



# Legal Connections

LEGAL EXPERTISE FOR THE BUSINESS COMMUNITY

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## THE FUTURE OF LEAVE

**O**n Jan. 1, 2020, employees' leave banks re-filled and people began planning their annual vacations. Very few anticipated what a game-changer COVID-19 would be when it came to employer-provided leave. Within months, businesses were shuttered, employees worked remotely and people began to eye anyone with a cough rather suspiciously. Gone were the days when someone toughing it out and coming to work sick was something to be applauded. Now that the federal COVID-19 leave entitlements have expired and COVID-19 has settled in for the winter, employers may be thinking about changing their leave policies. If so, there are some things to keep in mind:



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should decide in advance what level of productivity will be required by employees. If an ill employee is unable to perform as required, that day should be classified as a sick day and no work should be performed. If, however, the employee is able to work – and wants to do so – having employees working remotely may decrease the amount of sick leave taken. The

keys to a successful remote work policy are to communicate expectations in advance and to hold people accountable to those expectations. Wary employers will pay particular attention to wage and hour laws regarding paying hourly employees for all hours worked and deducting wages from salaried exempt employees.

Design policies to keep ill employees home. While no one has ever enjoyed working with a sick co-worker, the optics are worse now than they've been for over a century. For employees who physically

report to work, consider drafting leave policies to incentive ill employees to stay home. That could take the form of a certain amount of "penalty-free" leave, paid leave or a tiered system where employees are entitled to a specified benefit for more serious health concerns or illness that are considered especially contagious.

Keep your eye on the productivity ball. Many employers focus heavily on what an employee does while working remotely or how often an employee is out of the office. In the time of COVID-19 (coupled with the ever-increasing push to find work-life balance), employers may be better served to shift focus from traditional hallmarks of performance, like compulsory attendance, and instead focus on productivity, efficiency, and the achievement of specified goals. While there are some industries where compulsory attendance defines performance (e.g., manufacturing, healthcare and retail), there are others that could shift to evaluating an employee's output versus simply time put in.

Plan for the future. COVID-19 has given employers an opportunity to reimagine the workplace. Not only will the debate

about mandatory paid leave continue at all levels of government, but employees will increasingly be seeking a different complement of benefits when evaluating job offers. Options for remote work, paid-time-off banks and flexible scheduling are likely to become expected by future job seekers. ■

## EDUCATION & EVENTS

Thursday, Jan. 28 • 1 – 2 p.m.

**Live Webinar: Get Focused: Email Management**  
1.0 CLE Hours

Friday, Jan. 29 • 12 – 1 p.m.

**Live Webinar: Public Records and Records Retention**  
1.0 CLE/NLT Hour

Thursday – Friday, Feb. 4 - 5

**Live Webinar: 2021 Real Property Law Institute**  
9.5 CLE Hours (1.0 P.C.)

All classes listed are offered by the Columbus Bar Association through Zoom. To register, call 614-221-4112 or enroll online at [www.cbalaw.org](http://www.cbalaw.org).

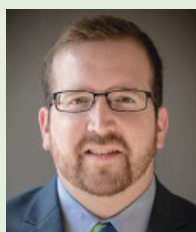
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## INJURED WHILE DRIVING: IS IT A WORKERS' COMPENSATION CLAIM?

**A**n injury sustained in a motor vehicle accident may lead to a viable Workers' Compensation claim if it is determined that the accident occurred within the course and scope of and arising out of the injured individual's employment.

This is a fact-specific inquiry wherein all the circumstances surrounding the accident must be considered.

Some situations are clear cut. For instance, a delivery driver who sustains



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an injury in an accident while driving from one delivery address to another delivery address is clearly within the course and scope of their employment. Additionally, a police officer who sustains an injury in an accident while driving to a crime or accident scene that they have been dispatched to is within the course and scope of their employment. Other

commonly encountered situations that will likely lead to compensable BWC claims include construction workers driving between job sites, salespeople driving to locations to make sales, and

service and trades workers dispatched to locations to perform work tasks.

To the contrary, there are other common situations which will not lead to a viable BWC claim. In general, accidents that occur while commuting between one's home and a fixed site of employment are not compensable claims. Further, accidents that occur while an employee is on a personal errand (for instance, traveling to a restaurant on a lunch break) are generally not held to have occurred within the course and scope of their employment.

Ohio has a "no fault" Workers' Compensation system. This means it

does not matter whether the injured work or another individual is at fault for causing the accident. In both instances, a valid BWC claim may arise. If another individual is at fault there may be additional legal claims that arise in the form of a personal injury lawsuit.

If you are injured while driving in the course and scope of your employment you should seek medical care, report the injury to your employer and file a BWC claim. A BWC claim, if allowed, offers payment for your medical care as well as potential compensation for time off work, among other benefits. ■



## OFFICE OPTIONAL

What's the impact of remote work on workers' comp and unemployment insurance claims?

This class will look at the impact of remote work on worker's compensation and unemployment insurance claims, health and safety, and what employers can and should do for remote employees.

Register at [cbalaw.org](http://cbalaw.org) or call (614) 221-4112.

