

Workers' compensation pays vital benefits to workers who are injured on the job and therefore facing a loss of income. Thankfully, most workers' compensation claims are straightforward – you file your claim and you are paid the benefits you are entitled to until you are able to return to work, regardless of any finding of fault. However, workers' compensation claims become far more complicated when the injury was caused by a third party who is unrelated to your employer. If you have been injured on the job by a third party, we recommend that you contact a [workers' compensation lawyer](#) as soon as possible.

The Limits of Workers' Compensation

Almost all workers in North Carolina are covered by workers' compensation. In the event that a worker is injured due to an accident while on the job and unable to work, they may be entitled to benefits that will cover their [medical expenses](#) plus a portion of their [lost wages](#). As mentioned above, workers' compensation is awarded on a no-fault basis, meaning that workers do not have to prove that their employer or anyone else was at-fault in causing the accident.

Workers' compensation benefits are designed to be paid more quickly than a lawsuit. A workers' compensation claim can be processed in a matter of days, while a personal injury lawsuit can take months or even years to be resolved. Unfortunately, you cannot recover all of your lost wages or receive compensation for things like pain and suffering in a workers' compensation claim.

Workers Injured by Third Parties Have Additional Rights

The situation becomes more complex, however, if the worker's injury was caused by a third party. In that case, it is possible to both receive workers' compensation and pursue a personal injury lawsuit. A couple of examples may help illustrate the difference:

- Albert is a [road construction worker](#). He is injured when a trench collapses and is unable to work. He receives workers' compensation benefits to pay for his medical expenses and a portion of his lost wages but later

discovers that the trench was unstable because it was negligently constructed. Even though his employer may have been negligent, he cannot pursue a claim against his employer because workers' compensation is his only remedy against his employer.

- Barry is also a road construction worker on the same job site. He is injured when a motorist strikes him with his car after ignoring various signs indicating that drivers should reduce their speed and drive cautiously. Severely injured and unable to work, Barry receives workers' compensation to cover some of his lost wages and his medical expenses. In addition, he can pursue a personal injury claim against the motorist to recover any losses that were not covered by workers' compensation such as lost wages that were not covered by workers' compensation, as well as the pain and suffering arising from his injuries.

While Barry has additional rights when it comes to recovering compensation, Barry's claim is not entirely his own.

What is a Workers' Compensation Lien?

Under North Carolina law, Barry's employer may have certain rights to compensation that he receives from the motorist who struck him. To put it another way, his employer can assert a lien against money that Barry is awarded from his lawsuit against the motorist. His employer's lien represents a legal right to reimbursement of the benefits that were paid to him.

A Workers' Compensation Lien Protects the Employer's Rights

As you can see, the interplay between workers' compensation and third-party liability can be extremely complex. You must account for any benefits that you received via workers' compensation, but also be aware that you cannot be paid the same benefits twice. Meanwhile, you must also make sure that all of your losses are included in your third-party claim that you may be entitled to. An experienced workers' compensation attorney can ensure that you get all of the compensation you are entitled to without infringing upon your employer's rights.

Reducing the Workers' Compensation Lien

When dealing with third-party claims, disputes can arise over how much of the proceeds of your claim should be paid to the insurance company that paid your workers' compensation benefits. Thankfully, North Carolina law provides an avenue for injured workers to seek judicial review of the lien being asserted by the workers' compensation insurance carrier.

Whether the claim has been reduced to judgment or the parties have agreed to a settlement, the employee can file a petition with the court requesting that the lien be reduced or extinguished completely. The judge will have discretion

in determining the appropriate amount of the lien but must consider factors such as whether the insurance carrier will need to continue paying benefits in the future, the total amount that the employee would recover, and the need for the matter to be conclusively resolved. The process involves a complex analysis and, to be successful, experienced advocacy from a knowledgeable workers' compensation lawyer.

Contact Martin & Jones if You Have Been Injured at Work

Whether a third party caused your injury or it was simply an unavoidable accident, a workers' compensation lawyer from our firm can help you navigate the issues in your case so that you can get the compensation you deserve. Call us today at 800-662-1234 or [contact us online](#) to schedule a free consultation to discuss your case and what we can do for you.