

Contractor Beware: The Hidden Risks of Uninsured Subcontractors in North Carolina

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Salvatore Popolillo III

By Salvatore Popolillo III on September 30, 2024

Contractors and businesses that subcontract work need to exercise caution in choosing subcontractors, and failure to do so could result in liability for on-the-job injuries of a subcontractor's employees. Although employers are required to obtain a valid and current Workers' Compensation policy, some employers, particularly smaller subcontractors, do not.

Generally, under the North Carolina Workers' Compensation Act ("Act"), a contractor may be liable for an injury of a subcontractor's employee if the contractor did not obtain timely obtain certification of the subcontractor's Workers' Compensation policy. N.C.G.S. § 97-19. Fortunately, if the contractor is required to provide Workers' Compensation benefits for the subcontractor's employee's injury, that contractor may then seek recovery from the subcontractor who failed to carry a valid policy.

For example, if a home builder subcontracts with a plumbing company to complete work on a home, and one of the plumbing employees is injured during said work, the home builder may be liable under the Act for the plumbing employee's injury even though he was not the home builder's employee, if the home builder did not verify that the plumbing company had a workers' compensation policy in effect before contracting with the plumbing company. The home builder could then seek reimbursement from the plumbing company for payments made, but doing so could require the home builder to incur further expenses which they may not recover.

Hedrick Gardner Kincheloe & Garofalo, LLP has over 65 years of experience defending contractors from the failure of subcontractors to carry a valid Workers' Compensation policy. Please reach out to our Workers' Compensation Department for any questions or issues regarding contractor liability.