

Nonsubscriber Defense

The attorneys of the KRCL Nonsubscriber Group have unmatched insights into both the pros and cons of becoming a nonsubscriber, potential defense strategies for nonsubscribers and the ever-evolving law governing non-subscribers.

Texas first enacted laws to protect injured employees nearly a century ago. While most states have historically mandated that employers offer workers' compensation coverage to its employees, Texas does not. Instead, nonsubscription is the action by an employer of rejecting or opting out of the Texas workers' compensation system. In its place, an employer establishes its own ERISA Benefit Plan to address workplace injuries. Many employers don't realize that nonsubscription has been an option in Texas since 1913. Nonsubscribers include employers of all sizes, from local single-site organizations to multi-site Fortune 500 employers.

And it's no longer just Texas who is making workers' compensation coverage optional for employers. Oklahoma recently enacted a nonsubscriber option for employers, and several other states are considering similar legislation, including South Carolina, Tennessee and Florida.

The KRCL Nonsubscriber Group has successfully represented many of the largest nonsubscribing employers in litigation in both state and federal courts, as well as arbitration. The firm's Nonsubscriber Group has built a reputation among plaintiffs' counsel throughout the region as aggressive and formidable opponents in the courtroom, and we have consistently obtained strong results for our nonsubscriber clients.

Our tried and true formula for defending nonsubscribing employers combines:

- Early investigation of injury incidents to provide liability and damages evaluations
- Persuading plaintiffs to elect to treat under the employer's workplace injury plan
- Advising clients on early resolution of a claim versus litigation or arbitration

We also have successfully defended employers in Federal Employers Liability Act and/or Jones Act cases where employees' claims were not barred by workers' compensation.