

# Information From First Responders

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Thought I'd start out this new year by addressing an issue that came up in 2009, wherein claims that occurred off premises were denied based on a First Responder report.

An important point to remember is that when Law Enforcement and Fire Department personnel report on a call, they're not investigating with a Workers' Comp mindset. They're interested in providing first aid and documenting the event, not issues like the Going and Coming Rule, because it's not their job. As a result, official, First Responder reports might not necessarily contain the pertinent information needed for deciding compensability.

In one such case we had, the responder's report describe a serious injury having taken place outside the insured's premises; after the Claimant completed his shift.

Based on this information, the Examiner denied the claim and the case became litigated. We were then assigned the task of obtaining statements and documenting the scene. The Witness statements were consistent with the Claimant who reported the alleged accident occurred within the insured's premises.

In another matter, the Claimant was off shift and fell on the sidewalk outside the insured's leased building. The First Responder's report stated the fall had taken place in the public parking lot, and the claim was denied. We were again hired after the denial and found through Witness statements that the alleged injury occurred just outside the employer's door. This denial was based on the fact that the Claimant was off work and that she fell on a walkway that was not owned by the employer.

When everything shook loose at trial, and the Judge discovered the incident happened directly in front of the insured's exit door; that defense went out the window. Although the employer did not own or control that bit of real estate, the employer had a vested interest because customers and employees use that area to enter and exit the premises.

Claims similar to these occur frequently, and relying on First Responder reports entirely can be costly. Early intervention by your Risk Manager or obviously your favorite PI can help mitigate defense costs down the road.

That's all for this month. Writing this one early in the morning and have to get on the treadmill and try burning off some of the LB's that came out of nowhere over the past couple weeks.

Take care one and all.