

Is a car accident in company car personal injury or workers' comp?

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Dear Ask the Attorney:

I was in a car accident on my way from home to work in a company car. While sitting at a red light on Route 46 I was hit from behind and badly injured. I have been unable to work since. Would this be considered a workers compensation suit or a personal injury suit? I just want my bills paid while I am out of work.

JF

Our Guest Blogger today is Thomas F. Dorn, Jr. Esq. Tom is a Certified Civil Trial Attorney and a Certified Workers' Compensation Attorney who is Counsel to the firm of Einhorn, Barbarito, Frost & Botwinick, PC. He concentrates his practice on Workers' Compensation and Personal Injury Issues.

Dear JF:

Your question raises several potential issues involving what court your case should be filed in and can only be answered in a generic way until more facts are provided.

In general, if you are on your way to work and have not yet arrived at your job then you would the right to file a personal injury negligence case in New Jersey Superior Court located in the county where you live. You cannot file a workers' compensation case because you had not arrived at your workplace.

The fact that you were in a company car does not change things unless you were performing a work related task at the time of the accident. There is a New Jersey Statute known as the "premises rule",

which states that employment starts when an employee arrives at his or her place of employment and ends when the employee leaves the place of employment. There is an exception if you are operating a company car and you are on a special mission or if your company pays for your travel time. For example, if you were going in your company car to pick up documents or equipment at another company before going to your job then you would have been performing business authorized by your employer (a special mission) and under these facts you could pursue a workers' compensation case. If you are paid by your employer for your travel time from your home to your work then you fall under an exception and your accident would be treated as a workers' compensation case. However, because most employers do not pay travel time to and from work for their employees you cannot, under the premises rule, file a workers' compensation case. The question you sent does not specify this, so I cannot answer with certainty if it is a workers compensation or personal injury case.

However, because you are currently unable to work and are concerned about paying your bills, you have the right to file for temporary disability for the time that a medical provider advises you to remain out of work. If you have a private disability plan through your job then you can apply for disability benefits for the period of time that you cannot work. If you do not have a private disability plan you can apply for New Jersey State Temporary Disability benefits with the assistance of your treating medical provider. Furthermore, you may be eligible for income loss continuation benefits through the car insurance on your company car or through any automobile insurance in your household.

With respect to medical treatment for your injuries, if your injury was not considered a workers' compensation case then your medical treatment should be paid by any household automobile insurance that you have or, if you or your spouse do not own a motor vehicle then possibly the insurance company for your company car will be responsible for your medical bills. You should contact a personal injury attorney to receive advice as to how you should proceed with your disability claim and claim for medical treatment.

Because the answer to your question depends on the facts you should consult with a workers' compensation attorney or a personal injury attorney to help you determine your rights and determine what steps you should take now.

Thomas F. Dorn, Jr., Esq.

“Ask the Attorney” is a blog in which answers to your legal questions submitted to asktheattorney@einhornlawyers.com may be answered. The answers to the questions are posted every Thursday and are for informational purposes only and are not to be construed as legal advice or the creation of an attorney-client relationship. The facts of each case is different, therefore you should seek competent legal representation.