



# TOP TEN TIPS AND TRAPS FOR NORTH CAROLINA WORKERS' COMPENSATION

*by Kevin Bunn*

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After twenty years of practicing workers' compensation law in North Carolina I have seen just about every mistake an injured worker can make. These mistakes range from failing to file their claim, to settling when they should not have, and everything in between. Below are my Top Ten Tips and Traps for North Carolina Workers' Compensation Claims. Please feel free to call or email if you have a question about North Carolina workers' compensation law.


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NC Workers' Compensation Law*

## 1. BE CAREFUL WHO YOU LISTEN TO

Injured workers often find themselves receiving advice from a number of people, some good intentioned, and some not. Your boss may tell you he does not have workers' compensation insurance. An insurance adjuster may tell you your case is not covered, that you did not file in time, or that you cannot have a second medical opinion. Friends and family members may offer advice based on how their own workers' compensation case turned out. Be careful. Do your own research, and if you have questions consult an attorney who is a Board Certified Specialist in North Carolina Workers' Compensation Law. If you suffered a serious on the job injury the stakes are too high to rely on questionable advice, even if it is well intentioned.

## 2. GIVE PROMPT NOTICE OF YOUR INJURY AND PROPERLY FILE YOUR CLAIM



If you are injured on the job in North Carolina it is your responsibility to give your employer written notice of the injury or illness and to file the claim with the North Carolina Industrial Commission. An injured worker should provide their employer written notice of an injury by accident as soon as possible, but generally within thirty days. In addition, the claim must be filed with the Industrial Commission. Do not rely on your employer to file your claim. The rules governing notice and filing are complex and vary by situation. Many otherwise

valid claims are lost because the employee did not meet the notice or filing requirements.

## 3. CAREFULLY DESCRIBE HOW THE INJURY OCCURRED

Because workers' compensation in North Carolina only covers injuries that are related to an accident, be very careful when describing how the injury occurred. An "accident" in North Carolina workers' compensation law is an unexpected event outside of the normal work routine. In general, an employee who is injured doing his or her regular job in the regular way has not sustained a compensable injury by accident. For example a convenience store employee who sustains a shoulder injury trying to catch a box that has shifted and is falling may find their claim denied if they report only that the injury occurred while "moving a box." Moving a box is not an accident, but catching one that is falling is. There are different rules for back injuries. So be careful in describing how your injury occurred, especially when filing your claim with the Industrial Commission and when giving a statement to a representative of the employer or their insurance company.

#### 4. GET PROMPT MEDICAL ATTENTION AND TELL THE DOCTOR HOW YOU GOT HURT



Often the single most important factor in winning a denied workers' compensation claim is a record of medical treatment right after the accident. If your injury is an emergency go to the hospital. Otherwise, your employer's workers' compensation insurance company should direct you to a physician. If the insurance company will not respond and approve medical treatment then get it on your own. Put the initial visit on your medical insurance if you need to, or pay out of pocket if you can. The longer the delay the more likely the claim will be denied. Once you get to the doctor be sure to accurately

describe how and when the injury occurred. If you do your employer a favor and tell the doctor you did not get hurt at work, when you really did, your claim will be denied.

#### 5. INSIST ON PROPER MEDICAL TREATMENT

The employer or its workers' compensation insurance company gets the first shot at directing medical treatment. But injured workers have important rights to medical treatment under the North Carolina Workers' Compensation Act. An injured worker can ask the Industrial Commission to order a second opinion or, in some situations, a change in authorized treating physicians. Employees also have the right to a second opinion on a disability rating with a physician of their choice. If your doctor is not listening to you or communicating with you it may be time to try a different doctor.

#### 6. GET ACCURATE WRITTEN WORK RESTRICTIONS

If you have physical limitations because of your workplace injury or condition you should get an out-of-work note or written work restrictions every time you go to the doctor. A determination of when you can return to work, and the work you can return to, is critical in your workers' compensation case. This analysis begins with regular, accurate work notes from the authorized treating physician.

#### 7. UNDERSTAND YOUR WAGE REPLACEMENT BENEFITS

Under the best circumstances workers' compensation only replaces about two-thirds of the pre-injury wage. So it is very important that an injured worker receive all of the wage replacement benefits they are entitled to. The calculation of Average Weekly Wage is one of the most important factors in a workers' compensation case. Be sure all income is factored in, including overtime and per diems. The proper calculation of the injured worker's average weekly wage can be complicated, but it is critical. Make sure it is right.

Amount Billed	Discount	Cost Of Care	Health Plan Paid	You May Owe
180.00	73.80	106.20	0.00	106.20
100.00	35.75	64.25	0.00	64.25
			0.00	64.25



## 8. UNDERSTAND THE PROPER ROLE OF NURSE CASE MANAGERS AND VOCATIONAL PROFESSIONALS

The employer or their workers' compensation insurance company has the right to hire a nurse case manager to help coordinate an injured workers medical treatment. In some cases the employer or insurance company will hire a vocational rehabilitation professional to assist the injured worker in returning to work. It is critical that an injured worker understand the proper role of these professionals. Nurse case managers and vocational rehabilitation professionals are required to exercise independent judgment in their efforts. Many take this requirement seriously. But unfortunately some see themselves as the agent of the employer or workers' compensation insurance company and can create real problems with your claim.



## 9. BE CAREFUL IN SETTling YOUR CLAIM

Before you settle your North Carolina workers' compensation case should understand the value of what you are giving away, including the right to any future medical and wage replacement benefits. It is also very important to consider the effect of a settlement on other benefits that may be available now or in the future, including Medicare, Medicaid, health insurance, Social Security Disability and other private disability plans. Failing to coordinate all of the benefits to which an injured worker may be entitled can lead to tragic consequences. And at the end of the day, some workers' compensation cases simply should not settle.

## 10. DO NOT WAIT TOO LONG TO TALK TO AN ATTORNEY



The North Carolina workers' compensation system is complex, sometimes unnecessarily so. The employer or its insurance company will have a trained adjuster or attorney handling the claim from the beginning. Some mistakes in a workers' compensation claim cannot be easily undone. So if you are injured on the job it is a good idea to consult a workers' compensation attorney, especially if you have a serious injury, miss a significant amount of work, are having trouble with medical treatment, are considering a settlement, or your case is denied. Be sure the lawyer you talk to is a Board Certified Specialist in North Carolina Workers' Compensation Law.



## KEVIN BUNN

*BOARD CERTIFIED EXPERT IN NORTH CAROLINA WORKERS' COMPENSATION LAW*

Kevin Bunn is a life-long resident of North Carolina. He graduated from Enloe High School in Raleigh, N.C., and in 1986 he received a Bachelor of Arts degree from the University of North Carolina at Chapel Hill. In 1989, Kevin earned his Masters degree in Public Administration from UNC, where he was awarded the Robert House Fellowship. In 1993, Kevin received his Juris Doctor from the UNC School of Law.

Kevin has practiced law in Cary, N.C., since 1993. He is licensed to practice in State and Federal courts as well as the Cherokee Tribal Courts. Kevin focuses his practice on workers' compensation claims, exclusively representing injured North Carolina workers. He has been designated as a Board Certified Specialist in Workers' Compensation Law by the North Carolina State Bar.

Kevin is a member of the North Carolina Advocates for Justice where has served as Chair of the Workers' Compensation Section. He regularly presents continuing legal education classes on NC workers' compensation and is the author of the chapter on death claims in North Carolina Workers' Compensation Law: A Practical Guide to Success at Every Stage of a Claim.

In recognition of his preeminent standing among local attorneys for both legal knowledge and professionalism, Kevin has been awarded the prestigious "AV" rating from Martindell-Hubbell. AVVO has assigned Kevin a perfect 10 "Superb" rating.

NC workers' compensation attorney Kevin Bunn regularly represents injured North Carolina workers before the North Carolina Industrial Commission (NCIC). His North Carolina workers' compensation practice, often referred to as "workman's comp" or "workmen's comp," focuses on a wide variety of workplace injuries, including occupational diseases, back injuries, falls, automobile accidents while on-the-job, as well as hip, leg, knee, ankle, foot, shoulder, arm elbow, wrist and hand injuries.

Kevin represents workers injured on the job in North Carolina, as well as workers who are injured outside North Carolina while working for a North Carolina company. He is currently accepting new NC workers' compensation clients and offers a free consultation to injured NC workers.

## CONTACT KEVIN BUNN TODAY!

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