

The Going and Coming Rule in Workers' Comp: Important Factors to Consider

If you are injured during a work commute, during work-related travel, or while away from your main worksite, the going and coming rule and its exceptions will probably determine whether your injury could be the basis of a successful workers' compensation claim. Basically the rule provides that a work injury received during a typical commute to or from work or during a personal trip away from work during the work day will not be covered by workers' comp. There are, however, many exceptions to this rule, and this jurisprudence varies from state to state. A going-and-coming question takes many factors into account and the outcome is highly dependent on the facts of the case and on the law of your state.

If you incur such an injury, here are some examples of the types of questions your lawyer, the workers' compensation agency, or both should ask:

- Were you on the trip for purely personal purposes?
- Did the reasons for your trip include both personal and business purposes? If so, would it still have been made if the personal reasons were eliminated?
- Did you deviate from a personal trip to do an errand for your employer?
- Did your intoxication contribute to the cause of the injury? If so, was the intoxication from alcoholic beverages served at a work function?
- Did your misconduct or illegal conduct contribute to the cause of the injury?
- Did the injury occur during your normal work commute or during a personal errand away from work during the work day?
- Was the trip against your employer's wishes?
- Was the trip made at your employer's request?
- Was the travel part of your job duties?
- Did your employer furnish the vehicle you were driving or pay for mileage?
- Was the travel entirely paid for by your employer?
- Was the travel between multiple worksites or between buildings owned or controlled by your employer?
- Was there anything unusual or special about the trip, considering the time, place, and duties?
- Were there any particularly dangerous or hazardous aspects to the trip?
- Even if the injury occurred off your employer's property, was it during the entrance to or exit from your place of employment?
- What benefit did your employer gain from your travel?
- Do you have a regular workplace?
- Do you have regular work hours?
- Are you an on-call employee?
- Do you have a home office or do you do work at home?
- Were you attending an employer-sponsored activity?
- Was reimbursement for commuting expenses or payment for commuting time part of your work contract?

- Were you required to drive your own vehicle to work for use in job duties?
- Were you carrying work-related materials with you and did they present any special risks?
- Did the trip mutually benefit you and your employer?
- Were you on a special employment assignment?
- Were you injured in the parking lot at work?
- Were you at or traveling to a conference, class, or training at the request of your employer?
- During the trip, did you in any way disobey the directions of your employer?
- Was your injury typical of those received by people in your line of work?

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