



## LEGALLY WEIRD

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# Don't Move To Alabama

I'm sure you've heard the phrase: "I'd give my right arm for \_\_\_\_\_". Maybe they want to look like George Clooney, meet the President, or win the lottery. Since most people are right-handed, if they're willing to give up their right arm for something, then they must really value the thing they're trading it for. But just how valuable is that right arm?

If you lose your arm on the job, the average maximum workers' compensation benefit in the United States is \$169,878.<sup>1</sup> However, if you lose your arm on the job in Tennessee, you might be awarded enough money to buy that new family home you've always wanted because the maximum compensation for an arm in Tennessee is \$309,096.<sup>2</sup> If you prefer a new beach house, you may want to move to Nevada, where the maximum compensation for an arm is \$859,634.<sup>3</sup> On the other end of the spectrum, if you would like to buy a new tiny home, you could settle down in Alabama, where the maximum compensation for an arm is a whopping \$48,840, the lowest of any state.<sup>4</sup> In fact, Alabama is consistently the lowest amongst states for maximum compensation for lost body parts.<sup>5</sup> For example, Alabama has the lowest or second lowest maximum compensation for the loss of legs,<sup>6</sup> hands,<sup>7</sup> thumbs,<sup>8</sup> pinkies,<sup>9</sup> and feet.<sup>10, 11</sup>

Realistically, few people would give up an appendage for money, no matter the amount they may receive. Moreover, it seems cruel to poke fun at stories of people who have actually lost appendages on the job. Instead, let's look at a few of my favorite workers' compensation cases where folks risked life and limb.

First, in 2017, an Australian woman received workers' compensation benefits after being hit in the face by a lamp that she ripped from the wall while having violent coitus in a hotel room on a business trip.<sup>12</sup>

Next, a Montana "bear feeder" successfully won his workers' compensation case for injuries he sustained after being mauled by a bear he fed.<sup>13</sup> It's true; the Montana man's job was to feed bears at an attraction in Glacier National Park.<sup>14</sup> However, on the morning of his attack, the man decided to smoke all the marijuana in his sock.<sup>15</sup> And as everyone knows, "grizzly bears are equal opportunity maulers; attacking without regard to race, creed, ethnicity or marijuana usage."<sup>16</sup> Although the court referred to the man's decision to mix weed and grizzly bears as "mind-bogglingly stupid," he was awarded more than \$65,000 in benefits.<sup>17</sup>

Finally, there is nothing worse than watching that delicious bag of Fritos get stuck in the vending machine. Well, one male employee at a Circuit City in Illinois refused to let his female counterpart feel such

agony.<sup>18</sup> As soon as he saw her Fritos get stuck, he rushed over to shake the machine and save the day.<sup>19</sup> Unfortunately, he broke his hip in the process.<sup>20</sup> According to an arbitrator, the male employee was "injured while coming to the aid of a co-worker seeking personal comfort," thus workers' compensation benefits were awarded.<sup>21</sup> That's one way to impress a girl!

I am sure we all agree that if we are injured on the job, we want maximum compensation under the law. Thus, if you decide to risk life and limb at work by doing something wild in a hotel room, mixing grizzlies and weed, or taking on a vending machine: whatever you do, don't move to Alabama.

<sup>1</sup> Lena Groeger, Mochael Grabell, and Cynthia Cotts, *Workers' Comp Benefits: How Much is a Limb Worth*, ProPublica (Mar. 5, 2015), <https://projects.propublica.org/graphics/workers-compensation-benefits-by-limb>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Maximum compensation for a leg in Alabama is \$44,000, while the national average is \$153,221.

<sup>7</sup> Maximum compensation for a hand in Alabama is \$37,400, while the national average is \$144,930.

<sup>8</sup> Maximum compensation for a thumb in Alabama is \$13,640, while the national average is \$42,432.

<sup>9</sup> Maximum compensation for a pinky in Alabama is \$3,520, while the national average is \$11,343.

<sup>10</sup> Maximum compensation for a foot in Alabama is \$30,580, while the national average is \$91,779.

<sup>11</sup> Lena Groeger, Mochael Grabell, and Cynthia Cotts, *Workers' Comp Benefits: How Much is a Limb Worth*, ProPublica (Mar. 5, 2015), <https://projects.propublica.org/graphics/workers-compensation-benefits-by-limb>.

<sup>12</sup> *Aussie court: Worker's comp covers sex mishap*, CBS News (Dec. 17, 2012), <http://www.cbsnews.com/news/aussie-court-workers-comp-covers-sex-mishap/>.

<sup>13</sup> Dan Testa, *In Grizzly Mauling, Judge Rules Pot Not the Cause*, Flathead Beacon (Jun. 3, 2010) <http://flatheadbeacon.com/2010/06/03/in-grizzly-mauling-judge-rules-pot-not-the-cause/>.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Circuit City Stores, Inc. v. Ill. Workers' Comp. Comm.*, No. 2—08—0722WC (Ill. App. Ct. Workers' Comp. Div.).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

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deal with cloud storage must "ensure that tasks are delegated to competent service providers which the lawyer has selected after investigating the qualifications, competence, and diligence of the provider to ensure that client information is reasonably likely to remain confidential and secure through storage and retrieval."

These principles are consistent with the approach taken in the ABA Formal Opinion and suggest that the Tennessee Board would probably adhere closely to the principles and conclusions set forth there.

In this era of the "paperless office," of Wikileaks, and of nonstop

news about the hacking of various celebrities' email accounts, it behooves us to educate ourselves about our ethical duties with respect to confidential communications. ABA Formal Ethics Opinion 477R is a good place to start.

<sup>1</sup> This opinion updates Formal Ethics Opinion 99-413, which was issued in the infancy of electronic communications.

<sup>2</sup> This provision appears as subsection (d) of Tennessee Rule of Professional Conduct 1.6; it appears as subsection c of Model Rule 1.6.

<sup>3</sup> Tex. Prof'l Ethics Comm. Op. 648 (2015).