

## 2002 Wisconsin Worker's Compensation Appellate Decisions

Case Name, Case No., Court, Decision Date	Citation	Subject
<u><i>American Manufacturers Mut. Ins. v. Hernandez</i></u> , No. 01-1519 (Wis. Ct. App. Feb. 13, 2002)	<u><i>2002 WI App 76</i></u> , 252 Wis. 2d 155, 642 N.W.2d 584	Injury while traveling to physician's office for PPD rating, compensable
<u><i>Kopfhamer v. Madison Gas and Elec. Co.</i></u> , No. 01-1384 (Wis. Ct. App. Oct. 2, 2002)	<u><i>2002 WI App 266</i></u> , 258 Wis.2d 359, 654 N.W.2d 256	Third-party liability action; exclusive remedy provision
<u><i>Selaiden v. Columbia Hospital</i></u> , No. 01-2046 (Wis. Ct. App. March 5, 2002)	<u><i>2002 WI App 99</i></u> , 253 Wis. 2d 553, 644 N.W.2d 690	Appeal to circuit court for judicial review, joinder of necessary party
<u><i>Vidal v. Labor and Industry Review Com'n</i></u> , No. 00-3548 (Wis. Ct. App. Jun. 25, 2002)	<u><i>2002 WI 72</i></u> , 253 Wis.2d 426, 645 N.W.2d 870	Judicial review is available only from an order or award granting or denying compensation; judicial review by common law certiorari is not available
<u><i>Virginia Surety Co., Inc. v. LIRC</i></u> , No. 02-0031 (Wis. Ct. App. Oct. 22, 2002)	<u><i>2002 WI App 277</i></u> , 258 Wis. 2d 665, 654 N.W.2d 306	Date of injury for occupational disease claims

## 2001 Wisconsin Worker's Compensation Appellate Decisions

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<a href="#"><i>Allied Processors, Inc. v. Western Nat. Mut. Ins. Co.</i></a> , No. 00-1490 (Wis. Ct. App. May 24, 2001)	<a href="#">2001 WI App 129</a> , 246 Wis. 2d 579, 629 N.W.2d 329	Third party liability claim; Bad faith by liability insurer for failure to settle within policy limits
<a href="#"><i>Begel v. Wisconsin Labor and Industry Review Com'n</i></a> , No. 00-1875 (Wis. Ct. App. May 3, 2001)	<a href="#">2001 WI App 134</a> , 246 Wis. 2d 345, 631 N.W.2d 220	Performing service growing out of and incidental to the employment — private errand; University research asst. helping professor build a house; Compensable
<a href="#"><i>Beverly Enterprises, Inc. v. LIRC</i></a> , No. 01-0970 (Wis. Ct. App. Dec. 20, 2001)	<a href="#">2002 WI App 23</a> , 250 Wis. 2d 246, 640 N.W.2d 518	Bad faith and late payment penalties for withholding taxes from prior penalty award for wrongful refusal to rehire
<a href="#"><i>Deminsky v. Arlington Plastics Machinery</i></a> , No. 01-0242 (Wis. Ct. App. Nov. 29, 2001) — Note: Affirmed and modified by supreme court in <a href="#">2003 WI 15</a> .	<a href="#">2001 WI App 287</a> , 249 Wis. 2d 441, 638 N.W.2d 331*	Third-party liability claim; Indemnification agreement as waiver of employer's immunity under exclusive remedy provision
<a href="#"><i>Heritage Mutual Ins. Co. v. Larsen</i></a> , No. 98-3577 (Wis. Sup. Ct. Apr. 4, 2001)	<a href="#">2001 WI 30</a> , 242 Wis. 2d 47, 624 N.W.2d 129	Traveling employee; Penalty for intoxication under §102.58; Frozen fingers/frostbite; Compensable, but award reduced by 15% penalty
<a href="#"><i>International Paper Co. v. LIRC</i></a> , No. 01-0126 (Wis. Ct. App. Sep. 25, 2001)	<a href="#">2001 WI App 248</a> , 248 Wis. 2d 348, 635 N.W.2d 823	Statute of limitations on claim for death benefits runs from date of death
<a href="#"><i>Theuer v. Labor &amp; Industry Review Com'n</i></a> , No. 00-1085 (Wis. Sup. Ct. Apr. 3, 2001)	<a href="#">2001 WI 26</a> , 242 Wis. 2d 29, 624 N.W.2d 110	Computation of gross average weekly wage does not include fringe benefits such as health insurance premiums
<a href="#"><i>Zentgraf v. Hanover Insurance Company</i></a> , No. 01-0323 (Wis. Ct. App. Dec. 27, 2001)	<a href="#">2002 WI App 13</a> , 250 Wis. 2d 281, 640 N.W.2d 171	Third party liability claim; Award for spouse rejected as unsupported by the evidence; Improper failure to award attorney fees to worker's comp insurer as party to claim

## 2000 Wisconsin Worker's Compensation Appellate Decisions

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<a href="#"><i>Estate of Fry v. LIRC</i></a> , No. 00-0523 (Wis. Ct. App. Oct. 31, 2000)	<a href="#">2000 WI App 239</a> , 239 Wis.2d 574, 620 N.W.2d 449	Personal comfort doctrine does not apply to employee killed in MVA en route to hospital for treatment of kidney stones
<a href="#"><i>Heritage Mut. Ins. Co. v. Larsen</i></a> , No. 98-3577 (Wis. Ct. App. Mar. 14, 2000) — Note: Affirmed and reversed in part by Sup. Ct. in <a href="#">2001 WI 30</a> .	<a href="#">Unpublished</a>	Traveling employee; Frostbite of fingers; Intoxication penalty
<a href="#"><i>Honthaners Restaurants Inc. v. LIRC</i></a> , No. 99-3002 (Wis. Ct. App. Nov. 28, 2000)	<a href="#">2000 WI App 273</a> , 240 Wis.2d 234, 621 N.W.2d 660	Liability for the consequences of treatment that is not medically necessary; TTD payable when employee relies on treating physician in remaining off work
<a href="#"><i>Jarrett v. LIRC</i></a> , No. 99-1413 (Wis. Ct. App. Jan. 25, 2000)	<a href="#">2000 WI App 46</a> , 233 Wis.2d 174, 607 N.W.2d 326	Trucker as an independent contractor under section 102.07(8); Not compensable
<a href="#"><i>Kowalchuk v. LIRC</i></a> , No. 99-1183 (Wis. Ct. App. Mar. 1, 2000)	<a href="#">2000 WI App 85</a> , 234 Wis.2d 203, 610 N.W.2d 122	Rejection of uncontradicted medical evidence on basis of history by employee that is not credible
<a href="#"><i>Last v. American Family Mut. Ins. Co.</i></a> , No. 98-3424 (Wis. Ct. App. July 5, 2000)	<a href="#">2000 WI App 169</a> , 238 Wis.2d 140, 617 N.W.2d 215	Homeowner's insurer has no duty to defend WC claim by domestic servant against alleged employer
<a href="#"><i>Meyer v. Michigan Mutual Ins. Co.</i></a> , No. 98-3432 (Wis. Ct. App. Feb. 2, 2000)	<a href="#">2000 WI App 53</a> , 233 Wis.2d 493, 609 N.W.2d 167	Division of proceeds on third-party liability claim under 102.29; Reasonableness of attorney fees
<a href="#"><i>Mireles v. LIRC</i></a> , No. 98-1607 (Wis. Sup. Ct. Jul. 12, 2000)	<a href="#">2000 WI 96</a> , 237 Wis.2d 69, 613 N.W.2d 875	PTD claim may be based upon combined scheduled and non-scheduled injuries; Re-opening LOEC claim
<a href="#"><i>Mudrovich v. Soto &amp; Martin</i></a> , No. 99-1410 (Wis. Ct. App. Jul. 5, 2000)	<a href="#">2000 WI App 174</a> , 238 Wis.2d 162, 617 N.W.2d 242	Exclusive remedy provision as bar to defamation claim against co-workers
<a href="#"><i>Secura Insurance v. LIRC</i></a> , No. 00-0303 (Wis. Ct. App. Sep. 13, 2000)	<a href="#">2000 WI App 237</a> , 239 Wis. 2d 315, 620 N.W.2d 626	PTD claim based upon combined scheduled and non-scheduled injuries; Application of <i>Mireles</i> precedent
<a href="#"><i>Sukala v. Heritage Mut. Ins. Co.</i></a> , No. 99-1339 (Wis. Ct. App. Nov. 09, 2000)	<a href="#">2000 WI App 266</a> , 240 Wis.2d 65, 622 N.W.2d 457	Validity of uninsured motorist coverage with reducing clause for worker's compensation benefits
<a href="#"><i>Walstrom v. Gallagher Bassett Services, Inc.</i></a> , No. 00-1334 (Wis. Ct. App. Oct. 10, 2000)	<a href="#">2000 WI App 247</a> , 239 Wis.2d 473, 620 N.W.2d 223	Exclusive remedy provision as a bar to negligence claim against claims adjusting company
<a href="#"><i>White v. LIRC</i></a> , No. 00-0855 (Wis. Ct. App. Oct. 18, 2000)	<a href="#">2000 WI App 244</a> , 239 Wis.2d 505, 620 N.W.2d 442	Employee's burden of proof on occupational disease claim in establishing that the employment contributed to his occupational back disease
<a href="#"><i>Zimbrick v. Labor and Industry Review Commission</i></a> , No. 99-1894 (Wis.Ct. App. Apr 18, 2000)	<a href="#">2000 WI App 106</a> , 235 Wis.2d 132, 613 N.W.2d 198	Notice of hearing on safety violation penalty claim; Requirements of due process

## 1999 Wisconsin Worker's Compensation Appellate Decisions

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<a href="#"><u>Baldwin v. LIRC</u></a> , No. 98-3090 (Wis. Ct. App. June 2, 1999)	228 Wis. 2d 601, 599 N.W.2d 8 (Ct.App. 1999)	Department has discretion to grant or deny request for voluntary dismissal of Hearing Application
<a href="#"><u>Cohn v. Apogee, Inc.</u></a> , No. 97-3817 (Wis. Ct. App. Mar. 23, 1999))	225 Wis.2d 815, 593 N.W.2d 921 (Ct.App. 1999)	Exclusive remedy provision
<a href="#"><u>Estate of Thompson v. Jump River Electric Cooperative</u></a> , No. 98-2230 (Wis. Ct. App. Mar. 9, 1999)	225 Wis.2d 588, 593 N.W.2d 901 (Ct.App. 1999)	Exclusive remedy provision; liability of owner for death of independent contractor's employee
<a href="#"><u>Ide v. LIRC</u></a> , No. 97-1649 (Wis. Sup. Ct. Feb. 26, 1999)	224 Wis. 2d 159, 589 N.W.2d 363 (1999)	Changing tire on employer's van, employee's personal errand, not service growing out of or incidental to employment
<a href="#"><u>ITW Deltar v. LIRC</u></a> , No. 98-2912 (Wis. Ct. App. Mar. 23, 1999)	226 Wis. 2d 11, 593 N.W.2d 908 (Ct.App. 1999)	Delay in surgery because of pregnancy, TTD awarded for ongoing healing period
<a href="#"><u>McDonough v. DWD</u></a> , No. 97-3711 (Wis. Sup. Ct. June 30, 1999)	227 Wis. 2d 271, 595 N.W.2d 686 (1999)	Necessity of treatment dispute administrative process, service of summons & complaint on appeal to Circuit Ct
<a href="#"><u>Mireles v. LIRC</u></a> , No. 98-1607 (Wis. Ct. App. Mar. 24, 1999) Note: Reversed by supreme court in <a href="#"><u>2000 WI 96</u></a> .	226 Wis. 2d 53, 593 N.W.2d 859 (Ct.App. 1999)	Claim for permanent total disability based upon combined scheduled and nonscheduled injuries; Not compensable
<a href="#"><u>Secor v. LIRC</u></a> , No. 99-0123 (Wis. Ct. App. Dec. 29, 1999)	<a href="#"><u>2000 WI App 11</u></a> , 232 Wis.2d 519, 606 N.W.2d 175 (Ct.App.1999)	Injury while picking up paycheck; Not compensable
<a href="#"><u>United Wisconsin Ins. Co. v. LIRC</u></a> , No. 97-3776 (Wis. Ct. App. July 20, 1999)	229 Wis.2d 416, 600 N.W.2d 186 (Ct.App. 1999)	Liability for treatment expense incurred before DOI on occupational disease claim
<a href="#"><u>Wis. Electric Power Co. v. LIRC</u></a> , No. 97-2747 (Wis. Sup. Ct. June 22, 1999)	226 Wis.2d 778, 595 N.W.2d 23 (1999)	Traveling employee, sightseeing, 102.03(1)(f); Compensable