

The legal risks of employee loitering: How 'Hanging around' can hang you out to dry

You already know that employees who work “off the clock” by staying late, working through lunch or coming in early can sue you for unpaid wages. Here’s another good reason to discourage employees from hanging around before or after work: Anyone who gets hurt before or after his or her shift may be able to sue you directly, just like any other person who might be injured on your premises.

That can cost you big. A jury will get to decide whether the injury occurred within the scope of the worker’s employment. If the answer is yes, workers’ comp will cover it. But if the answer is no, you may be on the hook for damages set by the jury, not the predictable and relatively affordable terms of your state workers’ compensation board.

Recent case: Dianne Martin arrived about 78 minutes before the scheduled beginning of her shift at Pilgrim’s Pride in Athens. Shortly after her arrival, but before she would have clocked in, she was killed when a Pilgrim’s Pride truck ran over her.

Her estate sued for wrongful death, negligence and premised liability. The company countered that workers’ comp exclusively should cover Martin’s injury. But the court said a jury should decide whether the early arrival meant Martin was acting within the scope of her employment when she was hit, thereby leaving her estate eligible only for workers’ compensation benefits. If she was there on her own time, the damages could go sky high. (*Champion v. Pilgrim’s Pride*, No. A07A0682, Court of Appeals of Georgia, Fourth Division, 2007)