

Lowenthal & Abrams, P.C.

Toughness and Integrity

SPRING 2007

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We're always here for you

When a person or family is seriously injured in a seemingly larger-than-life situation, we offer hope and the promise of fair treatment and compensation for harm.

Lowenthal & Abrams

Help For Pennsylvania's Injured Workers

Lowenthal & Abrams is pleased to announce their sponsorship of the **Pennsylvania Injured Workers Association (PIWA)**, a free information service for injured workers in Pennsylvania.

PIWA holds free information sessions to better inform injured workers concerning their rights and benefits under the law as well as the practical problems that come from being hurt on the job.

PIWA holds these meetings three to four times a year, so look for the time and location in Lowenthal & Abrams newsletters or on the Web at www.PaInjuredWorkers.org, or

call Lowenthal & Abrams with questions.

There is always a great speaker, either a workers' comp judge or a doctor or lawyer, who gives a concise message about his or her area of expertise followed by a question-and-answer session. And last but not least, a great **dessert buffet** is provided! (See the enclosed flyer for details of this month's meeting.)

The **Pennsylvania Injured Workers Association** is a community service of Lowenthal & Abrams, P.C.

Call us at **1-800-690-9315** for questions or directions, or visit www.PaInjuredWorkers.org.



Workers' compensation When insurers refuse to pay

Workers' compensation regulations are state-based insurance programs that effectively cover claims by workers injured on the job or who suffer work-related diseases or illnesses. Insurers regularly handle claims with understanding and efficiency.

On occasion, an insurer may deny claims benefits, as the following case illustrates. Workers should consult an attorney experienced in workers' compensation law for counsel.

Fall from a ladder

When a retail store employee fell from a ladder and severely injured her back, her physician recommended surgery. When she filed a workers' compensation claim, the insurer denied her petitions and an independent Industrial Commission's confirming orders for several years. The employee's attorney sued the insurer, demonstrating it had not acted in good faith.

A jury held for the plaintiff, stipulating a significant award, and held the insurer liable for lifetime medical care and disability benefits for the underlying injury under the state's Workers' Compensation Act.



Drunk-driver accident victims

U.S. transportation authorities claim that motor vehicle accidents involving alcohol kill one victim every 30 minutes. Alcohol-related accidents also seriously injure other victims every two minutes. Annually, more than a million Americans and their families suffer at the hands of drivers who are impaired by alcohol.

Anyone injured in an alcohol-related auto accident should seek the counsel of an experienced attorney to obtain compensation for medical treatment, lost income, emotional distress, and other damages.

Third-party responsibility

In addition to seeking recompense from negligent drivers and their insurance providers, personal injury attorneys may also uncover liability of third parties, such as restaurants and other establishments that serve or sell alcohol.

A drunk driver ran a stop sign, collided with another vehicle, and killed its driver. When the victim's wife and estate sued for wrongful death and emotional distress, the plaintiff's attorney also made a claim against a nightclub that served the drunk driver alcohol immediately before the accident. The parties settled before trial.

Pharmaceutical MARKETING Dollars



Pharmaceutical RESEARCH Dollars



Pharmaceutical marketing

U.S. drug manufacturers spend 2.5 times more money on marketing drugs to consumers and doctors than they invest in pharmaceutical research.

To make windfall profits on prescription drug sales, pharmaceutical companies spend billions influencing physicians and other health-care providers to prescribe and utilize their medications.

In one case, former Medtronic employees blew the whistle on the company's marketing generosity, which included giving doctors financial kickbacks. Their case settled in federal court in August 2006 for \$40 million.

In other lesser instances, medical-school professors claim that drug representatives often provide many doctors' offices free lunches, some costing as much as \$250, to buy access for sales.

Access costs American consumers millions and adds billions to drug companies' marketing annually. In 2004, Merck alone spent \$7 billion in marketing, compared with \$4.01 billion in research. Public Citizen, a consumer advocacy group, reported that in 2005, the pharmaceutical industry committed more than \$60 billion to marketing efforts.

FOR YOUR SAFETY

Recalled product roundup

Here are some recently recalled products you may have in your home or at work:

- ✓ **Target Stores** is voluntarily recalling 185,000 Firestreet Scooters. The handlebars, wheels, and brakes can break and detach, causing rider injuries.
- ✓ **Acuity Specialty Products Group, Inc.**, asks consumers to return 6,800 five-gallon pails of “Zep Industrial Purple Cleaner & Degreaser” and “Zep Heavy-Duty Floor Stripper” cleaning products, which can crack, leak corrosive products, and harm users.
- ✓ **Atico International USA, Inc.**, has recalled 209,000 folding picnic tables with legs that can unexpectedly buckle, break, fold, or collapse, injuring users.
- ✓ **Fun Express, Inc.**, has called back 340,000 bendable toys given away at libraries. The toys are decorated with paint containing excessive levels of lead, which is banned under federal law. Lead is toxic and, when ingested by children, can cause adverse health effects.
- ✓ **Black & Decker** has requested buyers to return 160,000 cordless electric mowers. An electrical component in the lawn mower can overheat, catch fire, and burn users.

Legal dictionary

Many clients find legal terms mystifying. From time to time, we’ll provide easy-to-understand definitions to help clear things up. This time, you’ll learn the meanings of several important terms used in courts to help you better understand our legal responsibility concepts.



Liability

A person’s, group’s, or business entity’s legal responsibility for an injury or loss for which they are responsible.

Negligence

The failure to exercise the kind of sufficient care that a reasonably prudent and careful person would use under specific circumstances. If an injury results from another’s negligence, that person or entity may be liable to pay damages for any injury they caused.

Statute of limitations

Another arbitrary time limit—in years—that cuts off a plaintiff’s ability to file an injury case after a certain period of time from the date of the injury, even if the injury is not detected until much later.

Statute of repose

An arbitrary time limit—in years—that terminates a corporation’s responsibility for marketing faulty or dangerous products.

Damages limitations

Can lawsuit damages caps harm those injured? Damages-cap legislation restricts amounts a jury can award for injuries, no matter what case facts may be. Some state legislatures have enacted caps in civil cases, while others have not. Some caps apply to specific kinds of cases, such as medical malpractice. Other caps limit only noneconomic damages, and some limit punitive damages.

In states that cap damages, a jury’s or judge’s award is automatically reduced to the amount of the cap—even though the jury

or judge may believe the plaintiff should be awarded more than the cap as compensation, or even if the circumstances of the case show that a negligent or malicious defendant should be punished with a significant punitive-damages award. There is generally no way to raise a damages award beyond the cap once it is written into law.

Here is an example of how a cap of \$250,000 on noneconomic damages may be incredibly unfair to some victims.

Who is harmed	The victim’s injuries or losses	The amount the jury originally believed should be awarded	The amount the victim is awarded based on the legislature’s cap
VICTIM A	After being hit by a drunk driver, the victim’s car caught fire. Her husband (a passenger) was killed, she was burned and left disfigured, and lost the use of her right arm. She was a homemaker and can no longer work.	\$1.2 million noneconomic damages	\$250,000 noneconomic damages
VICTIM B	After being hit by a drunk driver, this victim suffered two broken legs, had to have surgery to repair them, and was forced to wear a full body cast for two months.	\$250,000 noneconomic damages	\$250,000 noneconomic damages

VICTIM A, who suffered worse injuries than VICTIM B, nonetheless takes home the same compensation for her losses as VICTIM B. Even though the jury thought VICTIM A deserved far more compensation, the jury’s judgment was overruled by a cap put in place by the legislature long before VICTIM A’s case ever arose.

To enable us to communicate more easily with you, please send your e-mail address to us at Amy@LowAbram.com

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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Know Your Workers' Comp Rights

By James B. Mogul

Some people who have been injured at work and have workers' compensation claims think they can handle them themselves because they trust their employers. However, more often than not, the employer is not making the decisions; the employer's workers' compensation insurance company is. And, while the employer may treat a healthy employee well, as soon as he or she is injured, things often change.

However, there are many things you can do to protect yourself after an injury at work. For example, the employer might tell you that you have to go to a certain doctor or facility. This may or may not be so. If the employer has not complied with the law by posting or giving you a list of at least six different doctors from different facilities, you may be able to go immediately to any doctor of your choosing. Even if the employer has given a list of doctors, you only have to see company doctors for 90 days. Afterward, you can see any doctor you choose and the employer pays. Also, you can see your own doctor during that 90-day period if you use other health insurance.

Remember to report your work accident to your employer immediately. Be sure to tell your employer and your doctors about **all** of your injuries. Do not leave out any injuries, even if they seem minor initially, because you do not know the extent of the injury yet. It is easier to have an injury included in your claim if you report it early.

Also, it is helpful if you keep accurate records of everything you receive from your doctors, the insurance company, and your employer. If the employer or the insurance company tells or asks you to do something, **get it in writing.**

Finally, one person you can count on to tell you the truth and give you accurate information is a workers' comp lawyer. Your employer and the workers' comp insurance company have financial interests very different from yours. The sooner you get an attorney, the sooner you will understand what you are up against and how to protect your right to many valuable benefits. These include wages, medical benefits, and even a **lump-sum settlement.**



What I'm Tired Of!

By Jeffrey P. Lowenthal

You know what I'm tired of? Many workers' compensation insurance companies send injured workers to doctors of their choosing for exams. Often, these doctors examine the workers for just a few minutes and send them right back to work despite real and significant injuries. Sometimes it seems like it's their job just to send people back to work no matter what! I've seen doctors used who don't even have their own patients, or very few. So how can they call it an **independent medical exam** when these doctors are anything but "independent"?

What should an injured worker do when one of these doctors unfairly sends him or her back to work? I think you know!

What are you tired of?

E-mail us at Amy@LowAbram.com. Tell us your frustration with insurance companies or any injury.