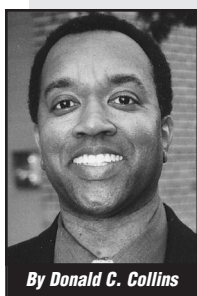


## Your Rights and Responsibilities

# Member's Workers' Compensation Claim Against Association

**NASO members who have questions concerning situations pertaining to their officiating now have access to the Member Information and Consultation Program (MICP). MICP provides members with articles or information on specific topics. NASO can also put members in touch with an expert to discuss officiating-related information up to three times a year through MICP.**



By Donald C. Collins

**Q:** One of our officials association members has filed a workers' compensation claim against our association because the member was injured while leaving a game. Would the member have a case against our association? How can our association protect itself from such claims in the future?

**A:** An association can probably prevail here, but it might not be easy. The association could lose if it couldn't afford the expense.

It is far better to take proactive steps to reduce the likelihood of confronting that problem.

Uncertainty is the big problem here. Courts have commonly found sports officials to be independent contractors, meaning officials associations do not have to pay employment taxes and purchase workers' compensation insurance.

Your association will probably win in court but it's not guaranteed. Courts are not all-powerful. Courts have limited jurisdiction, there aren't many published decisions, and some of those decisions are old, meaning that lawyers and non-lawyers alike would ask, "What's this dusty old legal book got to do with me?" Still, if you went to court you'd eventually win.

Unfortunately, the workers' compensation claim isn't going to start in court. Your state has unemployment and workers' compensation agencies. Those agencies are often unfamiliar with the published court decisions and, quite frankly, they may not care about them.

State agencies use guidelines in determining who is an employee and who is an independent contractor. Officials fall into a gray area under the guidelines. So your result could vary depending upon where the worker files and who handles her claim. The law can be a mess on things that it doesn't deal with often, and officials' claims are not frequently recurring claims for most agencies.

Association finances create a catch 22. Your association may not be able to afford the cost of winning. However, you've got to keep spending because if you're found liable for workers' compensation payments, you'll owe penalties, back assessments and you could even face criminal charges. In short, you can't afford to lose – but your association can't afford the cost of winning.

Officials associations must spend a small amount of time and money up front in order to avoid claims at the back end. The best way to do that is to get legislation passed in your state

exempting employers of amateur sports officials from workers' compensation payments. There are a number of states that have such legislation and a local attorney can review them with your association and help you select language that works for your state.

Legislation is not the only solution. Associations must educate their membership. New officials may very well think they work for you. They need to be told that they are professionals who work for themselves. Absent such education they'll get themselves in trouble well before they get you in a pinch.

Help your members. Show them how to do their taxes. Teach them the difference between liability insurance and accident medical insurance. Educate them on the benefits provided by modern officials' insurance policies, and use your bylaws to make members purchase that insurance. Finally, make sure that your association purchases insurance to protect itself and its officers. Good insurance can stave off the worst effects of cases brought against your association.

A cautionary note: Nothing that your association does can protect against the economy. More people will lose their jobs. More people won't have insurance. Also, states will be aggressive in seeking money from officials and associations. States are looking for people who weren't paying employment and business taxes in the past. They may err on the side of aggression. The times are driving some things, and the best you can do is get out in front and do what you can to minimize the risks to your association.

*Donald C. Collins is the executive director of the San Francisco Section of the California Interscholastic Federation. He is a longtime basketball official and lawyer. □*

*Is there a topic you or anyone else in your association would like to share? ONBoard would like to interview you. Send your ideas to editor@NASO-ON.org.*



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