
Workers' Compensation Retaliation

Gray Reed's Employer Handbook

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Whether you are a subscriber to workers' compensation or not, an employee's claim of injury is not just sad for the employee, but it interferes with an employer's ability to conduct business. You need the problem resolved and the employee back or their position filled so you can stay on track.

How long do you have to keep their position open? Should you hire a temp? Can you fire them? What if they were not really all that good of an employee anyway? And, worst of all, what if you think the employee is milking it?

These questions cross not just workers' compensation laws, but also the Americans with Disabilities Act and Family Medical Leave Acts. Time off for a work injury can count as FMLA – and may be a disability under the ADA. It is just one more in a long list of quagmires for Texas employers. And, if handled wrong can lead to a worker compensation retaliation claim.

Take a look at [this month's piece](#) to get some advice on what NOT to do.