1950’s and 1960’s, and they co-authored the casebook that evolved into the Little, Eaton, and Smith text.

An issue current in the present day is the disconnect between how law is taught in law schools and how law is practiced. It is an issue that has in fact been current for decades. Defenders of law school curricula that emphasize theory assert that legal education should be “law school, not lawyer school.” Those who call for reform, meanwhile, assert that legal education falls short of other professional training in not preparing students for practice. A Carnegie Foundation study is reflective of this familiar critique:

Most law schools give only casual attention to teaching students how to use legal thinking in the complexity of actual law practice. Unlike other professional education, most notably medical school, legal education typically pays relatively

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⁴ Part VIII of the Willborn et al. casebook indicates that there are four approaches to prevention of workplace injures and diseases and the compensation of those injuries and diseases that occur: (1) the labor market; (2) tort suits; (3) workers’ compensation; and (4) OSHA.

⁵ This chapter, supplemented with state-specific resources, could form the basis of a workers’ compensation course.

little attention to direct training in professional practice. The result is to prolong
and reinforce the habits of thinking like a student rather than an apprentice
practitioner, conveying the impression that lawyers are more like competitive
scholars than attorneys engaged with the problems of clients. Neither
understanding of the law is exhaustive, of course, but law school’s typically
unbalanced emphasis on the one perspective can create problems as the students
move into practice.  

This short seminar paper will not, needless to say, try to resolve this debate – a
controversy that has in fact sharpened even as the members of this panel prepare their remarks. One of the members of the panel (John Burton), however, remarks that his first maxim is that
“there is nothing more practical than theory.” If, for example, “you understand the concepts
underlying cash benefits in workers’ compensation, you will be a much better practitioner.”

II. Why Teach a Law School Workers’ Compensation Course?

Panel member Tom Domer poses this question at the outset – and to the same proffers
these reasons. To do so:

- Confirms/affirms your status as an “expert” in the field;
- Incidentally forces you to update/review relevant material/cases sufficiently to
teach;
- Provides you a substantial referral base of former students (most of whom will not
practice workers’ compensation, and all will later remember you as the professor);
- Provides a stable of vetted candidates for hiring;
- Satisfies the firm’s pro bono/community service requirements;
- Counts toward CLE credits (double for teaching);
- Provides an entrée to textbook authorship, and (for those of you are textbook
authors), provides a built-in annual readership; and
- Gives you elevated cocktail party status.

III. Methods of Teaching

Dave Torrey. This writer (Torrey) teaches two workers’ compensation law school
courses at the University of Pittsburgh School of Law. The syllabus for the course accompanies
this paper as an attachment. The first offering is a classic lecture class, two credits, and I utilize

7 WILLIAM M. SULLIVAN, LEE S. SHULMAN, ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PRACTICE OF
LAW p.6 (Carnegie Foundation for the Advancement of Teaching 2007), available at

8 David Segal, “What They Don’t Teach Law Students: Lawyering,” NEW YORK TIMES (Nov. 19, 2011), available at
lawyers.html?pagewanted=all. Segal states, “What [law students do] not get for all that time and money, was much
practical training. Law schools have long emphasized the theoretical over the useful, with classes that are often
overstuffed with antiquated distinctions, like the variety of property law in post-feudal England. Professors are
rewarded for chin-stroking scholarship, like law review articles with titles like ‘A Future Foretold: Neo-Aristotelian
Praise of Postmodern Legal Theory.’” Id.
the Little, Eaton & Smith book referenced above. A more advanced text I have used, on an *ad hoc* basis, is *Workplace Injuries and Diseases: Essays in Honor of Terry Thomason* (2005), edited by Professor Burton and his colleagues. (The chapter on workers’ compensation role in encouraging workplace safety is especially good for students.) The latest contemporary guide for the most intrepid students, particularly those interested in the socio-economic dynamic of the field, is the WCRI anthology, *Workers’ Compensation: Where Have We Come From? Where are We Going?* (R. Victor & L. Carruba, eds., 2010).

Since 1996, when I started teaching, the class runs from 3:30 p.m. to 5:30 p.m. each Wednesday. I do not utilize the Socratic Method, as I don’t think students want to have that type of interaction in a practical, upper-level class. Indeed, Pitt permits business school and other graduate students to take upper-division law school classes, and these individuals are likely not interested in exposure to the Socratic process. In addition, it may be that I am not particularly skilled at the Socratic back-and-forth. Panel Member John Burton, on the other hand, utilized “a mixture of the Socratic method and lectures with success among undergraduates and graduate students.”

I do encourage participation by asking students’ views and allowing questions. At the end of each class, meanwhile, I dispatch a student with a law-firm type research memorandum which focuses on one of the topics that has been addressed by the book. For example, when the text reaches the issue of whether recreational injuries can arise in the course of employment, I will dispatch a student to locate and then verbally present, at the next meeting, the leading Pennsylvania case. (For example – the law on whether an injury suffered while playing on the employer’s softball team is compensable.) I will use a power-point on some issue of special interest, typically one that I have prepared for a CLE. Otherwise I rely on lecture and the blackboard.

I encourage students to come downtown to observe workers’ compensation hearings to bring the whole subject to life. I have long accepted externs from the law school, usually students from the course who have shown a special interest in the field. It has been very gratifying to see some of these students become workers’ compensation lawyers.

The second offering is a Practicum, limited to five students who have taken the lecture course in the prior semester or who are signed up concurrently. The bulk of this course is in fact handled by a practicing claimant’s attorney. The students interface directly with the lawyer to learn about how law is practiced. They visit the attorney’s office and learn about the ins and outs of lawyering. They attend hearings and trial depositions of experts, either with the attorney or myself. After these events, we typically discuss what we have observed, the nature of the case, and what was informing the lawyers’ actions and behaviors.

The official description of the Practicum, from the Pitt Law catalog, is as follows:

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9 The attorney who handles the bulk of the Practicum is a recent CWCL inductee, Ms. Barbara Holmes of Blaufeld, Schiller & Holmes, Pittsburgh, PA.
The student undertakes this Practicum concurrently with the Workers’ Compensation course taught by Adjunct Professor Torrey. The Practicum is not a requirement of the Workers’ Compensation course.

The Workers’ Compensation course provides the student with an exposure to the history and theory of the law, a survey of the different state and federal systems, and the manner in which employers insure for workers’ compensation.

The Practicum works as a supplement, and provides the student with first-hand exposure to and activity in the field. The student will observe lawyers meeting with clients and evaluating their cases. In addition, the student will learn how lawyers communicate and/or work with physicians, and how employers contesting claims obtain and present rebuttal medical evidence. The student will be introduced to the practice of taking trial depositions of medical and other experts, and have the opportunity to attend a deposition to observe attorneys at work. The student will also have the opportunity to attend hearings and observe the procedures of the opposing attorneys and the judge.

In addition, the student will gain an understanding of the specific petitions that are advanced by the worker prosecuting the claim and the employer and/or insurance company that has contested entitlement. The participant in the Practicum will be instructed in how to prepare written legal argument to the workers’ compensation authorities, and briefs to the appeals courts. The student will also gain exposure to current practices surrounding evaluation of workers’ compensation cases for possible lump sum settlement.\(^\text{10}\)

_Terry Coriden._ (Note: The syllabus for Mr. Coriden’s course accompanies this paper as an attachment.)

Mr. Coriden, Past Chair of the Indiana Workers’ Compensation Board, teaches as an adjunct professor at the Indianapolis School of Law. He utilizes the Little, Eaton & Smith book referenced above. He reports that he spends an “inordinate amount of time” explaining to his students procedural matters involved in bringing the workers’ comp case from the beginning up to and including an appeal. He explains, notably, what a trial _de novo_ is, especially because that is still permitted at the full board level.

He also spends times explaining the necessities of filing both in a civil arena and in the workers’ compensation venue. “As noted in my syllabus, an explanation is given … about the ‘journey statute’ and how that statute does not affect administrative filings.” Finally, he spends considerable time making students fully understand the ethics of the practice of law within a relatively small workers’ compensation community, and the few judges/people that are involved within that community. “If you lose your integrity in front of any opponent and/or judge,” Mr. Coriden remarks, “your reputation or lack thereof will be known throughout the entire state within a matter of weeks. I [also] try to enlighten [the students] as to the difference between advocacy, your obligation to your client and your obligation to the system as a whole.”

\(^{10}\) See [http://www.law.pitt.edu/academics/courses/2124/17866](http://www.law.pitt.edu/academics/courses/2124/17866).
Mr. Coriden also spends a considerable amount of time explaining the practicalities of the practice of law and practice within the workers’ comp arena.

At Indianapolis University, they have ten classes, twice a week for five consecutive weeks, “and on two nights after class I invite a group of no more than twenty to a watering hole where we speak of the practice of law and any questions they may have concerning workers’ compensation. Mostly we generalize about the practice of law. I also agree at a time to pick up the entire cost of the meeting.”

**Tom Domer.** (Note: The course description and syllabus for Mr. Domer’s course accompanies this paper as an attachment.)

Mr. Domer, who teaches as an adjunct professor at Marquette University, explains that his course objective is to provide an “exposure to workers’ compensation theory and its relation to the tort system” and to assist the student in development of “analytical skills to recognize workers’ compensation issues.”

He specifically intends to enable course graduates to be able to practice workers’ compensation through appreciation of jurisdictional prerequisites, and knowledge of esoteria involved in:

- determining such things as “injury in the course of and arising out of employment”;
- mastering the criteria for traumatic and occupational diseases;
- gaining familiarity with benefits structure, including practice and procedure; and
- equipping graduates with skills and knowledge base to successfully try workers’ compensation cases and resolve them.

As for written material, he uses his own Thomson-Reuters/West book, Domer & Domer, *Wisconsin Workers’ Compensation Law* (2010-2011 edition), and classroom handouts as well.

**Hon. Patrice Squirewell-Jean.** (Note: The course description and syllabus for Judge Squirewell-Jean’s course accompanies this paper as an attachment.)

Judge Squirewell-Jean, who has taught at Texas Southern/Thurgood Marshall School of Law in Houston, uses the Larson law school text referenced above. She explains that the course covers the basic features of workers’ compensation laws generally – the course is hence not on Texas law specifically. She will, however, make occasional references to Texas law.

Her objectives in the course are “(1) to help students understand the basic framework of a workers’ compensation system, including the social and economic rationales of such system; (2) to analyze workers’ compensation cases; and (3) to become familiar with workers’ compensation terms of art.”
IV. Advice on How To Pitch a Law School to Start (or Renew) a Workers’ Compensation Course

Dave Torrey. A review of law school and law firm website postings, distilled in part in Appendix I, tends strongly suggests that most discrete classes on workers’ compensation are taught by adjunct professors. Thus, room exists for lawyers and judges to approach law schools and propose a course.

It is submitted that one need not be shy to take such action. As is well known, law schools tend to like providing practical courses via teaching by adjuncts, and they are surely under increased pressure to list more pragmatic courses. Having said all this, when this writer (Torrey) proposed a course in 1996 to his alma mater, the dean made no reply at all. When a colleague a couple of years later made a similar pitch, he received a tart (even churlish) written reply that the school could – thank you very kindly – design its own curriculum. It was only the in the last two years or so, notably, that yet another colleague successfully made a proposal to the law school in question. (Note: new dean in office.)

In any event, this writer’s eventually successful tactic was to propose the course directly to the dean of the other law school in town, buttressing the submission with evidence that I could organize and write. (I enclosed a copy of the brochure for my book on Pennsylvania workers’ compensation.) I also summarized for him the precise sub-topics that I proposed to address. I indicated, finally, that a book, DeCarlo & Minkowitz, Workers Compensation Insurance and Law Practice (LRP Publications 1989), was in print that would make an excellent textbook. And, of course, I enclosed a resume with special emphasis on articles I had published.

Since that time I have assisted two colleagues in successfully pitching law school courses. They utilized the existing Pitt Law course descriptions and syllabus I provided as models in preparing their own proposals. They also shared with existing faculty the information that an excellent casebook, Little, Eaton, & Smith, existed that was already in use in several law schools. The existence of this text, and the Larson casebook as well, should, indeed, be made known to the prospective law school. Provision of the same will be evidence that offering a workers’ compensation course is not some sort of exotic curricular leap but is actually rather mainstream.

I would think that law school faculties would be impressed if a teacher-candidate could show that he or she was proficient in the use of the latest classroom technology. One should recall that law school faculties can often be staffed with younger individuals who have been educated at the leading law schools, and they will likely be utilizing the latest hi-tech communication devices for teaching. And, of course, the current law school student population consists of young men and women who have completely grown up in the modern communications age. They will have little patience for a teacher who cannot show a power-point

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11 This is not, however, always true. For example, Professor Jeffrey Erickson of Dickinson/Penn State Law School is a full-time professor who this last school year taught a three-credit workers’ compensation course.
Tom Domer. To pitch the law school I have these hard recommendations:

1. Provide a complete proposed syllabus/outline/reading list/course objectives to the dean (samples attached) and ask for a meeting (preempts/salves dean’s concern re: your commitment).

2. Meet the dean face-to-face, emphasizing cost savings (you work pro bono or at a fraction of the full-time faculty wage).

3. Suggest how neatly workers’ compensation dovetails with the Labor, Employment, Health, and Torts classes already offered.

4. Note the felt need in the local legal community for lawyers trained in workers’ compensation and their increased likelihood of employment (enhancing the school’s placement percentage in a lousy hiring market).
## APPENDIX I

**LAW SCHOOLS FEATURING A WORKERS’ COMPENSATION COURSE**  
(December 28, 2011)  
Compiled by Torrey  
12/27/2011

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* Corrections and additions welcome: dtorrey@pa.gov.

○ AALS DIRECTORY OF LAW TEACHERS (2010-2011).

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<th>Year started</th>
<th>Text</th>
<th>Orientation</th>
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<tbody>
<tr>
<td>West Virginia</td>
<td>West Virginia University (Morgantown)</td>
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<td>Cady</td>
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<tr>
<td>Wisconsin</td>
<td>Marquette University (Milwaukee)</td>
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<td>Domer</td>
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<td></td>
<td>University of Wisconsin – Madison</td>
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<td>Neal</td>
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<tr>
<td>Wyoming</td>
<td>University of Wyoming (Laramie)</td>
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<td>Duff</td>
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<td>District of Columbia</td>
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</tbody>
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**APPENDIX II**

**PENNSYLVANIA LAW SCHOOLS**

**FEATURING A WORKERS’ COMPENSATION COURSE**

Compiled by Torrey: September 2012

<table>
<thead>
<tr>
<th>School</th>
<th>Teacher</th>
<th>Year started</th>
<th>Text</th>
<th>Orientation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dickinson/PennState</td>
<td>Erickson</td>
<td>2010</td>
<td>Little, Eaton, &amp; Smith</td>
<td>General, “trying to cover a broad swath, pointing out majority and minority viewpoints,” with some attention to Pennsylvania. Also, making “significant efforts to discuss medical terms, anatomy, pathology, etc.”</td>
</tr>
<tr>
<td>Duquesne University</td>
<td>Krebs</td>
<td>2010</td>
<td>Materials assembled by instructor, sub. nom. Krebs, <em>Cases and Materials on Workers’ Compensation</em></td>
<td>Pennsylvania – the course also addresses SSDI, Unemployment Compensation, OSHA regulation, Wage &amp; Hour, and Termination at Will</td>
</tr>
<tr>
<td>University of Pittsburgh</td>
<td>Torrey Holmes</td>
<td>1996</td>
<td>Little, Eaton, &amp; Smith</td>
<td>General and Pennsylvania + encouragement of students to attend hearings and trial depositions. A second course, called a “Practicum,” is entirely practical.</td>
</tr>
<tr>
<td>Villanova</td>
<td>Seelig</td>
<td>2002</td>
<td>Little, Eaton, &amp; Smith</td>
<td>General and Pennsylvania</td>
</tr>
</tbody>
</table>
APPENDIX III

Workers’ Compensation Course 2011
Marquette University

Thomas M. Domer, PhD, JD
Domer Law, S.C.
3970 N. Oakland Avenue-Suite 701
Milwaukee, WI 53211
(414) 967-5656

COURSE OBJECTIVE: Exposure to worker's compensation theory and its relation to tort system, develop analytical skills to recognize worker’s compensation issues. Enable course graduates to practice worker's compensation through appreciation of jurisdictional prerequisites, knowledge of esoteria involved in determining “injury in the course of and arising out of employment”. Mastery of criteria for traumatic and occupational diseases, familiarity with benefits structure, including practice and procedure, equipping graduates with skills and knowledge base to successfully try worker's compensation cases and resolve them.

COURSE MATERIAL: (1) Domer & Domer, Wisconsin Workers’ Compensation Law, 2010-2011 edition, West Publishing; (2) Classroom Handouts

COURSE REQUIREMENTS: Read assignments in handbook and cases. Participate in class discussion and presentation.

GRADING: Final examination score primarily determines course grade. Instructor reserves the right to adjust that grade by adding or subtracting points for class participation and performance (Ex: B+ exam may result in A- or A if superlative class performance is exhibited. B exam grade may result in B- if class performance is poor).

EXAM FORMAT: Objective answers and brief essays. Students may use course materials and their own notes during the in-class final exam.

CLASS ATTENDANCE: Helps substantially in understanding the substantive content of the course. Since the quality and quantity of class participation and performance is a component of course grade, attendance will be monitored.

SEATS: Pick a comfortable spot for the semester (helps with name recognition).

TAPING: No. Inhibits candor of class discussions. Alternatively, see a classmate for notes

OFFICE HOURS/ACCESSIBILITY: Anytime by phone (number above) or in person, by appointment, at office address, or at MU before or after class.

Tom/Marquette/2011/courseobjectives 2011
## APPENDIX IV

**MARQUETTE UNIVERSITY LAW SCHOOL**

**WORKER’S COMPENSATION COURSE**

**FALL, 2011 CLASS SCHEDULE**

**Mondays and Wednesdays**

11:30 A.M. TO 12:50 P.M.

**Thomas M. Domer, JD, PhD**

**Domer Law, S.C.**

3970 N. Oakland Avenue-Suite 701

Milwaukee, WI 53211

tom@domerlaw.com

(414) 967-5656

<table>
<thead>
<tr>
<th>CLASS #</th>
<th>DATE</th>
<th>SUBJECT</th>
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<tbody>
<tr>
<td>1</td>
<td>W 8/24</td>
<td>Intro to Worker’s Comp (Wisconsin Workers’ Compensation Law, Domer and Domer, 2010-2011 Edition, West Publications) (Ch. 1:1 to 1:19)</td>
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<tr>
<td></td>
<td></td>
<td>• Bires v. City of Mauston, 151 Wis. 2d 892, 447 N.W. 2d 100 (Ct. App, 1989)</td>
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<td>• Jenson v. Employees Mutual, 161 Wis. 2d 253, 468 N.W. 2d 1 (1991)</td>
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<td>• Johnson v. Wis. Lumber &amp; Supply Co., 203 Wis. 304, 234 N.W. 506 (1931)</td>
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<tr>
<td>2</td>
<td>M 8/29</td>
<td>W.C. History/development; Coverage, Jurisdiction. (Ch. 2 and ch. 3)</td>
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<td></td>
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<td>• Horton v. Haddow, 186 Wis 2d 174, 519 N.W. 2d 736 (Ct. App 1994)</td>
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<td>• In re Estate of Torres, 313 Wis. 2d 371, 756 N.W. 2d 662, 2008 WI App 113</td>
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<td>3</td>
<td>W 8/31</td>
<td>Employees (Ch. 7)</td>
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<td></td>
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<td>• Town of Russell Volunteer Fire Department v. LIRC, 223 Wis.2d 723, 589 N.W.2d 445 (Ct. App. 1998)</td>
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<td>• Kress Packing Co. v. Kottwitz, 61 Wis.2d 175, 212 N.W.2d 97 (1973)</td>
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<td>• Revels v. Industrial Commission, 36 Wis.2d 395, 153 N.W.2d 637 (1967)</td>
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<td>• Klusendorf Chevrolet-Buick, Inc. v. LIRC, 110 Wis.2d 328, 328 N.W.2d 890 (Ct. App. 1982)</td>
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<td>• United Way of Greater Milwaukee, Inc. v. DILHR, 105 Wis.2d 447, 313 N.W.2d 858 (Ct. App. 1981)</td>
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<td>• Borneman v. Corwyn Transport Ltd., 212 Wis. 2d 25, 567 N.W. 3d 887 (Ct. App. 1997)</td>
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9/05
No Class – Labor Day

9/07
Injury (Ch. 8)
- Brown v. Industrial Commission, 9 Wis. 2d 555, 101 N.W. 2d 788 (1960)
- Lewellyn V. DILHR, 38 Wis. 2d 43, 155 N.W. 2d 678 (1968)
- Lange v. LIRC, 215 Wis. 2d 561, 573 N.W. 2d 856 (Ct. App. 1997)
- Gabriel v. New London Family Medical Center, 2006 WL 1624505
- Penny Schuyler v. West Allis Memorial Hospital, Inc., 2004 WL 787523

9/12
Occupational Disease (Ch. 9)
- Kohler Co. v. DILHR, 42 Wis. 2d 396, 167 N.W. 2d 431 (1969)
- Traveler’s Ins. Co. v. DILHR, 85 Wis. 2d 776, 271 N.W. 2d 152 (Ct. App. 1978)
- Shelby Mutual Ins. Co. v. DILHR, 109 Wis. 2d 655, 327 N.W. 2d 178 (Ct. App 1982)
- General Casualty co. v. LIRC, 165 Wis. 2d 174, 477 N.W. 2d 322 (Ct. App. 1991)
- Kimberly-Clark Corp. v. LIRC, 138 Wis. 2d 58, 405 N.W. 2d 684 (Ct. App. 1987)

9/14
Mental Injuries (Ch. 10)
- Swiss Colony v. DILHR, 72 Wis. 2d 46, 240 N.W. 2d 128 (1976)
- International Harvester v. LIRC, 116 Wis. 2d 298, 341 N.W. 2d 721 (Ct. App. 1983)
- Probst v. LIRC, 153 Wis. 2d 185, 450 N.W. 2d 478 (Ct. App. 1989)
- Johnson v. Industrial Commission, 5 Wis. 2d 584, 93 N.W. 2d 439 (1958)
- Manitowoc County v. DILHR, 88 Wis. 2d 430, 276 N. W. 2d 755 (1979)
- Milwaukee County v. LIRC, 205 Wis. 2d 255, 556 N.W. 2d 340 (Ct. App. 1996)
- United Parcel Service v. Lust, 208 Wis. 2d 306, 560 N.W. 2d
Course of Employment: Coming and Going (Ch. 11:1 to 11:7)

- Tewes v. Industrial Commission, 194 Wis. 489, 215 N.W. 898 (1927)
- Doering v. State of Wis. LIRC, 187 Wis. 2d 472, 523 N.W. 2d 142 (Ct. App. 1994)
- Halama v. DILHR, 48 Wis. 2d 328, 179 N.W. 2d 784 (1970)
- Frisbie v. DILHR, 45 Wis. 2d 80, 172 N.W. 2d 346 (1969)
- Darnadell v. DILHR, 37 Wis. 2d 249, 155 N.W. 2d 43 (1967)
- Oscar Mayer Foods Corp. v. LIRC, 145 Wis. 2d 864, 429 N.W. 2d 89 (Ct. App. 1988)

Course of Employment: Breaks, Homework, Meetings (Ch. 11:8 to 11:12)

- American Motors Corp. v. Industrial Commission, 1 Wis. 2d 261, 83 N.W. 2d 714 (1957)
- Krause v. Western Casualty 3 Wis. 2d 61, 87 N.W. 2d 875 (1958)
- Marmolejo v. DILHR, 92 Wis. 2d 674, 285 N.W. 2d 650 (1979)
- Black River Dairy Products, Inc. v. DILHR, 58 Wis. 2d 537, 207 N.W. 2d 65 (1973)
- Augustine v. Kenosha Visiting Nurse, 2000 WL 1498228
- Schwab v. DILHR, 40 Wis. 2d 686, 162 N.W. 2d 548 (1968)
- Fry, In re Estate of, 239 Wis. 2d 574, 2000 WI App 239, 620 N.W. 2d 449 (Ct. App. 2000)

Course of Employment: Deviations (Ch. 11:13 to 11:18)

- Radtke Bros. v. Industrial Commission of Wisconsin, 174 Wis. 212, 183 N.W. 168 (1921)
- Grant County Service Bureau, Inc. v. Industrial Commission, 25 Wis. 2d 579, 131 N.W. 2d 293 (1964)
- Maahs v. Industrial Commission, 25 Wis. 2d 240, 130 N.W. 2d 845 (1964)
- Nigbor v. DILHR, 120 Wis. 2d 375, 355 N.W. 2d 532 (1984)
- Mosca v. Brookfield Motor Care Co/International Autos, 2005 WL 2600742
- Vollmer v. City of Milwaukee, 254 Wis. 162, 35 N.W. 2d 304 (1948)

Course of Employment: Travel (Ch. 11:19)

- City of Phillips v. DILHR, 56 Wis. 2d 569, 202 N.W. 2d 249 (1972)
- Hunter v. DILHR, 64 Wis. 2d 97, 218 N.W. 2d 314 (1974)
- Neese v. State Medical Society, 36 Wis. 2d 497, 153 N.W. 2d 552 (1967)
- Dibble v. DILHR, 40 Wis. 2d 341, 913 N.W. 2d 602 (1968)
- Bergner v. Industrial Commission, 37 Wis. 2d 578, 155 N.W. 2d 602 (1968)
- CBS, Inc. v. LIRC, 219 Wis. 2d 564, 579 N.W. 2d 668 (1998)
- Wisconsin Electric Power Co. v. LIRC, 226 Wis. 2d 778, 595 N.W. 2d 23 (1999)

11 M 10/03  Course of Employment: Special Trips (Ch. 11:20 to 11:25)
- Richardson v. Industrial Commission, 1 Wis. 2d 393, 84 N.W. 2d 98 (1957)
- Horvath v. Industrial Commission, 26 Wis. 2d 253, 131 N.W. 2d 876 (1965)
- Ide v. LIRC, 224 Wis. 2d 159, 589 N.W. 2d 363 (1999)
- Michels Pipeline Const., Inc. v. LIRC, 197 Wis. 2d 927, 541 N.W. 2d 241 (Ct. App. 1995)
- Secor v. LIRC, 232 Wis. 2d 519, 2000 WI App 11, 606 N.W. 2d 175 (Ct. App. 1999)

12 W 10/05  Arising Out of Employment: Hazards (Ch. 12:1 to 12:5)
- Goranson v. DILHR, 94 Wis. 2d 537, 289 N.W. 2d 270 (1980)
- Allied Manufacturing, Inc. v. DILHR, 45 Wis. 2d 563, 173 N.W. 2d 690 (1970)
- Kraynick v. Industrial Commission, 34 Wis. 2d 107, 148 N.W. 2d 668 (1967)
- Briggs & Stratton Corp. v. DILHR, 43 Wis. 2d 398, 168 N.W. 2d 817 (1969)
- Milwaukee Western Fuel Co. v. Industrial Commission, 159 Wis. 635, 150 N.W. 998 (1915)
- Brenne v. DILHR, 38 Wis. 2d 84, 156 N.W. 2d 497 (1968)

13 M 10/10  Arising Out of Employment: Medicine (Ch. 12:6 to 12:10)
- Semons Department Store v. DILHR, 50 Wis.2d 518, 184 N.W.2d 871 (1971)
- LEWELLYN V. INDUSTRIAL COMMISSION, 38 WIS.2D 43, 155 N.W.2D 678 (1968)
- Joseph Schlitz Brewing Co. v. DILHR, 67 Wis.2d 185, 226 N.W.2d 492 (1975)
- Burton v. Industrial Commission, 43 Wis.2d 218, 168 N.W.2d 196 (1969)
• Western Lime & Cement Co. v. Boll, 194 Wis. 606, 217 N.W. 303 (1928)
• Kill v. Industrial Commission, 160 Wis. 549, 152 N.W. 148 (1915)
• Lange v. LIRC, 215 Wis.2d 561, 573 N.W.2d 856 (Ct. App. 1997)

14 W 10/12 Exclusivity/3rd Party Claims (Ch. 13)
• Byers v. LIRC, 208 Wis.2d 388, 561 N.W.2d 678 (1997)
• Franke v. Durkee, 141 Wis.2d 172, 413 N.W.2d 667 (Ct. App. 1987)
• Ross v. Foote, 154 Wis.2d 856, 454 N.W.2d 62 (Ct. App. 1990)
• Wolf v. F & M Banks, 193 Wis. 2d 439, 534 N.W. 2d 877 (Ct. App. 1995)
• Miller v. Bristol-Myers Co., 168 Wis.2d 863, 485 N.W.2d 31 (1992)
• Berna-Mork v. Jones, 174 Wis.2d 645, 498 N.W.2d 221 (1993)
• DeMeulenaere v. Transportation Ins. Co., 116 Wis.2d 322, 342 N.W.2d 56 (Ct. App. 1983)

15 M 10/17 Benefits Calculation/Temporary Disability (Ch. 14, Ch. 15)
• Theuer v. LIRC, 2001 WI 26, 242 Wis.2d 29, 624 N.W.2d 110 (2001)
• Carr’s, Inc. v. Industrial Commission, 234 Wis. 466, 292 N.W. 1 (1940)
• Larsen Co. v. Industrial Commission, 9 Wis.2d 386, 101 N.W.2d 129 (1960)
• Brakebush Bros. Inc. v. LIRC, 210 Wis.2d 623, 563 N.W.2d 512 (1997)

16 W 10/19 Permanent Disability Benefits (Ch. 16)
• Mednicoff v. DILHR, 54 Wis.2d 7, 194 N.W.2d 670 (1972)
• Vande Zande v. DILHR, 70 Wis.2d 1086, 236 N.W.2d 255 (1975)
• Langhus v. LIRC, 206 Wis.2d 494, 557 N.W.2d 450 (Ct. App. 1996)
• Ruff v. LIRC, 159 Wis.2d 239, 464 N.W.2d 56 (Ct. App. 1990)
• Ody a. Milwaukee Transport, 2001 WL 891158
• Transamerica Ins. Co. v. DILHR, 54 Wis. 2d 272, 195 N.W. 2d 656 (1972)

17 M 10/24 Vocational Rehab; Disfigurement (Ch. 18, Ch. 19)
• Massachusetts Bonding & Ins. Co. v. Industrial Commission, 275 Wis. 505, 82 N.W.2d 191 (1957)
• Beloit Corp. v. State, LIRC, 152 Wis.2d 579, 449 N.W.2d

18
18 W 10/26 Permanent Total Disability (Ch. 17)
- Balczewski v. DILHR, 76 Wis. 2d 487, 251 N.W. 2d 796 (1977)
- Mireles v. LIRC, 2000 WI 96, 237 Wis. 2d 69, 613 N.W. 2d 875 (2000)

19 M 10/31 Medical Treatment (Ch. 20)
- Spencer v. DILHR, 55 Wis.2d 525, 200 N.W.2d 611 (1972)
- Wauwatosa, City of v. LIRC, 110 Wis.2d 298, 328 N.W.2d 882 ( Ct. App. 1982)
- Hermax Carpet Marts v. LIRC, 220 Wis. 2d 611, 583 N.W. 2d 662 ( Ct. App. 1998)
- Lisney v. LIRC, 171 Wis.2d 499, 493 N.W.2d 14 (1992)
- United Wisconsin Ins. Co. v. LIRC, 229 Wis.2d 416, 600 N.W.2d 186 ( Ct. App. 1999)

20 W 11/02 Death Benefits (Ch. 21)
- Pigeon v. DILHR, 106 Wis. 2d 135, 316 N.W. 2d 117 ( Ct. App. 1981)
- Krueger v. Industrial Commission, 237 Wis. 158, 295 N.W. 33 (1940)

21 M 11/07 Penalties, Safety and Bad Faith (Ch.25:1 to 25:21)
- Icke Construction Co. v. Industrial Commission, 30 Wis.2d 63, 139N.W.2d 841 (1966)
- Strack v. Great Atlantic & Pacific Tea Co., 35 Wis.2d 51, 150 N.W.2d 361 (1967)
- Milwaukee Forge v. DILHR, 66 Wis.2d 428, 225 N.W.2d 476 (1975)
Penalties: Refusal to Rehire (Ch. 25:22 to 25:38)
- Dielectric Corp. v. LIRC, 111 Wis.2d 270, 330 N.W.2d 606 (Ct. App. 1983)
- Universal Foods Corp. v. LIRC, 161 Wis.2d 1, 467 W.2d 793 (Ct. App. 1991)
- Great Northern Corp. v. LIRC, 189 Wis.2d 313, 525 N.W.2d 361 (Ct. App. 1994)
- Hill v. LIRC, 184 Wis.2d 101, 516 N.W.2d 441 (Ct. App. 1994)
- Beverly Enterprises, Inc. v. LIRC, 250 Wis.2d 246, 2002 WI App. 23, 640 N.W.2d 518 (Ct. App. 2001)
- De Boer Transportation Inc., v. Swenson, 2011 WI 64 (2011)

Practice and Procedure (Ch. 26)
- Theodore Fleisner, Inc. v. DILHR, 65 Wis.2d 317, 222 N.W.2d 600 (1974)
- Argonaut Ins. Co. v. LIRC, 132 Wis.2d 385, 392 N.W.2d 837 (Ct. App. 1986)
- Superior, City of v. DILHR, 84 Wis.2d 663, 267 N.W.2d 637 (1978)

Review and Appeal (Ch. 27)
- Borum v. Industrial Commission, 13 Wis.2d 570, 108 N.W.2d 918 (1961)
- Braun v. Industrial Commission, 36 Wis.2d 48, 153 N.W.2d 81 (1967)
- Schiller v. DILHR, 103 Wis.2d 353, 309 N.W.2d 5 (Ct. App. 1981)
- Miller Brewing Co. v. LIRC, 173 Wis.2d 700, 495 N.W.2d 660 (1993)
- Bumpas v. DILHR, 85 Wis.2d 805, 271 N.W.2d 142 (Ct. App. 1978), affirmed, 95 Wis.2d 334, 290 N.W.2d 504 (1980)
- Leist v. LIRC, 183 Wis.2d 450, 515 N.W.2d 268 (1994)

Offsets (Ch. 24)
- Michael’s Pipeline Const. v. LIRC, 309 Wis. 2d 470, 2008 WI App. 55, 750 N. W. 2d 485 (Ct. App. 2008)
- Miller Brewing Co. v. LIRC, 173 Wis. 2d 700, 495 N.W. 2d
660 (1993)


**W 11/23** No Class – Thanksgiving Holiday

**26 M 11/28** Settlements (Ch. 28)

- LaCrosse Lutheran Hospital v. Oldenburg, 73 Wis.2d 71, 241 N.W.2d 875 (1976)
- Employers Health Ins. Co. v. Tesmer, 161 Wis.2d 733, 469 N.W.2d 203 (Ct. App. 1991)
- Schenkoski v. LIRC, 203 Wis. 2d 109, 552 N.W. 2d 120 (Ct. App. 1996)

**27 W 11/30** Settlements/Fees (Ch. 28, Ch. 29)

- Cranston v. Industrial Commission, 246 Wis. 287, 16 N.W. 2d 865 (1944)

**28 M 12/05** STUDY DAY

FINAL EXAM –
APPENDIX V

[Syllabus]

Worker’s Compensation Law
Summer 2011 Syllabus
Professor G. Terrence Coriden
Phone: 812-375-9800
E-mail: tcoriden@coriden.com

Book:
Little, Joseph; Eaton, Thomas A; Smith, Gary R., Worker’s Compensation, Cases and Materials; 5ed. (West Group, 2004).

Class Schedule: Tuesday and Thursday; 5:30-7:50, Room 245

Exam: The exam will consist of hypothetical fact patterns to which students must provide answers in essay format.

Office Hours: You may contact my administrative assistant, Jill Rader, at jrader@coriden.com for any questions.

Professor: G. Terrence Coriden

Policies
• This is a survey course in Worker’s Compensation; it will introduce you to a wide variety of information as it pertains to worker’s compensation law including case law, remedies, statutory interpretation, and history. The casebook will be an introduction to general worker’s compensation law and we will also use Indiana case examples.
- Attendance is required, if any student misses more than two class sessions they will be involuntarily withdrawn from the course.
- The semester’s grade will be based on the final exam. I will have the discretion to rise or lower the final grade one level (e.g. B to B+ or B-) based on class participation.
- Relax and Have Fun!!!!

Assignments:

<table>
<thead>
<tr>
<th>Class</th>
<th>Subject</th>
<th>Reading Assignment</th>
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<tr>
<td>Class 1</td>
<td>Tues May 10&lt;sup&gt;th&lt;/sup&gt;</td>
<td>History and Policy</td>
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<td></td>
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<td>Elements of a worker’s compensation claim</td>
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<td>Class 2</td>
<td>Thurs May 12&lt;sup&gt;th&lt;/sup&gt;</td>
<td>Chapter 3</td>
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<td>Damrosch v. There Duffield Fire Works Display Co, 133 N.E. 525 (1922)</td>
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<td>Johns-Manville, Inc. v. Throne, 141 N.E. 229 (1923)</td>
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<td>Smith v. Menses Shoe Co, 188 NE 592 (1934)</td>
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<td>Tues May 17&lt;sup&gt;th&lt;/sup&gt;</td>
<td>Chapter 4</td>
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<td>I.C. § 22-3-6-1</td>
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<td>Thurs May 19&lt;sup&gt;th&lt;/sup&gt;</td>
<td>Chapter 5</td>
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<td>E. I. Du Pont De Nemours Co. v. Lilly, et al. 79 N.E.2d 387 (1948)</td>
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<td>Betas’ v. Snow-Hill Coal Corporation, 189 N.E.2d 833 (1963)</td>
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<td>Class 5</td>
<td>Tues May 24&lt;sup&gt;th&lt;/sup&gt;</td>
<td>Arising out of Employment</td>
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<td>Chapter 5</td>
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<td>E. I. Du Pont De Nemours Co. v. Lilly, et al. 79 N.E.2d 387 (1948)</td>
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<td>Betas’ v. Snow-Hill Coal Corporation, 189 N.E.2d 833 (1963)</td>
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| Class 6 | Thurs May 26<sup>th</sup> | Arising out of Employment | Evans v. Yankeetown Dock, 491 N.E.2d 969 (1986)  
Consolidated Products Inc. v. Lawrence, 521 N.E.2d 1327 (1988)  
| Class 7 | Tues May 31<sup>st</sup> | Accident  
Discernability  
Legal Cause v. Medical Cause  
| Class 8 | Thurs June 2<sup>nd</sup> | Pre-Existing Conditions  
Admissibility of Evidence  
Journeyman Rule  
Apportionment  
Complications and Accidents During Medical Treatment  
Refusal to Accept Medical Treatment | Chapter 6  
North Clark Community Hospital v. Goines, 545 N.E.2d 30 (1989)  
Glenn v. Harrison County, 552 N.E.2d 485 (1990) |
| Class 9 | Tues June 7<sup>th</sup> | Compensation and Benefits (Lecture)  
Dependency  
Administration of W/C Laws  
Modifications  
Statute of Limitations  
Second Injury Fund | Chapter 7  
Chapter 9  
Chapter 10 |
| Class 10 | Thurs June 9<sup>th</sup> | Exclusive Remedy  
Third Party Suits | Chapter 11  
| Class 11 | Tues June 14<sup>th</sup> | Review | Final Exam: June 23<sup>rd</sup>, 2011 at 5:30p.m. |
APPENDIX VI
UNIVERSITY OF PITTSBURGH
SCHOOL OF LAW

SYLLABUS AND EXAMINATION POLICY
WORKERS’ COMPENSATION LAW
Spring Semester, 2011

Text:  J. Little, T. Eaton & G. Smith, Workers’ Compensation: Cases and Materials
       (West 5th ed. 2004)

Additional Reading (Recommended)

Abraham, The Liability Century: Insurance and Tort Law from the Progressive Era to 9/11
       (Harvard Univ. Press. (2008))

Fishback & Kantor, A Prelude to the Welfare State: The Origins of Workers’ Compensation
       (Univ. Chicago Press (2000))

Witt, The Accidental Republic: Crippled Workingmen, Destitute Widows, and the Remaking of
       American Law (Harvard Univ. Press (2004))

Gabel, Escalating Inefficiency in Workers’ Compensation Systems: Is Federal Reform the Answer?,
       34 WAKE FOREST LAW REVIEW 1083 (1999)

McCluskey, The Illusion of Efficiency in Workers’ Compensation Reform, 50 RUTGERS LAW
       REVIEW 657 (1998)

Lubove, Workmen’s Compensation and the Prerogatives of Voluntarism, 8 LABOR HISTORY 254
       (1967)

Torrey & Greenberg, PENNSYLVANIA WORKERS’ COMPENSATION: LAW & PRACTICE (West 3rd ed.
       2008) (Chapter 1) (Volumes 6 thru 9 of West’s Pennsylvania Practice)


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WEEK ONE

1. Protocols: KINDLY REFRAIN FROM WEB USE DURING THE LECTURE

2. Introductory Comments

3. Identifying American Workers’ Compensation Laws
   
   A. State Acts [Model Act, p. 617 of text]
      * including Pennsylvania Workers’ Compensation Act
        (77 P.S. § 1 et seq. (three volumes))
   
   B. Federal Employees Compensation Act (FECA)
      (5 U.S.C. § 751 et seq.)
   
   C. Longshore & Harborworkers Compensation Act (LHWCA)
      (33 U.S.C. § 901 et seq.) – p. 603 of text
   
   D. The Defense Base Act
      (42 U.S.C. § 1651) (requiring that employees of U.S. contractors, regardless of citizenship, have workers’ compensation coverage at U.S. military bases)
   
   E. Federal Employers Liability Act (FELA)
      (railroad workers in interstate commerce)
   
   F. Merchant Marine Act of 1920 (“Jones Act”)
   
   G. Federal Coal Mine Health & Safety Act of 1969 (Black Lung Act)
      (30 U.S.C. § 901)

4. Nature of Workers’ Compensation Laws and Their Essential Tenets

5. The Role of Insurance; Different Insurance Arrangements Among Jurisdictions

6. Overview of the Law (Based on Text Table of Contents)
WEEK TWO

Chapter 1. Employees’ Remedies Prior to and Apart From Workers’ Compensation (History – Common Law as Applied to Work Injuries – Legislative Reforms Short of Workers’ Compensation – OSHA)

Not required: Armstrong case, p. 23;
Dept. of Public Health case, p. 33
Breen case, p. 37

WEEK THREE


WEEK FOUR


Not required: National Automobile & Cas. Ins. Co. case, p. 131
Hirsch v. Hirsch Bros. case p. 135

WEEK FIVE

Chapter 4. Injuries Occurring Within the Course of Employment (Requirement that Injury Must Occur at an Appropriate Time and Place)

Not required: Kaplan case, p. 190

WEEK SIX


Not required: In re LeBlanc’s Case, p. 247
WEEK SEVEN

Chapter 6. Accident and Occupational Disease (The Compensable Event – How the Term “Accident” Has Been Interpreted – Infectious Disease – Occupational Diseases – Cardiac Cases – Mental Stress)

WEEK EIGHT

Chapter 7. Effects of Causes and Conditions Independent of the Work Relation (Import of Preexisting Weakness or Disease – “Compensable Consequences” – Complications During Medical Treatment – New Injury Versus Old Injury – Refusal to Accept – Medical Treatment – Suicide)

Not required: *Food Distributors* case, p. 368

WEEK NINE

Chapter 8. Compensation for Non-Fatal Injury (Benefits – Medical and Rehabilitation – Disability Benefits – “Second Injury” Funds – Coordination of Benefits)

Not required: *All cases*

Chapter 9. Death Benefits (Benefits – Dependents Entitled)

Not required: *All cases*

WEEK TEN


WEEK ELEVEN & WEEK TWELVE

WEEK THIRTEEN

1. Ethical Implications of Handling Litigated Workers’ Compensation Matters
2. Opportunities for Pro Bono Services in Workers’ Compensation

WORKERS’ COMPENSATION LAW

EXAMINATION POLICY

At the conclusion of the course, the student will be examined by way of an essay test comprised of two or three extended hypothetical fact patterns, reflecting a typical work injury situation, followed by questions concerning the rights and liabilities of both employer and employee under general principles of workers’ compensation law.

The examination will be “closed book.” A bonus question will be added, based specifically on the subject of one of the topical handouts that was discussed during the course.

The student may type his or her exam on a laptop computer consistent with law school protocols.