



CALIFORNIA GOING & COMING RULE REFERENCE GUIDE

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For an injury to be considered work-related it must arise out of employment and in the course of employment (AOE/COE). AOE/COE is applied in many States across our Nation when attempting to determine what injuries are related to an employee's job. For costs of workers' compensation to be predictable and sustainable there must be a limit on what is work-related and not work-related. The coming and going rule is one such doctrine that limits the employer's exposure. This rule states that injuries sustained by the employee while traveling to and from work are not considered work related. The employer cannot reasonably control factors outside the workplace nor be responsible for injuries sustained when the employee is not engaged in performing their job.

However, there are exceptions noted below.

Required Vehicle

This exception applies when the employer requires the employee to use their own vehicle while performing work duties. This also can apply when the employer uses the employee's vehicle to complete work tasks. Further, the employer derives benefit from using the vehicle.

Dual Capacity

This exception applies to employees' travel when performing both work-related and non-related work-related tasks at the same time. This could include working for an employer that provides products for dry cleaners. The employee delivers these products while picking up their clothing.

Special Risk | Hazardous Location

This exception applies when a special risk of harm to the employee exists at the employer's location as well as immediately outside the location. Agreeing with this exception is very fact specific. A classic example is when an employee is involved in a motor vehicle accident while turning into the worksite's parking lot.

Company Provided Car

If the employee is provided with a car by their employer, injuries sustained while commuting to and from work would be considered work related.

Traveling Between Job Sites

If the job requires the employee to travel between job sites or locations, an injury while on route to a job site invalidates the coming and going rule.

Commercial Traveler

If the job requires the employee to travel to a work-related event, conference, meeting, etc. they will be covered for injuries sustained.

Special Errand/Mission

If the employer requests the employee to run an errand an injury sustained during this errand could be work-related.

Employer Control Over Property

If the employer designates employee parking or controls the property used for parking, an injury in the parking lot, turning into the parking lot or walking from the parking lot may be considered work-related.

Employer Provided Transportation

In the event the employer provides a shuttle or other means of transportation the coming and going rule does not apply.

Reimbursement of Mileage/Gas Card

When the employer reimburses mileage or provides a gas card, etc. the coming and going rule does not apply.

Coming & Going Rule | Deviation Defense

The deviation defense asserts that when the employee deviates from their job and is injured it may not be considered work-related.

For example, the employer asks the employee to run an errand, picking up ink cartridges at a local retailer. In route, the employee remembers they need to pick up their dry cleaning and is rear-ended while turning into the dry cleaner's parking lot.

The employee deviated from the errand and any injuries resulting from the auto accident may not be considered work-related because of the deviation. The facts should be closely analyzed to determine if the trip no longer meets an exception as a result of the employee deviating in some manner.