

Is It A Workers' Compensation Case Or A Personal Injury Matter?

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I was injured in a car accident after leaving my work. I went to one attorney who said this is a workers' compensation issue, and another attorney who said this was a personal injury case. Who's right?

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Dear LL:

The answer to your question depends on the facts surrounding your car accident. In workers' compensation cases, there is a law known as the Premises Rule which means that if an employee's accident occurred on company premises or in an area controlled by the employer the accident is considered to be work related. If the accident occurs on a public street or highway and not on company premises then the accident, with a few exceptions, is not work related.

If you were paid for your travel time or if you were directed by your employer to go to another job site after leaving your work then you would fall under an exception to the Premises Rule. Unless you were performing a personal errand at the time of your accident, your accident after leaving work would be considered a workers' compensation case. Even if the accident was your fault you could still pursue a workers' compensation case because the issue of fault does not apply in compensation cases. If, however, you were not paid travel time and you were on your way home then your accident would not be considered work related and you cannot file a workers' compensation case.

Because you left work you have the right to pursue a personal injury case if the other driver was at fault in the accident. For example, if you were stopped in traffic and your vehicle was struck in the rear

by another vehicle or if the other vehicle went through a red light then you have the right to pursue a personal injury case. If the accident was your fault then your personal injury case may be dismissed by a judge.

You have the right to bring a claim for personal injury against the other driver whether your accident was work related or not. If you have both a workers' compensation case and a personal injury case arising from the same accident then the workers' compensation insurance company has a right, by New Jersey Statute, to recoup some of the monies that it paid for medical bills or money paid to the injured worker from the personal injury case.

Because the right to pursue a workers' compensation or personal injury case, or both, depends upon the facts, you should contact an attorney familiar with workers' compensation and personal injury matters.