Workers’ Compensation  
Spring 2017  
Syllabus

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Course Materials
There is no assigned casebook. The syllabus provides a list of cases and citations, which are available to students online. Students should print (or have accessible in their electronic devices a copy of Chapter 287 of the Missouri Revised Statutes (available at http://www.moga.mo.gov/mostatutes/chapters/chapText287.html.)

Information about the Course
This course will cover the law and practice of Workers’ Compensation Law in Missouri. About two-thirds of the class time will involve discussions of the doctrinal basis of workers’ compensation. The balance of the time will be devoted to exercises involving workers’ compensation law practice.

Meeting Times
Class will normally meet at the scheduled time – Mondays and Wednesdays from 3:30 to 4:45. Based on your responses to our email regarding your availability for extended class sessions, it seems that some you are available to meet after our regular class time. We might be scheduling some of the exercises in such extended sessions. In scheduling any extended sessions, we will provide advance notice and be sensitive to any conflicts you might have.

Grading
The final grade will be calculated as follows:
Final Exam: 40%
Exercises: 40%
Class Participation: 20%

Attendance
Regular attendance is required and it is essential on those days in which we will be conducting exercises. Lackadaisical attendance will negatively impact the class participation grade.

Students with Special Needs
If you anticipate barriers related to the format or requirements of this course, if you have emergency medical information to share with me, or if you need to make arrangements in case the building must be evacuated, please let me know as soon as possible. If disability related accommodations are necessary (for example, a note taker, extended time on exams, captioning), please register with the Office of Disability Services (http://disabilityservices.missouri.edu), S5
Memorial Union, 573-882-4696, and then notify the Associate Dean for Academic Affairs (Dean David Mitchell). For other MU resources for students with disabilities, click on "Disability Resources" on the MU homepage.

**Intellectual Pluralism**
The School of Law community welcomes intellectual diversity and respects student’s rights. Students who have questions concerning the quality of instruction in this class may address concerns to either the Dean or the Director of the Office of Students Rights and Responsibilities. All students will have the opportunity to submit an anonymous evaluation of the instructor at the end of the semester.

**Academic Integrity**
Academic integrity is fundamental to the activities and principles of the School of Law. All members of the Law School Community must be confident that each person’s work has been responsibly and honorably acquired, developed and presented. Any effort to gain an advantage not given to all students is dishonest whether or not the effort is successful. The Law School Community regards breaches of the Law School’s Honor Code as extremely serious matters. In the event that you violate our Academic Integrity rules on any portion of the work required for this class, you may expect a failing grade, as well as possible disciplinary sanctions ranging from probation to expulsion.
Introduction and Critical Threshold Issues

Jan. 13 (Friday)
Introduction to Workers’ Compensation
- Sections 2, 4 & 6 of Government’s Regulation of Workers’ Safety and Health (available at http://www.dol.gov/dol/aboutdol/history/mono-regsafeintrotoc.htm)
- Missouri Alliance for Retired Americans v. Dept. of Labor & Industrial Relations, 277 S.W.3d 670 (2009)

Jan. 18
Notice
- Section 287.420
- Aramark Educational Services, 408 S.W 3d 271 (2013)

Date of Injury
- Wickam v. Treasurer of the State of MO, 499 SW3d 751 (2016)

Jan 23
Overview of a workers’ compensation claim: From Injury to Recovery (Prof. Powell)

Jan. 25; Jan. 30
Statute of Limitations
- Sections 287.430.1; 287.063.3
- Dungan v. Fuqua Homes, 437 SW3d 807 (2014)

Attorney’s Fees
- Section 287.260
- Sterling v. Mid America Car, 456 SW3d 473 (2014)

What is Employment? Who is an Employee? What is an Employer?
- Sections 287.020.1; 287.030.1(1); 287.040.1 and 3
- Howard v. Winebrenner, 499 SW2d 389 (1973)
The Workers’ Compensation Claim

Feb. 1; Feb. 6; Feb 8

Accident
- Section 287.020.2
- *Young v. Boone Electric Cooperative*, 462 S.W. 3d 783 (2015) [Skip Point I and Chief Judge Ahuja’s opinion]

Injury
- Sections 287.020.3(3); 287.020.3(5); 287.067

“Arising out of”
- Sections 287.020.3(2)(a) & (b); 287.020.3(4); 287.120
- *Scholastic v. Viley*, 2014 WL 5462306 [Skip the Point I section of the opinion]
- *Smith v. Capital Region Medical Center*, 2014 WL 7342509 (2014)

“In the course of”
- Section 287.020.5
- *Drewes v. TWA*, 984 S.W. 2d 512 (1999)
- *Scholastic v. Viley*, 2014 WL 5462306 [Read Point I section of the opinion]
- *Lincoln University v. Narens*, 485 S.W. 3d 811 (2016) [Read Point II of the opinion]
Client Interviewing

**Feb. 13**
Primer on Client Interviewing

**Feb. 15**
Client Interviewing in the Workers’ Comp Context (Prof. Powell)
- Handout (from MO CLE Workers’ Compensation, Sections 11.1 to 11.4)

**Feb. 20; Feb. 22**
Client Interviewing Exercise
- There will be two rounds of interviews. In one round, students will play the client’s role and in the next round, students will play the attorney’s role. Each interview will last about 10 to 15 minutes.
Benefits

Feb. 27; March 1
Medical Treatment
• Sections 287.140.1; 287.140.5; 287.140.8
• Banks v. Springfield Park Care Center, 981 S.W. 2d 161 (1998)
• Wilcut v. Innovative Warehousing, 247 S.W. 3d 1 (2008)

Average Weekly Rate
• Section 287.250
• Caldwell v. Delta Express, 278 S.W. 3d 251 (2009)
• Davidson v. Mo. State Treasurer, 327 S.W. 3d 583 (2010)

Temporary Total Disability
• Sections 282.020.6; 287.160; 287.170
• Disability Chart available at https://labor.mo.gov/sites/labor/files/pubs_forms/WC-110-AI.pdf
• Brookman v. Henry Transportation, 924 S.W. 2d 286 (1996)
• Greer v. Sysco, 475 S.W. 3d 655 (2015)

Temporary Partial Disability
• Section 287.180
• Minnick v. South Metro Fire Protection District, 926 S.W. 2d 906 (1996)

Permanent Partial Disability
• Section 287.190
• Buskuehl v. The Doe Run Company, 68 S.W. 3d 535 (2001)

Permanent Total Disability
• Section 287.200
• Gonzales v. Butterball, 457 S.W. 3d 880 (2015)
• Bunker v. Rural Electric Cooperative, 46 S.W. 3d 641 (2001)

Vocational Rehabilitation Services
• Sections 287.143-149

Death
• Sections 287.230 and 287.040
• Cochran v. Treasurer of the State of Mo., 284 S.W. 3d 666 (2009)
• Goad v. Treasurer of the State of Mo., 372 S.W. 3d 1 (2011)

March 6
Calculating Benefits (Prof. Powell)

March 8
Calculating Benefits Exercise (Prof. Powell) - Problems to be distributed on March 6. Students will work in pairs. On March 8, students will turn in the answers to all the problems and present their answers to one of the problems.
Evidentiary Issues

March 13
• *Kolar v. First Student*, 470 S.W. 3d 770 (2015)
• *Treasurer of the State of Mo. v. Lawrence*, 470 S.W. 3d 6 (2015)
• *Bowman v. Central Missouri Aviation*, 497 S.W. 3d 312 (2016)

March 15
• Taking a medical deposition (Prof. Powell)

March 20
• Guest Lecturer: Dr. Kevin Komes Associate Professor of PMR University of Missouri

March 22 (possible extended class)
Exercise on taking depositions

March 27 – 24
Spring Break
The Administrative Process and Hearings; Exclusivity; Third Party Actions; Employer Misconduct

April 3
The Missouri Administrative Process (Guest Lecturer, Chairman John Larsen, Missouri Labor and Industrial Relations Commission)

April 5
Third Party Actions & Second Injury Fund (Prof. Powell)
   •  *Ruediger v. Kallmeyer Bros. Service*, 501 S.W. 2d 56 (1973)

April 10
Exclusivity Remedy
   •  Sections 287.120.1 and 2; 287.200.4(3)(b)
   •  *Parr v. Breeden*, 289 S.W. 2d 774 (2016)
   •  *Cooper v. Chrysler Group*, 361 S.W. 3d 60 (2011)

April 12
Employer Misconduct
   •  Section 287.780

Worker Misconduct
   •  Section 287.120.3, 5 and 6

April 17
Preparing for a workers’ compensation mediation (Prof. Powell)

April 19
No class

April 24 (possibly extended class)
Mediation exercise

April 26
Debrief of mediation exercise and review