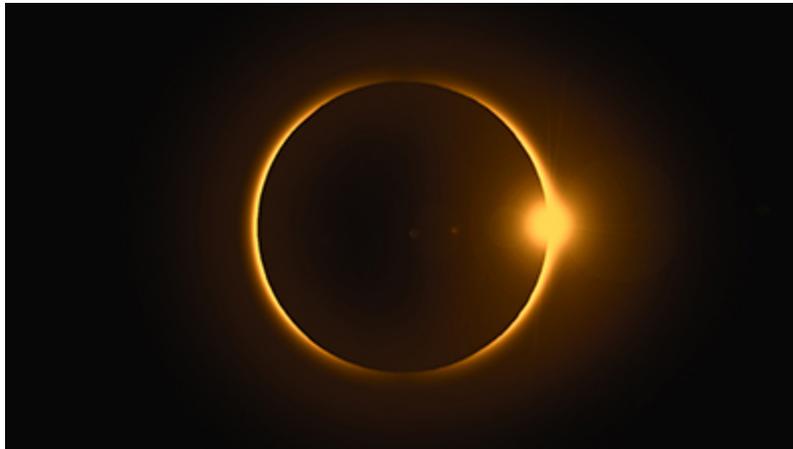


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## Solar Eclipse Presents Opportunities for Fun at Work, but Be Careful

**By Tammy Binford, Contributing Editor**

Although all of the United States will experience at least a partial eclipse, not all will be in the path of totality. But that path includes a wide swath of the country, where people will be able to see what [NASA](#) calls “one of nature’s most awe inspiring sights.” The path of totality runs from near Salem, Oregon, to Charleston, South Carolina, and viewers along that path will experience the moon covering the sun, darkening the skies and making the sun’s corona visible—with proper eye protection.



So it’s no wonder people are excited. All across the country, educational events, viewing parties, and other activities are scheduled. And since August 21 is a workday for most people, many employers are eager to make the day special. Some employers are hosting parties, where they’ll distribute protective eyewear and serve eclipse-themed snacks such as MoonPies and Sun Chips.

But it’s not all fun and games. Eclipse watchers are warned that looking directly at the sun can cause permanent eye damage. The only way to safely look at the partially eclipsed sun is through special solar filters or hand-held solar viewers. “Homemade filters or ordinary sunglasses, even very dark ones, are not safe for looking at the sun; they transmit *thousands* of times too much sunlight,” NASA warns.

Should the risk of employees damaging their eyes at a work-sanctioned eclipse viewing prevent employers from taking advantage of the rare event? Probably not, according to a group of attorneys who focus on employment matters.



## Employer liability?

Some employers may worry that they face liability if an employee is injured while viewing the eclipse at work, but that risk is likely small.

“Although there is always some risk that an employer could be sued for anything, regardless of how frivolous, it is virtually inconceivable that an employee could assert a meritorious suit against his or her employer related to eye injuries from viewing the eclipse,” [David L. Johnson](#), an attorney with [Butler Snow LLP](#) in Nashville, Tennessee, says.

Nashville is one of the larger cities in the path of totality, and Johnson says many area employers have announced viewing receptions on rooftop spaces and other out-of-doors common areas. He says those employers should feel safe in doing so, but he advises employers hosting eclipse activities to ensure that they distribute viewing glasses from a reputable company and warn employees (preferably via email or another form of writing) that there is some risk of injury.

“If employers exercise simple common sense, they should be just fine,” Johnson says. “Don’t let the fear of being sued get in the way of enjoying an historical event.”

[Jeremy M. Brenner](#), an attorney with [Armstrong Teasdale LLP](#) in St. Louis, Missouri, agrees that responsible employers should be able to allow employees to take time to view the eclipse and even sponsor activities. He likens any potential liability to employees being injured playing on a company softball team.

“The employer should make it clear that participation is voluntary and employees assume the risk,” Brenner says. “Activities like these, when voluntary, should be seen as outside the scope of one’s employment.” [Workers’ compensation](#) claims generally are a concern only when an injury is arguably within the scope of the employee’s employment and/or when the employee was participating in a required activity.

[Mark Schorr](#), an attorney with [Erickson | Sederstrom, P.C.](#) in Lincoln, Nebraska, also is in an area that will experience the total eclipse. He says the event “presents an excellent opportunity” for employers to sponsor an activity or brief employee break, but employers should take care to ensure that any employees attending a viewing event have proper eye protection.

Recreational activities generally aren’t covered by workers’ compensation—which requires that any injury for which workers’ compensation is sought arose out of and in the course of employment—but it’s possible workers’ comp can come into play just as it might apply to company softball games and other activities, Schorr says.

“The upcoming total eclipse of the sun will provide an opportunity for employers to plan employee activities around the event, and employers should simply take care to ensure that proper eye protection is utilized by employees and other normal precautions are taken,” Schorr says.

## Work time?

[Reggie Gay](#), an attorney with the [McNair Law Firm, P.A.](#) in Greenville, South Carolina, also says employers are likely safe in sponsoring viewing events, but it’s possible such events can



expose an employer to liability for negligence or workers' compensation, especially if attendance is required.

Gay says employers should make clear that any workplace eclipse event is purely voluntary, and he says employers may want to consider having employees clock out during the event and allow them to make up the time during the rest of the week.

Brenner agrees that employers need to be clear about compensation for nonexempt employees. If the activity is truly voluntary and not required and the employee is completely relieved from work, it is likely not compensable time, he says, but employees need to know if they should clock out.

"The theme continues that employers should make it abundantly clear that this activity is not encouraged or required, but rather is an optional fun activity in which some may choose to participate," Brenner says. "If the time will not be paid, employers should clearly communicate that."

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