

# Third Party Settlements & Workers Compensation Claims

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# Important Considerations Before Settling the Third Party Claim

Notice to WC carrier required.

Are benefits still being paid under WC?

What is the total amount of the lien being claimed by the WC carrier?

Will the third party settlement gross amount exceed the future benefits payable under WC?

# IC 22-3-2-13

Notice of third party suit by required to WC carrier.

Judgment/settlement of third party claim triggers lien and terminates WC benefits.

No release or settlement of third party claim "shall be valid" w/o WC carrier's written consent.

If final judgment procured from third party is lesser than WC obligation plaintiff must elect one/other.

# Walkup v. Wabash National Corp. (Ind. 1998), 702 N.E.2nd 713

If UM policy excludes coverage for claims payable under WC then UM recovery not subject to WC lien.

UN carrier is "other person" under IC 22-3-2-13.

UM carrier may not be "other person" if UM coverage purchased by employee.

Dicta suggests that if proper allocation made between lienable and nonlienable items, WC may not attach.