Workers’ Compensation Law Syllabus
Willamette University College of Law

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Texts


Required Supplementary Materials: Selected Supplemental cases to be provided. Note – Various assignments refer to sections of Oregon Revised Statutes chapter 656 (The Oregon Workers’ Compensation Law). Although this course is not specifically on Oregon law, review of these statutes will be useful in understanding the concepts discussed in class.

Guests: Attorneys and Administrative Law Judges who practice in this field of law will attend from time to time to describe the practice of law in this area. There will also be a DVD presentation of a Workers’ Compensation mock administrative hearing provided during class.

Grading and Final

The course grade will be determined primarily by a 2 hour final examination (flex schedule, closed book). The format is essay. 90% of score is based on exam and 10% is based upon class participation. Scores may be adjusted up or down by one gradation (i.e. from a C+ to a C or B-) based upon attendance and participation.

Attendance

Classes are Mondays from 5:30 pm to 7:30 pm (with a 10 minute break after the first hour). Any student failing to attend at least 20 of the scheduled 26 hours will not be allowed to take the final exam unless unforeseen circumstances are found to exist.

Assignments

The following schedule is subject to change. However, everyone is expected to be prepared to cover the assigned material on the designated date.
Week 1 – August 22, 2016

I. OVERVIEW OF WORKERS' COMPENSATION
   A. Basic Features and Development of Workers’ Compensation System
      1. TEXT: pp 3 - 25

II. SPECIFIC PROVISIONS
   A. STATUTE: ORS 656.012; 656.005
   B. Exclusivity of Remedy
      1. TEXT: pp 541 - 543 (not including §22.05)
      2. STATUTE: ORS 656.017 – 020
   C. Uninsured or Non-electing Employer
      1. TEXT: pp 559 - 562
   D. Employer Misconduct and Intentional Injury by Employer
      1. TEXT: pp 538 (§21.03 note only), 495 (intro note to §21.01 only)

Week 2 – August 29, 2016

III. EMPLOYMENT STATUS (Employee v. Independent Contractor)
   A. STATUTE: ORS 656.005(13), (30), 656.023
   B. Employee Defined
      1. TEXT: 279 (§12.01 intro note only)
   C. Element of Contract
      1. TEXT: pp 306 - 307 (§12.05 notes only)
   D. Element of Remuneration
      1. TEXT: pp 309-311 (McCray case)
      2. SUPPLEMENTAL CASE: Whitlock v SIAC, 233 Or 166 (1962).
   E. Control Test
      1. TEXT: p 286 (§12.02 note)
   F. Relative Nature of the Work Test
      1. TEXT: p 292 (§12.03 note only)
   G. Employment Relationship; Lent Employees/Dual Employments
      1. TEXT: pp 324 (§12.06) - 331
      2. STATUTE: ORS 656.018(4),(5)

Week 3 – September 12, 2016

I. EMPLOYMENT STATUS CONTINUED
   A. Specific Inclusions and Exemption
      1. TEXT: pp 333-358
      2. STATUTE: ORS 656.02; 656.029
II. DEFINING COMPENSABILITY - Part 1A
A. Arising Out of Employment Generally
   1. TEXT: pp 29 - 39
   2. STATUTE: ORS 656.005(7)
B. Arising Out Of Employment: Types of Risks
   1. TEXT: 41 – 43 (through problems)

Week 4 – September 19, 2016

III. DEFINING COMPENSABILITY - Part 1B
A. Arising Out Of Employment: Types of Risks, continued
   1. TEXT: pp 43 - 48
B. Arising Out Of Employment: Assaults
   1. TEXT: pp 49 - 73
   2. STATUTE: ORS 656.005(7)(b)(A)
C. Risks Personal To Employee
   1. TEXT: pp 75-85

Week 5 – September 26, 2016

I. DEFINING COMPENSABILITY - Part 2A
A. Course of Employment: Time and Place Issues
   1. TEXT: pp 103 - 144
   2. STATUTE: ORS 656.005(7)
B. Course Of Employment: Misconduct Issues
   1. TEXT: pp 461 - 494

Week 6 – October 3, 2016

I. DEFINING COMPENSABILITY - Part 2B
1. Course of Employment: Activity
2. TEXT: pp 149 - 154 ("Problems") 157 - 169, (§8.06) 176 - 181 (through “Problems”)

Week 7 – October 10, 2016

I. DEFINING COMPENSABILITY - Part 2C
1. Course of Employment: Activity, part 2
2. TEXT: pp 185 – 187, 195 (Thornton) – 200, 201-203
II. ACCIDENTAL INJURY (v. OCCUPATIONAL DISEASE)
   A. Personal Injury By Accident
      1. TEXT: pp 209 - 213, 218 (§9.03) - 229
   B. Mental and Nervous Injury/Disease
      1. TEXT: pp 259 -276

   Week 8 – October 17, 2016

I. PANEL OF EXPERTS

   Week 9 – October 24, 2016

II. OCCUPATIONAL DISEASE
   A. Occupational Disease
      1. TEXT: pp 231 - 244
      2. STATUTE: ORS 656.802; 656.804; 656.807
   B. Special Proof Problems
      1. TEXT: pp 249 (§10.03) - 258, 649 (§31.03) - 656
      2. STATUTE: ORS 656.266
      3. SUPPLEMENTAL CASE: Uris v. State Compensation Department, 247 Or 420 (1967)

   Week 10 – October 31, 2016

III. SUBSEQUENT “INDEPENDENT” INJURIES
   A. Range of Compensable Consequences
      1. TEXT: pp 87 - 100
   B. Successive Disabilities
      1. TEXT: pp 399 - 400, 735 - 738
      2. STATUTE: ORS 656.273; 656.308
   C. Second Injury Funds
      1. TEXT: pp 403 - 404
   D. Suicide
      1. TEXT: pp 487 (§20.07) - 492 (Problems)
      2. STATUTE: ORS 656.156

IV. PROCEDURE FOR FILING CLAIMS
   A. Notice of Claim
      1. TEXT: pp 641 - 649, omit all cases
   B. Processing Claims

V. TYPES OF BENEFITS
A. Medical and Rehabilitation Services
   1. TEXT: pp 425 - 437
   2. STATUTE: ORS 656.245, 656.010

B. Benefits paid to injured worker
   1. TEXT: pp 361 - 388 (through §15.02 only)
   2. STATUTE: ORS 656.262, 656.268, 656.210 - 214, 656.206

I. DEPENDENCY & DEATH BENEFITS
   A. Dependency
      1. TEXT: pp 439 - 453
      2. STATUTE: ORS 656.005(2), (5), (10)
   B. Death Benefits
      1. TEXT: pp 456 - 457
      2. STATUTE: ORS 656.204, .208, .218, .226

Week 11 – November 7, 2016

II. THIRD PARTY ACTIONS
   A. Theory of Third Party Recovery and Definitions
      1. TEXT: pp 556 - 566 (§25.04) – 574 (at[3]), 579 (at “[2]”) - 603
      2. STATUTE: ORS 656.154; 656.576 - .591
   B. Subrogation
      1. TEXT: pp 605 - 616
      2. STATUTE: ORS 656.593 - .596

III. OTHER TOPICS
   A. Res Judicata and Judicial Estoppel; Judicial Estoppel and the ADA
      1. TEXT: pp 661 - 663
   B. Agreements and Settlements
      1. TEXT: pp 681 - 696
   C. Federal Longshore Act
      1. TEXT: 711 (§32.06) - 718

Week 12 – November 14, 2016

VI. REVIEW of CLE Video – How to Try a WC Case.

Week 13 – November 21, 2016

IV. REVIEW FOR FINAL

FINAL EXAM – November 28, 2016 FLEX