STATE OF NEW JERSEY
WORKERS’ COMPENSATION
COMPENDIUM OF LAW

Prepared by
Esther Omoloyin, Esq.
Goldberg Segalla
902 Carnegie Center
Suite 100
Princeton, NJ 08540
Tel: (609) 986-1345
eomoloyin@goldbergsegalla.com
www.goldbergsegalla.com
PART ONE:

Definitions of Employer and Employee

Pursuant to the New Jersey Workers’ Compensation Act, employer is “synonymous with master, and includes natural persons, partnerships, and corporations.” An employee “is synonymous with servant, and includes all natural persons, including officers of corporations, who perform service for an employer for financial consideration.” N.J.S.A. 34:15-36 specifically excludes longshore workers and casual employees from coverage. Unless covered under a federal program, all New Jersey employers must have workers’ compensation insurance coverage or be approved as a self-insured employer. A contractor will be liable for compensation for injury to the subcontractor’s employee if the subcontractor did not have workers’ compensation insurance at the time of the accident.

Generally, employment starts when the employee arrives at his place of employment, and terminates upon leaving the place of employment. N.J.S.A. 34:15-36. Injuries that occur during routine travel to and from the place of business are not compensable. However, there is a “special mission” exception for employees who are away from the normal place of business and engaged in work duties, and a “travel time” exception for an employee who is paid for the time spent traveling. N.J.S.A. 34:15-36.

Compensable Conditions

The two main types of workers’ compensation claims in New Jersey are traumatic and occupational disease claims. For traumatic incidents, pursuant to N.J.S.A. 34:15-7, where an injury or death arises out of and in the course of employment, the employer must compensate the injured employee, regardless of fault. Idiopathic events, caused by purely personal conditions that have no connection to work, are not compensable. While these idiopathic events themselves are not compensable, injury resulting from damages caused by the employer’s premises is compensable.

In addition to proving that his disease occurred during the course of his employment and arose from the employment, an employee bringing an occupational disease claim must also show proof that the occupational disease is related, to a material degree, to conditions characteristic of his employment. Deterioration or degeneration of body parts due to the natural aging process is not compensable under New Jersey workers’ compensation. N.J.S.A. 34:15-31.

Whether alleged in a traumatic or occupational setting, cardiovascular and cerebrovascular claims require a more rigorous burden of proof when compared to other claims. In Fiore v. Consolidated Freightways, 140 N.J. 452 (1995), the New Jersey Supreme Court discusses the standard for establishing causal relationship in an occupational heart claim. The employee must prove that: (1) the disease is due in a material degree to causes arising out of the workplace that are characteristic of or peculiar to the job; (2) the work exposure exceeds
the exposure caused by the petitioner’s personal-risk factors (e.g., smoking); and (3) the work exposure substantially contributed to the development of the heart disease. An employee filing an occupational cardiac claim is therefore required to show that his work effort was greater than the strain of his daily living outside of work. For a traumatic cardiovascular and cerebral vascular claim, intensity and duration of the work event preceding the injury will be measured against the activity done outside of work. *Hellwig v. J.F. Rast & Co.*, 110 N.J. 37 (N.J. 1988).

*Goyden v. State Judiciary*, 256 N.J. Super. 438 (App. Div. 1991) *aff’d*, 128 N.J. 54 (1992) is the case most often cited for laying out the standard for occupational psychiatric disability claims. To prove a causal relationship between the worker’s employment and psychiatric disability, five elements must be present: (1) objectively verified stressful work conditions (petitioner’s testimony alone is not enough); (2) the employee must react to the conditions as stressful; (3) there must be work conditions peculiar to the work environment (the conditions cannot be common to everyone); (4) there must be objective medical evidence that the work conditions were the material cause of the psychiatric disability (pre-existing psychiatric problems will make this requirement more difficult to prove); and (5) the work conditions must be a material cause of the alleged disability.

Permanent disability benefits are owed to an injured employee for function loss or impairment, especially as relates to effect on work and earning capacity. There is no compensation for pain and suffering. When it comes to permanent partial disability, the employee’s benefits will depend on his degree of functional loss. *Perez v. Pantasote*, 95 N.J. 105 (1984). The injured employee must first show (1) objective, medical evidence of restriction of the body, or its member or organ, restricting function; and (2) either substantial impairment of non-work-related activities or a material degree of lessening of work ability. N.J.S.A. 34:15-36.

**Excluded Injuries or Claims**

The statutory defenses to a workers’ compensation claim include incidents involving self-inflicted injuries, intoxication, willful failure to make use of protective devices, recreational or social activities, and horseplay or skylarking. N.J.S.A. 31:15-17. If the employer can prove that intoxication or unlawful use of controlled dangerous substances is the sole cause of a work accident, the claim will not be compensable. N.J.S.A. 34:15-7. This requirement that the intoxication or controlled substances must be the only cause of the injuries makes this defense difficult to prove. If the injured employee can show any other cause(s) in combination with the intoxication or controlled substance, the accident will be deemed compensable.

This Compendium outline contains a brief overview of certain laws concerning various litigation and legal topics. The compendium provides a simple synopsis of current law and is not intended to explore lengthy analysis of legal issues. This compendium is provided for general information and educational purposes only. It does not solicit, establish, or continue an attorney-client relationship with any attorney or law firm identified as an author, editor or contributor. The contents should not be construed as legal advice or opinion. While every effort has been made to be accurate, the contents should not be relied upon in any specific
factual situation. These materials are not intended to provide legal advice or to cover all laws or regulations that may be applicable to a specific factual situation. If you have matters or questions to be resolved for which legal advice may be indicated, you are encouraged to contact a lawyer authorized to practice law in the state for which you are investigating and/or seeking legal advice.