



# NEVADA WORKERS' COMPENSATION CHRONICLE

Department of Business & Industry ([B&I](#))  
A Publication of the Workers' Compensation Section ([WCS](#))

Division of Industrial Relations ([DIR](#))  
Winter Edition (Dec. 2015 - Feb. 2016)

This newsletter is not intended to provide legal advice to the reader. Legal opinions or interpretations of statutes and regulations referenced should be sought from legal professionals.

## WORKERS' COMPENSATION SECTION

Impartially serving the interests of Nevada Employers and Employees by providing assistance, information, and a fair and consistent regulatory structure.



**Norma Ramirez**, WCS Henderson, Employer Compliance Unit Investigator, (seated) takes a moment with **Sharianne Ootson**, City of North Las Vegas, Business License Division. ECU staff will regularly be on hand to answer compliance questions at the NLV Business License Division.

## Looking at Another Angle of the Coming and Going Rule

A question addressed periodically in this newsletter is, "What about coming and going" in workers' comp law? We have decided to revisit this question in light of a recent WCSHelp question received: "Are you covered for WC [workers' compensation] when traveling home from a job? I'm a caregiver and was injured in an accident after I left my last client." Nevada's workers' compensation statutes state that if an employee who is acting in the course and scope of his or her employment is injured that worker is entitled to compensation. Most injuries occur on a specific job site or at the business' location. However, the accidents that occur in other places raise thorny coverage questions. Workers' compensation coverage, as noted below in the Nevada Supreme Court's discussion of tort law, does not cover an employee's commute to and from work.

Questions that this WCSHelp query raise include: "Are caregivers paid mileage and/or salary or other compensation after seeing their final client? Is there a central office to which caregivers report that serves as a hub for handing out assignments and then the final client is considered the end of the work day? Were any non-work related stops made on the way home between the last client and the accident?"

So what's the answer? As Dock Williams notes in his Straight Talk Col-

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## Orientation Now Offers CLE Credits



The Nevada Board of Continuing Legal Education has accredited the WCS Basic Orientation training for two general CLE credits. Nevada attorneys and judges who attend the Basic Orientation should note that credits for the two-hour training are general credits only and do not count for CLE ethics or substance abuse credit. To obtain the credit, interested Basic Orientation attendees need to complete a certification form provided at the training which requires listing their Bar#. WCS staff will send the completed form to the Nevada Board of Continuing Legal Education for processing.

Currently, the Basic Orientation is tentatively slated to be offered in 2016 on January 21 and July 28. Anyone interested in workers' compensation training should sign up on the WCS email list for the latest class notifications, and schedule changes:

<http://dirweb.state.nv.us/WCS/handouts/electronicenroll.htm>.

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umn (page 2), sometimes the complexity and unknowns of a situation defy a definitive WCSHelp answer, and we suggest that the writer consult a workers' comp attorney for more information. This is one of those cases.

### Basics of Coming and Going – Special Errands

Back in 2008, the Nevada Supreme Court elaborated on Coming and Going, especially as related to "special errands" in the case of *Bob Allyn Masonry v. Murphy*. In most cases, if you commute to work and you make it to the company's parking lot, your coverage begins then. Likewise when you leave work, you are covered until you leave the lot. Here are some examples of the basic coming and going rules in workers' compensation:

If your boss sends you on an errand such as going to the bank or the office supply store, then you are covered the entire time you are gone unless you deviate from that errand and take care of some personal business, such as picking up your dry cleaning or stopping by the grocery store. These are questionable deviations.

If a salesman in a company car is visiting clients and he's involved in a car accident during the day, no question, he's covered. But if he's allowed to take the car home at night and on weekends, then is he covered if the accident occurs while he is going to the local 7-Eleven to get a Slurpee? Probably not! But what if that 7-Eleven is also a client of his? Then he might be covered.

A third scenario might be if an employee takes the company's banking with her when she goes home at night and is also doing personal banking when the accident occurs. She is probably covered because the employer had knowledge that the errand was being done as a "special errand."

What about the employee who is sent out of state for a short time? Is he covered 24-hours a day? Many insurers would probably deny these claims

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## STRAIGHT TALK: Observations and Advice from DIR Regulators

### Workers' Compensation Section Helpdesk has the Answers


Providing information for those involved with Nevada Workers' Compensation has been a long standing objective of the Workers' Compensation Section. We have information sheets, brochures, newsletters and many other items for anyone needing them. Our webpage <http://dirweb.state.nv.us/WCS/wcs.htm> affords access to the majority of this material.



We created a mass distribution email service to provide a channel for material beneficial to large audiences. This outlet provides notices of upcoming training, changes in requirements and procedures, forthcoming regulation workshops and hearings and other general information. You may enroll in the service at <http://dirweb.state.nv.us/WCS/handouts/electronicenroll.htm>

The above resources deliver a broad range of assistance and experience sizable participation. In an effort to promote personal involvement, we initiated a workers' compensation helpdesk service designed for emails covering workers' compensation questions; Helpdesk - WCS [wcs-help@business.nv.gov](mailto:wcs-help@business.nv.gov). We receive a range of questions concerning personnel matters to payment issues. We refer a portion of these to other suitable State entities or commissions. Quite a few inquiries involve the requirement for workers' compensation coverage for businesses. Although we do not always provide a definitive answer given the complexities and unknowns involved, we do have material designed to assist in the required-coverage determination process and will offer suggestions where appropriate. For the remainder of questions, we will normally acknowledge receipt within one working day and forward to the proper subject-matter expert within our Section for a quick response.

After receiving these questions for several years, I still am amazed by some of them. One recent example asked about a requirement for community service to compensate claim-related time off. The person's manager had told him this might be required. (No such requirement exists.) Other misconceptions include who pays for workers' compensation claim costs. We are often told "my employer is not supplementing my entire salary." (The insurer pays benefits and salary replacement is calculated at 2/3 of an injured employee's average monthly wage.) Or we're asked if an injured worker is required to use his or her leave for injury-related appointments. (Yes, for most appointments, but consult [NRS 616C.477](#) for exceptions.) Our webpage provides a specific section titled "[Injured Employees Page](#)." The page is designed to be a "one-stop shopping spot" for injured employees.

However, contrary to our desires, we are quite sure answers to all questions are not available in the printed material on the website. So keep those WCS-Help emails coming and we will endeavor to provide the answers as quickly as we can. 

**Dock Williams, WCS Programs Manager**

## MISSION STATEMENT

The purpose of the Workers' Compensation Section is to impartially serve the interests of Nevada employers and employees by providing assistance, information, and a fair and consistent regulatory structure focused on:

**Ensuring the timely and accurate delivery of workers' compensation benefits.**

**Ensuring employer compliance with the mandatory coverage provisions.**



## Carson City Training Note

In an attempt to expand workers' compensation training opportunity, selected training will be made available on a video link from our Henderson, Nevada Office. The viewing opportunity will be available in the Workers' Compensation Conference room on the 4<sup>th</sup> Floor of 400 W. King Street, Carson City, Nevada. A limit of 10 seats will be made available.

Available training sessions are :

**Workers' Compensation Orientation –**  
Thursday, January 21<sup>st</sup>–9:30am and 1:30pm

**2016 Medical Fee Schedule–**  
Wednesday, February 17<sup>th</sup>–9:30am and 1:30pm

To make reservations contact Kimberly Williams Phone (775) 684-7265 or email [kawilliams@business.nv.gov](mailto:kawilliams@business.nv.gov)

### Proof of Attendance for Employers and Employees

Starting in 2016, and in keeping with [NRS 616A.402](#), those Nevada employers and employees (i.e. attending WCS training as interested Nevada employees, not in any other capacity such as a claims examiner or risk manager, etc.) who complete certain training classes will receive written documentation of their attendance. Employers will receive a certificate for posting and employees will receive a wallet-sized card. Eligible classes include the Basic Orientation, tentatively set for January and July and specialized training for employers and employees slated for March and September. As always, those interested in up-to-date training notifications should subscribe to the WCS email list:

<http://dirweb.state.nv.us/WCS/handouts/electronicenroll.htm>

### Winter Dec.2015-Feb.2016 Workers' Compensation Training Sessions

The WCS Orientation is a comprehensive overview of workers' compensation in Nevada. All training sessions are free and open to the public

#### SOUTHERN NEVADA

1301 North Green Valley Parkway  
Suite 200, Henderson, Nevada 89074

✉ [aljohnson@business.nv.gov](mailto:aljohnson@business.nv.gov)

☎ (702) 486-9019

#### Basic Orientation:

1/21/2016 at 9:30 am and 1:30 pm

#### 2016 Medical Fee Schedule:

2/17/2016 at 9:30 am and 1:30 pm



## Pay Attention Now or Pay Later

Whether your business is small or large, handling the expense and meeting the statutory requirements of workers' compensation can be challenging. However, running a business without workers' compensation insurance is bad for business. The consequences of not following the law are not worth the risks.

Workers' compensation insurance is a no-fault coverage for employees suffering a job-related injury or illness. Workers' compensation insurance is designed to help protect employers from personal liability and potential costs associated with job-related injuries. Because Nevada has "exclusive remedy," the injured workers' benefits are set forth in statute, generally an injured worker cannot sue an employer for work related injuries if the employer has secured workers' compensation insurance as required by Nevada law.

The law requires Nevada employers to secure and maintain workers' compensation insurance for their employees. There are few exceptions to this requirement. Employers meet this requirement of the law by:

1. Securing and maintaining a workers' compensation insurance policy with a licensed insurer authorized by the Division of Insurance to write workers' compensation policies in Nevada; or

2. Becoming self-insured for workers' compensation (a self-insured employer may administer its own workers' compensation claims or contract with a third party administrator to provide these services); or be legally exempt pursuant to statute to provide workers' compensation insurance.

Some exceptions are outlined in NRS 616.A110.

Angelia Yllas

Compliance Enforcement Supervisor

## Reporting Reminders

**FY15 WCS Workers' Compensation Claims Activity Report and Insurer Information Form** pursuant to

NRS 616B.009 and NAC 616B.016 are due **January 8, 2016**. Links to the blank forms can be found on our Web site at <http://dirweb.state.nv.us/wcs/wcsanrp.htm>.

Don't forget!

**OD-8 Occupational Disease Claim Report** (NRS 617.357) forms for reportable claims in calendar year 2015 are due by December 31, 2015. All insurers that submitted zero OD-8 forms in calendar year 2015 must file a Statement of Inactivity for calendar year 2015. The Occupational Disease Claim Report Statement of Inactivity form is due by January 8, 2016. This form can be found on our Website at [http://dirweb.state.nv.us/WCS/Occupational/OCC\\_DISEASE\\_STMT\\_OF\\_INACTIVITY.pdf](http://dirweb.state.nv.us/WCS/Occupational/OCC_DISEASE_STMT_OF_INACTIVITY.pdf).

Failure to submit the required reports may result in administrative fines. Information on reporting requirements and forms can be found on our Web site at <http://dirweb.state.nv.us/wcs/wcs.htm> under "Insurer and TPA Reporting" or you can contact the WCS Research and Analysis Unit by phone at (702) 486-9080 or by email at [wcsra@business.nv.gov](mailto:wcsra@business.nv.gov).

### Reporting Questions:

Contact WCS Research and Analysis at (702) 486-9080 or [WCSRA@business.nv.gov](mailto:WCSRA@business.nv.gov).

### CONTACT US

Department of Business and Industry  
Division of Industrial Relations  
Workers' Compensation Section

#### SOUTHERN NEVADA

(702) 486-9080 / Fax: (702) 990-0364

#### NORTHERN NEVADA

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<http://dirweb.state.nv.us/WCS/wcs.htm>

[WCSHelp@business.nv.gov](mailto:WCSHelp@business.nv.gov)

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if they occurred outside of normal work hours. The burden of proof would be on the injured worker to show he was acting within the course and scope of his employment.

### Nevada Supreme Court on 'Special Errands'


The Court's 2008 ruling includes the following discussion: "... It is well established that employers are not liable for injuries sustained by employees due to the hazards of daily living. Accordingly, when determining whether an injury that is sustained outside of the actual period of employment or off of the employer's premises nonetheless arose in the course of employment, we consider 'whether the employee [was] in the employer's control.' To ensure that employers are not held liable for injuries sustained when an employee is outside of the employer's control, this court has adopted the going and coming rule, which originated in tort law and 'preclude[s] compensation for most employee injuries that occur during travel to or from work.'"

The Court further contends that "...Under the special errand exception, injuries that are normally exempted from coverage on the ground that they did not arise in the course of employment are brought within the scope of coverage if they occur while the employee is in transit to or from the performance of an errand outside the employee's normal job responsibilities."

In addition: "... we [the Court] now clarify that just as injuries sustained while traveling to perform a special errand arise in the course of employment, so too do injuries sustained when returning from the performance of the special errand. But an employer's liability certainly cannot extend indefinitely beyond the performance of a special errand. It is for the fact-finder to de-

termine, taking into account the totality of the circumstances in each individual case, when the employee ceased returning from the special errand and resumed a journey solely personal in nature. In making this determination, the appeals officer should consider whether the location at which the injuries occurred was on a portion of the roadway that the employee would not have otherwise been if he had not been performing the special errand. An injury will not be compensable if it is sustained after the employee has resumed the personal portion of his journey, as indicated by the employee's location at the time of the accident on a portion of the roadway where the employee would have been traveling anyway to perform a task solely personal in nature. Injuries sustained after the employee is no longer returning from the special errand do not fall under its exception and are thus noncompensable under the going and coming rule."

Obviously, this issue is quite complex. Consult an attorney for specific applicability. This ruling is available in document #08-11434:

<http://caseinfo.nvsupremecourt.us/public/caseView.do?csIID=15896>. 

### Michael J. Brooks

Editor


## News from the Medical Unit



### Medical Fee Schedule

Many people are probably aware the Nevada Medical Fee Schedule (MFS) is currently being revised. New additions the DIR is considering include a dental fee schedule and reimbursement for independent medical evaluations. Updates will be posted on the DIR website at <http://dirweb.state.nv.us/WCS/wcs.htm>.

### C-4 Forms Clarification

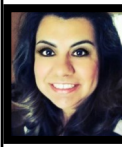
C-4 Forms should not be completed on students who suffer a work related injury as part of their training. Students are not considered employees. Most schools have either a special school insurance to cover students or require students to carry their own insurance. If you have questions regarding a specific school's policy, please contact the school directly. 


## Hails and Farewells

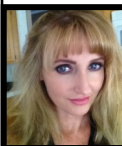
**Angelique Norte**, who served as the administrative assistant III to the WCS Chief Administrative Officer and Southern District Manager, said good-bye to WCS Henderson in October. Angie was a key player in many aspects of WCS office operations, and we wish her the best as she returns to the food industry for an exciting promotion opportunity. Both she and her delicious birthday cupcakes will be missed.



A warm welcome to **Pamela Santizo**, our new DIR Henderson Office reception area Administrative Assistant. She is originally from El Paso, Texas where she was born and raised until age 10. She's lived in Las Vegas for 30 years but still considers herself a Texas girl. Before coming to DIR, she worked at a physical therapy office for 5 years. Pam is excited to see where her new career path will lead. In her spare time, she enjoys going for long motorcycle rides with her husband, spending time with her three girls, or watching her favorite football team, the Dallas Cowboys.



An October move from the DIR Legal Section brings **Vanessa Skrinjaric** to the WCS Henderson Insurer/TPA Audit Unit. Vanessa spent 18 years as a legal research assistant in the office of the Nevada Attorney for Injured Workers. She originally hails from Budapest, Hungary where she was born into a Ringling Brothers' traveling circus family. Later, her family settled in Las Vegas and she went on to graduate from UNLV with a Political Science degree. In her spare time she is an avid soccer fan and movie watcher. 



*Happy*  
**New Year**

### Holiday Office Closures:

**Christmas Day**  
Friday, December 25, 2016

**New Year's Day**  
Friday, January 1, 2016

**Martin Luther King Jr. Day**  
Monday, January 18, 2016

**Presidents' Day**  
Monday, February 15, 2016