

Reasons to Controvert

One of the questions most often asked of our attorneys is “What wording should I use and what reason should I list on my notice to controvert?” We have compiled a reference list of possible reasons to controvert a claim. This is not an exhaustive list, but this should give you some ideas when making sure you have addressed all possible defenses in a claim.

Possible justifications for a controvert include:

1. The present injury/disability/death did not arise out of and in the course of employment.
2. Employer/Insurer reserves the right to controvert the above claim on any other or further grounds that may be or become available.
3. The condition complained of is not the result of an injury as defined by the Georgia Workers' Compensation Act. See O.C.G.A. § 34-9-1 (covers heart attack, stroke and disability due to alcoholism or drug addiction).
4. The injury complained of is the result of a willful act of a third person for reasons personal to employee. See O.C.G.A. § 34-9-1.
5. The disability complained of is no longer causally related to an injury or aggravation arising out of and in the course of employment. See O.C.G.A. § 34-9-1 (when a work-related disability has resolved but claimant still alleges disability due to unrelated condition.)
6. Employee failed to give proper notice as required under the Georgia Workers' Compensation Act. See O.C.G.A. § 34-9-80.
7. Claim barred by the statute of limitations. See O.C.G.A. § 34-9-82.
8. Accident did not occur in this state and the Georgia State Board of Workers' Compensation has no jurisdiction to hear this claim under O.C.G.A. § 34-9-242 (for cases where contract not made in Georgia, employee does not reside in Georgia and employer has no place of business in Georgia).
9. Claimant was not employed on the alleged date of accident.
10. Claimant is an independent contractor and not entitled to benefits under the Georgia Workers' Compensation Act.
11. Claimant does not qualify for benefits sought. See O.C.G.A. § 34-9-8 (for owners of premises, employers who are not statutory employers and for injuries occurring on premises where statutory employer has no control).
12. Employee is a farm laborer domestic servant/ railroad employee and not subject to the Georgia Workers' Compensation Act. See O.C.G.A. § 34-9-2.
13. Accident is a result of misconduct, intentionally self-inflicted injury or willful failure or refusal to use a safety appliance or perform a duty required by statute. See O.C.G.A. § 34-9-17.
14. Employee was under the influence of alcohol or a controlled substance at the time of injury. See O.C.G.A. § 34-9-17.
15. Death did not result from the injury to which employee was entitled to compensation. See O.C.G.A. § 34-9-265 (when controverting death benefits after a compensable injury).
16. Claimant is not a dependent as defined under O.C.G.A. § 34-9-13 and is not entitled to benefits pursuant to O.C.G.A. § 34-9-265 (directed at alleged dependents in death claim).
17. Employee has no physical injury or physical disability arising out of and in the course of employment (for employees who allege psychological injury without physical injury).
18. All compensation due under the Act has already been paid to claimant for injury date in question (to cover claims where all 400/350 weeks of disability have been paid).
19. Any claim for benefits stemming from this injury date has already been settled by stipulation and this stipulation has been approved by the State Board.

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WORKERS' COMPENSATION PARTNERS

John F. Sacha	404.888.6103	john.sacha@swiftcurrie.com
Robert R. Potter	404.888.6105	robert.potter@swiftcurrie.com
Mark J. Goodman	404.888.6107	mark.goodman@swiftcurrie.com
R. Briggs Peery	404.888.6112	briggs.peery@swiftcurrie.com
Michael Ryder	404.888.6114	mike.ryder@swiftcurrie.com
Debra D. Chambers	404.888.6124	debra.chambers@swiftcurrie.com
Richard A. Watts	404.888.6113	richard.watts@swiftcurrie.com
Lisa A. Wade	404.888.6110	lisa.wade@swiftcurrie.com
Douglas W. Brown, Jr.	404.888.6117	doug.brown@swiftcurrie.com
Timothy C. Lemke	404.888.6125	tim.lemke@swiftcurrie.com
Cristine K. Huffine	404.888.6119	cristine.huffine@swiftcurrie.com
James D. Johnson	404.888.6139	jim.johnson@swiftcurrie.com
Cabell D. Townsend	404.888.6104	cab.townsend@swiftcurrie.com
Todd A. Brooks	404.888.6205	todd.brooks@swiftcurrie.com
Charles E. Harris, IV	404.888.6108	chad.harris@swiftcurrie.com
Michael Rosetti	404.888.6121	michael.rosetti@swiftcurrie.com
S. Elizabeth Wilson	404.888.6211	beth.wilson@swiftcurrie.com
K. Martine Cumbermack	404.888.6224	martine.cumbermack@swiftcurrie.com
Ann M. Joiner	404.888.6210	ann.joiner@swiftcurrie.com
R. Alex Ficker	404.888.6215	alex.ficker@swiftcurrie.com
K. Mark Webb	404.888.6217	mark.webb@swiftcurrie.com
Preston D. Holloway	404.888.6229	preston.holloway@swiftcurrie.com
Jeff K. Stinson	404.888.6207	jeff.stinson@swiftcurrie.com
Marion H. Martin	404.888.6143	marion.martin@swiftcurrie.com
Mark E. Irby	404.888.6118	mark.irby@swiftcurrie.com
C. Blake Staten	404.888.6206	blake.staten@swiftcurrie.com
Joanna S. Jang	404.888.6228	joanna.jang@swiftcurrie.com
Jonathan G. Wilson	404.888.6227	jonathan.wilson@swiftcurrie.com

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