Workers’ Compensation Syllabus
Law 607 – Spring 2016

Professor Jason R. Caraway

I. Class Time & Room

Room 164
Tuesdays 6:30-9:00

II. Contact Information

Prof. Jason R. Caraway
SIU LAW/Kolker Law Offices, P.C.
School of Law Office: Room 254
carawaylaw@hotmail.com

I will attempt to keep office hours approximately 30 minutes to 1 hour prior to the beginning of each class. Please feel free to e-mail me with any questions you may have. E-mail is the best way to reach me. I will also be amenable to setting up specific meeting times if need be.

III. Purpose & Scope of the Course

Workers’ Compensation law was, and continues to be, an integral part of American jurisprudence. It is uniquely a statutory creation and thus varies in different proportions in each state. Often times, the statutory schemes developed are tied to the political realities of the state for which they apply. As such, this course will utilize a number of sources ranging from the text to specific statutes and cases I will provide for your review. While certainly some of you will no doubt leave Illinois to practice law, this Course will focus heavily on the Illinois Workers’ Compensation Act and its recent changes. Regardless of whether you practice in Illinois or elsewhere, the core concepts we will discuss together will be a transferable knowledge base.

I will be teaching the class, as you will learn, from a practitioner’s viewpoint. I hope this method which will utilize some “nuts & bolts” type instruction, will not only aid you in this course, but start a thought process of the mechanics of practicing law. Due to its statutory nature, Workers’ Compensation law lends itself to this form of instruction. I also hope my practical approach will peak your interest in the course material by taking the broad concepts and applying those concepts to specific sets of facts and issues of law.
IV. Attendance

As you already know the Law School has a mandated attendance policy. That policy is detailed in §III.5(f-g) of the School of Law Rules. Pursuant to that policy you will only be allowed to miss 3 classes throughout the semester. We will meet for a total of 14 classes. I strongly encourage you to attend each and every class session as we will be covering large amounts of material in each session. Failure to comply with the School of Law attendance policy shall result in the sanctions detailed in the afore cited rules.

V. Required Text & Statutory Sources

1. Illinois Workers’ Compensation Guidebook
   Presbrey & Werts, 2016 ed.

2. The Illinois Workers’ Compensation Act
   820 ILCS 305/et seq.

3. Various Cases which will be posted on TWEN/Syllabus

VI. Recommended Sources

1. Workers’ Compensation & Employee Protection Laws Nutshell

2. Rules of Practice Before the Illinois Workers’ Compensation Commission
   http://www.iwcc.illinois.gov/pdfs/rules.pdf

3. Illinois Institute of Continuing Legal Education – Workers’ Compensation
   (Online and in Library)

VII. Emergency Procedures

Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow
these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

VIII. **Assignments & Grades**

During the course of the semester you will have three graded applications. Your grade will consist of a score on your mid-term exam, our writing assignment, and the final exam. The breakdown is as follows:

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<tr>
<th>Assignment</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Mid-Term Exam</td>
<td>25%</td>
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<tr>
<td>Writing Assignment</td>
<td>25%</td>
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<tr>
<td>Final Exam</td>
<td>50%</td>
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IX. **Recording of Classes**

Instructors at SIU Law should provide notice to their classes as to whether the class sessions will be recorded. Our class is not set up to be recorded. If you must miss class you may contact Mr. Tom Furby and inquire as to whether a certain class session may be recorded.

X. **Reading & Case Assignments**


ACT: §1(b)(2), 5(a)
Additional Sources: Triangle Shirt Waist Fire Article (TWEN)
Cowger v. Ind. Comm’n. (TWEN)

Topics: Why do we have Workers’ Compensation Schemes? What are the benefits/drawbacks of a statutory compensation scheme compared to civil jury claims? Do we even need a statutory compensation scheme for injured workers? When does a claim fall under the Act’s Jurisdiction?


**January 26, 2016 – “The Employer-Employee Relationship & Notice of Claim”**

Text: 4.01 & 3.01-3.08
ACT: §§1(a)-1(b)(1) & 6(c) & 6(d)
Additional Sources:
Sankey Brothers, Inc. v. Ind. Comm’n., 167 Ill. App. 3d 910 (3rd Dist. 1988)
Tooley v. Ind. Comm’n., 236 Ill.App.3d 1054 (5th Dist. 1992)
Ristow v. Ind. Comm’n., 39 Ill.2d 410 (1968)
Sohio Pipe Line Co. v. Ind. Comm’n., 63 Ill.2d 147 (1976)
Crow’s Hybrid Corn Co. v. Ind. Comm’n., 72 Ill.2d 168 (1978)

Topics: Who is an Employee? Who is an Employer? What is the difference between an “Employee” and an “Independent Contractor”? What is the difference between “Borrowing” or “Loan” Employers? What must an injured worker do or say to satisfy the Notice of Claim requirement under the Act? What is the Statute of Limitations on filing a claim?

February 3, 2016 – “Arising Out of AND in the Course of Employment”

Text: Chapter 4
Additional Sources:

E. Baggot Co. v. Ind. Comm’n., 290 Ill. 530 (1919)
Riteway Plumbing v. Ind. Comm’n., 380 Ill. 47 (1942)
Quaker Oats Co. v. Ind. Comm’n., 414 Ill. 326 (1953)
Belwood Nursing Home v. Ind. Comm’n., 115 Ill.2d 524 (1987)
First Cash Financial Services v. Ind. Comm’n., 367 Ill.App.3d 102 (1st Dist. 2006)
Commonwealth Edison Co. v. Ind. Comm’n., 86 Ill.2d 534 (1981)

Topics: When does an accident arise out of employment? When is an accident in the course of employment? What is the difference? How are pre-existing conditions handled in Illinois? The Factor Test & Controversy in Illinois.
February 9, 2016- “Benefits due to Injured Workers Before Resolution of Claim”

Text: Chapter 6
ACT: §§10, 8(b), 8(a), 8(d)(1),12,
Additional Sources:

Interstate Scaffolding v. IWCC, 236 Ill.2d 132 (2010)
Sylvester v. Ind. Comm’n., 197 Ill.2d 225 (2001)
Archer Daniels Midland Co. v. Ind. Comm’n., 138 Ill.2d 623 (1990)
National Tea Co. v. Ind. Comm’n., 97 Ill. 2d 424 (1983)

Topics: When is an injured worker entitled to TTD/TPD/Maintenance benefits? How do you calculate the Average Weekly Wage? What medical bills is an injured worker entitled to have paid? What doctors can an injured worker see in relation to his case? Can the Employer force an injured worker to see a doctor of their own choosing? When is an injured worker entitled to Vocational Rehabilitation? What qualifications must the Vocational Expert have? Why is a Vocational Rehabilitation expert even needed?

February 16, 2016 –“Unique Claims”

Additional Sources:

Skidis v. Ind. Comm’n., 309 Ill.App.3d 720 (5th Dist. 1999)
Eisner Foods v. Ind. Comm’n., 33 Ill.2d 474 (1965)
Campbell 66 v. Ind. Comm’n., 83 Ill.2d 353 (1980)
Sears, Roebuck & Co. v. Ind. Comm’n., 79 Ill.2d 59 (1980)
Schooley v. Ind. Comm’n., 151 Ill. App.3d 1069 (5th Dist. 1987)
Urban v. Ind. Comm’n., 34 Ill.2d 159 (1966)
Robinson v. Ind. Comm’n., 96 ill.2d 87 (1983)

Topics: Recreational Activities, Assaults, Horseplay, Heart Attacks, Weather injures and Mental Injuries, are they compensable? When and Why? What is the “going to and coming from rule”? When are employees exempt from the rule?

Text: Chapter 7
Act: §§ 8(b), 8(c), 8(d), 8(e), 8(f)
PPD Schedule (TWEN)
Additional Sources:

Roper Contracting v. Ind. Comm’n., 349 Ill.App. 3d (5th Dist. 2004)
Edward Gray Corp. v. Ind. Comm’n., 316 Ill.App.3d 1217 (1st Dist. 2000)
Accord Forest City Erectors v. Ind. Comm’n., 264 Ill.App.3d 436 (1st Dist. 1994)

Topics: What makes a case a PPD case? Wage-Differential case? Permanent Total Disability case? What are the relative values of these categories of cases? How is value determined in each? Calculating value using Average Weekly Wage.

March 1, 2016 – MID-TERM REVIEW AND CATCH UP

March 8, 2016 – “Pre-Existing Conditions & Repetitive Trauma Claims”

Text: 4.35 & 4.40
Additional Sources:

Rock Road Construction Co. v. Ind. Comm’n., 37 Ill.2d 123 (1967)
Gilster Mary Lee Co. v. Ind. Comm’n., 326 Ill.App.3d (5th Dist. 2001)
Cassens Transport v. Ind. Comm’n., 262 Ill.App.3d 324 (2nd Dist. 1994)

Topics: What is the factor test? Is this a fair standard for employers? Should the standard of causation be changed for pre-existing conditions? To what? Is a claim compensable when there is no singular traumatic event? What is the date of accident for such a repetitive claim?

March 15  NO CLASS – SPRING BREAK

March 22, 2016 – “Exclusivity of Claims Under the Act”

WRITING ASSIGNMENT DUE

Text: 4.19
Act: §§ 1(a)(4), 5(a), 11
Additional Sources:


Ramsey v. Morrison, 175 Ill.2d 218 (1997)


Ocasek v. Krass, 153 Ill.App.3d 215 (1st Dist. 1987)

McCormick v. Caterpillar Tractor Co., 85 Ill.2d 352 (1981)

Topics: Is the Act really that “exclusive” as to recovery? What are some exceptions? What is the Dual Capacity Doctrine?

March 29, 2016 – “Third Party Claims”

Act: §§5(b), 11
Additional Sources: §214 2nd Restatement of Torts


Bokodi v. Foster Wheeler Robbins, et. al., 312 Ill.App.3d (1st Dist. 2000)

Harberer v. The Village of Sauget, 158 Ill.App.3d 313 (5th Dist. 1987)

Topics: How as the 2nd Restatement of Torts affected Workers’ Compensation claims? What are the factors in determining whether third party liability exists that arises out of a negligent act or omission?

April 5, 2016 – “Subrogation & Other Lien issues in Third Party Claims”

Text: Chapter 16
Act: §§5(b), 11
Additional Sources: §214 2nd Restatement of Torts

Kotecki v. Cyclops Welding Co., 146 Ill.2d 155 (1991)


Insurance Co. of North America v. Andrew, 206 Ill.App.3d 515 (2nd Dist. 1990)

Chubb Group Insurance Cos. V. Carrizalez, 375 Ill.App.3d 537 (1st Dist. 2007)

Braye v. ADM, 175 Ill.2d 201 (1997)

Topics: In a third party action, what are the rights and responsibilities of the employer? Can an employer be sued in the third party civil action? Can an employer seek recovery directly from the third party tortfeasor? How?

April 12, 2016 – “The Effects of other Laws on Claims”

Act: §§21,23
Additional Sources: See TWEN

Can any party to a claim waive their rights under the Act? How do private liens affect claims? How has enforcement of the Medicare Secondary Payer Act affected the litigation and settlement of claims?
April 19, 2016 – “Settlements and Litigation of Claims”

Act: 9, 10.1,13,14,16,18,19
Additional Sources: See TWEN

What are the benefits and drawbacks of settling a claim without a hearing? What different benefits are available in settlements as opposed to a hearing? What is the administrative process for litigating claims? What are the standards of review in appealing a claim?

April 26, 2016 – “Wrap up and Comprehensive Review”

See TWEN

XI. Exams and Writing Assignment

A. Mid-Term Exam

The Mid-Term examination will take place tentatively on March 4, 2016. The exam will consist of a number of short essay questions. The exam is worth 25% of your overall grade.

B. Writing Assignment

The writing assignment will be a demand letter sent from Petitioner’s counsel (you) to opposing counsel. More information regarding this assignment will be available on TWEN. The writing assignment is due March 22, 2016 and is worth 25% of your overall grade.

C. Final Examination

The final examination will be May 10th at 1:15 am. The exam will consist of essay questions. The exam will be comprehensive in nature and is worth 50% of your overall grade.