

JAMES P. MONAST

The Worker's Guide to **INJURY COMPENSATION** in Ohio



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ABOUT THE MONAST LAW OFFICE

At the Monast Law Office, our main goal is to put our clients at ease after being hurt on the job and to assure them that we'll do everything in our power to bring them peace of mind and help them obtain the compensation they deserve and to which they are entitled. For more than 30 years, Attorney James Monast has been doing just that—helping Ohioans restore their lives after an on-the-job accident has injured or disabled them and disrupted their careers and the security of their families.

Board Certified in Ohio Workers' Compensation Law

Attorney James Monast was among the first to be board certified as a specialist in Ohio workers' compensation law. Having served as a staff attorney for the Ohio Bureau of Workers' Compensation (BWC) for several years before going into private practice, he understands the BWC. Attorney Monast has represented thousands of injured Ohioans in hearings before the Ohio Industrial Commission and in courts across the state. He knows what it takes to win his clients' workers' compensation claims and to get them the financial benefits and medical treatment to which they are entitled. He also serves on the Ohio State Bar Association's Workers' Compensation Law Specialty Board, has been recognized as a Super Lawyer for more than five years, and has been recognized as a Columbus CEO Magazine Top Lawyer since 2015. A recipient of the Avvo Client's Choice award, he maintains a "Top Attorney" rating of 10.0. In 2017, Attorney Monast was recognized by the Workers' Injury Law & Advocacy Group as one of the Nation's Top Injured Workers' Attorneys.

An Entire Legal Team Committed to You and Your Case

When you choose the Monast Law Office, we want you to feel comfortable in knowing that you're choosing a veteran team, backed by a wealth of legal knowledge and experience, committed to winning a favorable outcome for you. If you've been injured on the job, have a loved one who was killed at work, or suffered a disability that impairs your ability to maintain gainful employment, please call Attorney James Monast or any of our Ohio legal team members. Your initial consultation is free, and we look forward to discussing how we can help make things right for you.

To learn more about us and what we do, please visit our website, follow us on Twitter, like us on Facebook, send an e-mail (info@monastlaw.com), or call us at 614-334-4649.

WELCOME

Thank you for purchasing *The Worker's Guide to Injury Compensation in Ohio*.

When you've been hurt at work, your focus should be on your recovery. But many injured workers spend far too much time sifting through page after page of online search results, looking for the information they need to successfully file a compensation claim and receive fair compensation for lost wages.

To simplify your search, we created *The Worker's Guide to Injury Compensation in Ohio*—a collection of some of our most informative blog posts on the subject of at-work injury and compensation. This book provides answers to frequently asked questions, as well as provides information you need to help file your claim properly and in a timely fashion. You'll also find answers that help you understand the process and what can go wrong, avoid a contested claim, and get the compensation you need to recover physically, emotionally, and financially.

We hope this guide will be an invaluable resource in filing for and getting the workers' compensation to which you may be entitled.

To get the latest updates on workers' compensation, as well as other topics important to Ohio workers, please visit our website, follow us on Twitter, like us on Facebook, send an e-mail (info@monastlaw.com), or call us at 614-334-4649!

WHAT IS A WORKERS' COMPENSATION CLAIM?

Workers' compensation—previously known as workmen's compensation—is a form of insurance that provides wage replacement and medical benefits to employees injured while on the job. In exchange, workers must relinquish the right to sue employers for the tort of negligence.

In other words, if you are injured at work, suffer pain or harm caused by repetitive movements or activities, or develop an occupational disease from exposure to chemicals or other substances, you need not (and cannot) sue your employer directly; rather, you file a claim for compensation for lost wages and payment of medical treatment as authorized by the state having jurisdiction over the claim. Typically, this is the state in which you work and were injured. Rare exceptions exist that allow you to take direct action against an employer. For example, in some instances, an injured worker may try to prove that the employer acted with purpose or had knowledge that the act in question would likely harm him or cause an injury.

Most states require companies to purchase workers' compensation insurance through a private insurance carrier in the same way you would purchase homeowners coverage for your house or auto insurance for your car.

Ohio is one of a handful of states that requires all employers (with very limited exceptions) to purchase workers' compensation insurance through the state insurance fund known as the Ohio Bureau of Workers' Compensation

(BWC). Very large employers can apply for the right to self-insure rather than purchase coverage through the BWC. If granted the privilege of self-insurance, the employer still must adhere to certain guidelines regarding the processing of claims and ensure that compensation and benefits are paid in a timely and efficient manner.

The Compensation Bargain

The tradeoff—sometimes known as “the compensation bargain”—in having this guaranteed, limited coverage provided under state laws is that workers’ compensation provides clear, certain benefits, but it doesn’t leave the injured workers any recourse outside the workers’ compensation system.

Workers’ compensation benefits are designed to replace wages lost as a result of work injuries and, to a much lesser extent, to compensate for permanent disability; however, workplace injuries generally result in significantly lower monetary awards for permanent injury than perhaps a comparable personal injury suit against a person responsible for an auto accident causing significant pain and suffering. The tradeoff for lower but generally more assured benefits is that employers are prohibited from asserting certain defenses—defenses that might bar any recovery in a personal injury case—in a workers’ compensation claim.

For example, negligence of the injured person can be raised as a defense in a personal injury lawsuit. Under the workers’ compensation system, however, a claim may still be filed and recovery of lost wages for temporary or permanent disability permitted even when a worker’s negligence contributes to his on-the-job injury or death.

WHAT SHOULD I DO IF I'M INJURED ON THE JOB?

Each year, tens of thousands of Ohioans sustain work-related or on-the-job injuries. Fortunately, most work injuries require only a trip to the emergency room for stitches or other treatment and result in no loss of wages or lost time from work; however, other workplace injuries can result in temporary or permanent disability. They may require ongoing medical treatment and result in temporary or permanent wage loss. Even injuries that seem minor at first may persist and worsen to become debilitating.

If you are injured on the job, whether the injury seems to be minor or something more serious, it's important that you start with the following three steps:

1. Report Your Injury ASAP

A common and, surprisingly, frequent mistake workers often make is failing to report a work injury as soon as possible. Of course, I'm not talking about injuries that are life-threatening or that result in bones jutting out of the skin. In these cases, the priority is getting to an emergency room or a hospital immediately.

More common is the situation where a worker feels sudden back pain after lifting, for example, and figures it'll just go away by the next morning or in a day or two. When the pain persists, the worker may finally mention something to his supervisor or a coworker. Although Ohio law allows workers one year (or in some cases longer) to file a

workers' compensation injury claim, most company policies specify that a work injury must be reported right away, usually with a written incident report. An employer will most likely contest a claim if there's a delay of even a few days in reporting an injury. An employer might argue, "Had the injury occurred at work, as opposed to elsewhere, it would have been reported right away in accordance with employment policies." And the employer won't forget to mention that he's gone over the policies many times.

Also, don't count on a supervisor remembering that you told her about your injury; supervisors often have a way of conveniently forgetting any such conversations. Get the incident report prepared and signed on the day of the work-related accident, if at all possible. Every day that passes before the First Report of Injury (FROI-1) or employer incident report is completed increases the speculation that your injury didn't happen on the job.

2. Get Medical Treatment as Soon as Possible

Seek medical treatment as soon as possible after the injury occurs. While you may decide to make an appointment with your family doctor, if your injury is severe, head to an urgent care, occupational health, or emergency facility immediately. Be sure to provide a detailed history of the injury to the emergency squad, nurse, and/or doctor. Explain what happened, what hurts, and where it hurts. Make sure you explain that the injury happened while you were working so they'll know to submit the proper paperwork directly to the Ohio BWC or to your self-insured employer. As for follow-up care, be aware that family doctors must be BWC-certified health providers to treat work-related injuries.

3. File Appropriate Paperwork Promptly

Be sure to file appropriate paperwork as soon as possible.

Although the FROI-1 is often filed by the health provider, it is best to follow up with your employer's benefits department and/or human resources personnel and with the BWC to make sure it has been filed. Your employer is required to complete a portion of the FROI-1, although this may be done after the FROI-1 is filed with the BWC. The sooner you file, the sooner you will likely receive your benefits. After your claim has been filed, the BWC will send you an identification card with your claim number and other items.

You should keep a folder for all correspondence and medical records concerning your claim and carry the ID card in your wallet or purse. You will need to provide the information on the card to your health provider and pharmacy.

HOW DO THESE STEPS HELP ME AVOID A CONTESTED WORKERS' COMPENSATION CLAIM IN OHIO?

In my experience, I've found that if you don't follow through on these first three steps properly and promptly after an injury, the odds that your Ohio workers' compensation claim will be contested increase significantly—and that's something you definitely want to avoid. Claim approval, treatment authorization, and compensation can be delayed by weeks, if not months, when claims are contested.

Quick Reporting in Writing Helps Prove the Injury Happened at Work

So, what can you do to avoid a contested claim? First, report the injury, *in writing*, to your employer immediately, regardless of the severity of your injury, and even if you aren't sure you intend to claim workers' compensation. I can't overstate how often an employee, usually for understandable reasons, fails to report an injury or merely mentions it in passing to a coworker or shift supervisor. It may be that the employee feels a twinge in his back when lifting or moving a box or basket of goods and thinks, "Oh, well, my shift's almost over. I'm sure it'll be better tomorrow." Or perhaps the incident occurs on a Friday afternoon, before a long weekend, scheduled vacation, or plant shutdown. Maybe the pain doesn't seem so bad after all. Better to wait and see than be branded a whiner, right?

Waiting creates a major problem. Taking a “wait and see” approach raises questions about whether the injury is actually work-related. Many, if not most, employers make a big deal of emphasizing to their employees that work injuries are to be reported at once. While this isn’t a legal requirement—workers in Ohio actually have one year to file a claim—most employees sign paperwork when they’re hired to verify that they’ve been advised to report injuries when they happen. If the employee waits, the delay in reporting understandably raises issues about the legitimacy of the work-related injury. If this employee comes back to work after a long weekend, claiming, “Hey, I hurt my back here last Friday,” he risks a rejected claim. And that means waiting two or more months for a hearing before the Ohio Industrial Commission.

So, it’s important to complete your employer’s incident report as soon as possible, preferably immediately, after the incident/injury occurs. Make sure this is done in writing, as supervisors’ and even coworkers’ memories can become amazingly foggy when a contested claim is scheduled for an allowance hearing.

Seeking Medical Attention Right Away Helps Show You Take the Injury Seriously

Once you’ve filed your incident report in writing, seek medical attention as soon as possible. If your employer has an on-site medical dispensary, go there. Give a complete explanation of what you were doing, what happened, what you felt, and where you felt it. If no on-site facility is available, seek treatment at an urgent care facility, hospital emergency room, or family doctor’s office right away. Again, it is very important that you provide a history of your injury

and the circumstances involved. Getting treatment soon after being injured is important for a number of reasons: First, getting immediate medical care means you're likely to recover from your injuries more quickly; second, the sooner you receive treatment after the accident, the less room your employer and/or the BWC has to argue that you weren't injured on the job; and third, it shows that you take your injury seriously—and if you don't, others won't either. Toughing it out can delay your recovery and impact the range of treatment that may be authorized by the BWC and/or the benefits you receive.

Filing Your Claim Quickly Helps You Meet Deadlines

If you are applying for workers' compensation benefits, make sure your claim gets filed as soon as possible. Ohio requires that a claim for benefits be filed within one year of the date of injury. Your employer or the hospital will often provide, and even file, the claim paperwork for you, but, ultimately, it is your responsibility to ensure that the claim has been timely filed.

Once a FROI-1 has been submitted to the BWC, you will receive a claim number. If you haven't received a claim number from the BWC within a couple of weeks (if not sooner), in spite of assurances from your employer that your claim was filed, check with the BWC to make sure the claim has actually been filed. If you give the claim application to your employer to file, keep a copy for yourself.

When you take these three steps, your claim is less likely to be contested, and you help ensure that you'll receive the compensation and benefits you deserve.

HOW DO I REPORT MY INJURY AND FILE A WORKERS' COMP CLAIM IN OHIO?

In Ohio, most workers' compensation matters are handled by the BWC. Regardless of whether an injured Ohioan is employed by a state-funded employer (i.e., an employer who pays into and obtains coverage for work injuries through the BWC) or a self-insured employer (large employers who must apply for and be granted the privilege of administering and paying claims directly), claims are filed the same way, and the process isn't difficult: you simply need to submit a FROI-1 to the BWC. The FROI-1 form is available at OHIOBWC.com, at your doctor's office or hospital, and from your employer's human resource department.

Claiming benefits for work-related or workplace injuries can be done in one of the following ways:

- Completing and mailing the FROI-1 to the BWC
- Delivering the FROI-1 to the BWC in person
- Submitting the FROI-1 online
- Submitting the FROI-1 to your employer's benefits department, where it will be forwarded to the BWC by fax or online
- Having an authorized representative (i.e., your attorney or union representative) submit your claim
- Having another designee submit your claim
- Having your employer's managed care organization (MCO) submit the FROI-1 to the BWC by fax or online.

According to the BWC, most Ohio workers' compensation claims are filed by an MCO following notification of a work-related injury or occupational disease by an employer or a health care provider (i.e., hospital emergency room, treating physician, or urgent care facility). A claim may have been filed by the health care provider if treatment has already occurred. To determine whether a claim has been filed, the injured worker can contact the BWC.

Information Needed for the FROI-1

The information required on the FROI-1 is similar to that needed for a short- or long-term disability application or an application for Social Security Disability (SSD). You must provide pertinent information describing how and where the accident occurred and indicate the part of the body injured. You also need to cite when you reported the injury to your employer and when and where you sought medical treatment. The BWC may contact the treating doctor or hospital for additional diagnostic information and copies of the treatment records if this information is not submitted with the injury report. Once you receive medical attention, let your employer know you have filed a claim, if you haven't already.

If your employer is self-insured, the company is required to report to the BWC any claim for a workplace injury that results in seven or more days of lost wages. Regardless, it is still a good idea to follow up with the BWC to make sure the claim application has been filed. This ensures that an official record of the injury is in the system and that a claim number has been assigned. Although the BWC is not a party to disputed claims involving self-insured employers, it is still responsible for assigning claim numbers to injuries, a number you must provide to all health providers who treat your on-the-job injury. The BWC must also maintain a minimal electronic file on your claim.

After the FROI-1 is filed, the BWC begins the process of investigating the claim and obtaining information. The agency has up to 28 days to decide whether to allow or deny a claim. The BWC will issue a letter notifying the injured employee of the claim number and the name of the BWC customer service specialist assigned to the claim. Denied or disputed claims may be appealed and scheduled for a hearing before the Ohio Industrial Commission.

WILL I LOSE WAGES IF I'M INJURED AT WORK?

The workers' compensation system was established to provide a social safety net in the event of on-the-job injury, contraction of an occupational disease, or death. In addition to payment of medical bills incurred because of injury or disease, as well as a modest payment toward the cost of funeral expenses for a job-related death, various forms of compensation are available to minimize the economic impact of work injuries and compensate for temporary and/or permanent disability.

The amount and duration of compensation available to a claimant is determined by statute and year of injury. Typically, compensation is based on two different wage calculations. The calculation used depends upon the duration and nature of the disability compensation sought. **Temporary total disability** compensation is payable when a work injury prohibits an employee from returning to his former position of employment during the time the injury is healing. It is temporary in the sense that the disability isn't considered permanent (although it may ultimately result in permanent loss of function), and the injured worker has not yet reached maximum medical improvement (meaning that further improvement is anticipated).

Injuries Resulting in Less Than 12 Weeks of Lost Work Time

Most injuries result in less than 12 weeks of lost work time. During this period, disability payments are based on wages earned just prior to the injury—typically, either the average of earnings 6 weeks prior to the injury or, if

higher, earnings one week prior to the injury. Just as taxes and other withholdings mean the difference between your gross and net wages, in the workers' compensation system, there is a difference between the wage calculation (based on earnings) and the rate of payment. Generally, the rate of compensation for an injury that results in 12 weeks or less of lost work time is 72 percent of the initial wage calculation.

Injuries Resulting in More Than 12 Weeks of Lost time

After 12 weeks, the rate of compensation often decreases. This happens for two reasons: One, the wage calculation is now based on wages earned for a full year prior to the injury, typically divided by 52 weeks. Over the course of that year, any raises in pay would result in higher weekly earnings closer to the time of the injury. As such, the 6 weeks or 1 week prior to an injury typically reflect these higher wages and, thus, a higher rate of pay; and two, temporary total disability benefits after the first 12 weeks of lost time are paid at a lower rate. In this case, the 72 percent rate of payment drops to 66⅔ percent of the already lower average wage.

The purpose of temporary total disability payments is to compensate for the loss of earnings that results from injury and continues during the period of recovery. Other forms of compensation are available after maximum recovery from the injury has occurred and if permanent restrictions or limitations remain.

CAN I BE FIRED FOR FILING A WORKERS' COMPENSATION CLAIM IN OHIO?

The short answer is no. But sometimes the circumstances surrounding a firing aren't so clear-cut.

In Ohio, employment is at-will, which means that employment can be terminated by the employer at any time, for any cause. Since this is a judicially-created doctrine (i.e., created by Ohio courts through decisions issued in lawsuits rather than created by the state legislature through passage of a statute), it is trumped when it goes against a public policy established by the Ohio General Assembly.

The Ohio Revised Code provides such a public policy exception in the laws governing workers' compensation claims. Specifically, employers are prohibited from discharging, demoting, reassigning, or taking any action against an employee because the employee filed a claim or instituted, pursued, or testified in any proceeding under the Workers' Compensation Act.

What Happens If I Am Fired?

What are the remedies if you are fired for filing or pursuing a claim? If you have been improperly fired, you are eligible for reinstatement with back pay. The back pay is offset by earnings subsequent to the firing, as well as payments you may have received for temporary total disability, wage loss,

or unemployment compensation. If you weren't fired but were demoted or reassigned, or other punitive action was taken against you, you may recover lost wages offset by the same earnings mentioned earlier.

Retaliatory discharge situations are sometimes not as clear-cut as they seem. Rarely is an employer stupid enough to say, "I'm firing you for filing that claim!" Rather, the employer who wants to fire someone for pursuing a claim will try to find some other plausible reason for the termination. He may say you didn't play well with others, were chronically late, liked to fall asleep on the job, or didn't follow some obscure work rule (that nobody else is expected to follow). In other words, if the employer wants to fire you, he will try hard to find a way to do so.

Does this mean you should be afraid to file a claim if you are injured on the job? Well, you may be somewhat fearful, but you are not at the mercy of an unscrupulous employer. Keep in mind that most employers don't fire employees or take other retaliatory action against them. Plus, you can have a legitimate claim that will continue on even if you are fired. Particularly for serious injuries that will require lengthy, expensive, and ongoing medical treatment, the protection that the claim itself provides may be greater than the security provided by a particular job.

Many other legal protections may be available to you if you find yourself handed a pink slip, including the following:

- You may have protection through your union
- You may have a case for unemployment compensation
- You may have grounds to file a lawsuit against

your employer for defamation, breach of contract, intentional infliction of emotional distress and/or promissory estoppel, and FMLA violations

It may be best to seek legal counsel in any of these situations.

CAN I FILE A WORKERS' COMPENSATION CLAIM IN OHIO IF I HAVE PRE-EXISTING CONDITIONS?

For workers' compensation purposes, Ohio recognizes injuries that aggravate a pre-existing condition. Prior to a statutory change in the law in 2006, Ohio courts had held that aggravation of a pre-existing condition could be demonstrated merely by an increase in symptoms sufficient to result in the need for medical treatment. For injuries occurring after August 25, 2006, a different standard applies: Injury now includes conditions that pre-existed an injury, but only if the condition was "substantially aggravated" by the injury.

Not much of a difference, really ... or so you would think.

The addition of the word "substantial" has significantly increased the burden on an injured worker when it comes to proving a compensable on-the-job injury. The pertinent statute requires that a substantial aggravation be documented by objective diagnostic findings, clinical findings, or test results. Subjective complaints alone are insufficient to establish a substantial aggravation.

How to Prove Substantial Aggravation

This standard of proof can be problematic. For example, how does one demonstrate a substantial aggravation of an underlying arthritic condition that was previously asymptomatic? What about construction accidents or

factory accidents? It is not at all uncommon for an auto worker, factory worker, or anyone injured working the line at a factory to suffer many back injuries over the course of his work life.

At this point, a distinction must be made between recurrence of a condition and aggravation of a pre-existing condition. Fortunately, many recurrent injuries, such as a low back sprain or strain, heal within 8 to 12 weeks of the injury—at least, that’s what the defense doctors will tell you! A recurrence of a previously healed injury is not the same as an aggravation of a pre-existing condition, and a worker may sustain many recurrent back injuries, each of which constitutes a separate claim.

Typically, substantial aggravation claims are not as problematic when strains and sprains are involved; rather, the problems in proving substantial aggravation typically involve pre-existing degenerative conditions, such as degenerative disc disease or degenerative arthritis. In these situations, it is necessary to establish the objective worsening of the condition—typically by X-ray findings, MRI results, objective clinical findings, or positive orthopedic tests. Electromyogram (EMG) testing may also verify the presence of radiculopathy, a radiating pain that may result when an injury causes a previously dormant condition to become symptomatic. In these situations, it is important to obtain and present evidence of diagnostic testing (or the lack of such testing) that may have preceded the work injury.

HOW CAN I GET LEGAL HELP FOR MY INJURY CLAIM?

Since 1985, board certified workers' compensation specialist James Monast has been helping Ohio residents with their workers' compensation claims, providing sound advice and guidance during tough times. His team of skilled, experienced professionals has protected the rights of injured employees to get them the compensation they deserve after an on-the-job accident left them disabled. We've also helped clients whose claims were denied or believed their claims weren't handled properly.

Years of Experience in Workers' Compensation Cases

The attorneys at the Monast Law Office want to help you make things right when you've suffered an injury at work. We know what it takes to win your case, and we're committed to helping you get full compensation for on-the-job injuries, including the following:

- Bending and lifting injuries
- Shoulder and knee injuries
- Carpal tunnel syndrome
- Amputation or the loss of the use of a limb
- Back injuries
- Machine-caused injuries
- Tendonitis
- Reflex sympathetic dystrophy
- Eye/ear/facial injuries
- Slips and falls at work

- Complex regional pain syndrome
- Traumatic brain injuries and concussions

Additionally, the team at the Monast Law Office can answer your questions about injuries that result from a fight at work, can explain Ohio laws regarding mental health conditions caused by a claimant's physical injury, and know how using social media after your injury can influence your compensation claim. Our legal experts have a wealth of knowledge to help you get the workers' compensation you deserve. To schedule your free, no-obligation consultation, call 614-334-4649, or fill out the form on our website.

To learn more about us and what we do, please visit our website, follow us on Twitter, like us on Facebook, send an e-mail (info@monastlaw.com), or call us at 614-334-4649!

A SAMPLING OF CASE RESULTS FOR OUR CLIENTS

- 1) Tommy W. is a long-time client from Columbus, Ohio. Over the years he worked as a plumber, Tommy sustained injuries resulting in 11 claims filed between 1991-2011. The injuries ranged from sprains and strains to meniscal tears, disc herniations in his back and reflex sympathetic dystrophy, an exceedingly painful neurological condition. Tommy was able to return to work following most of these injuries and we were successful in obtaining sizable settlements on those claims.

In 2011, however, he suffered a massive disc herniation in his lower back after filling in several tons of gravel and cranking a wrench to stop a leak in a pipe. He underwent emergency surgery resulting in a fusion of his back. Despite extensive therapy and rehabilitation, his condition did not substantially improve. Tommy had a 10th grade education with no GED but had worked very successfully as a plumber all his adult life after being honorably discharged from the United States Army. He became depressed following this final injury that failed to improve and required him to use a cane and at times even a walker.

His employer vigorously fought his claim, even filing into Court after we obtained his claim allowance before the Industrial Commission. After several years of

temporary total disability and failed efforts at vocational rehabilitation, we were successful in having Tommy awarded permanent total disability benefits even though the Industrial Commission's examining doctors opined Tommy's disability was not work-prohibitive. Tommy is a good man who overcame many injuries and limited education to be very successful in a skilled trade until his final injury. We are honored to have him as our client and to have helped secure future income for him and his family.

- 2) Stacy M. was only 29 when she tripped over a fan cord while working in a Clerk of Courts office in southern Ohio. She fell, injuring her shoulder, ankle and knee. Although her knee and ankle healed after a couple weeks of physical therapy, her shoulder progressively got worse and she developed a staph infection following an MRI arthrogram. Despite two deep debridement surgeries, multiple therapy sessions and several specialists, her condition continued to deteriorate. She developed burning pain in her entire left upper extremity and became a prisoner in her own home, unable even to attend family functions because the pain became unbearable. She was diagnosed with Reflex Sympathetic Dystrophy, an exceedingly painful neurological condition that can result from what appears otherwise to be a relatively minor injury. Ultimately, she lost all use of her left arm and developed a major depression and a seizure disorder. Although young and highly educated (Stacy was a certified paralegal), we were able to have her declared permanently and totally disabled as a result of her devastating injuries to her left arm. She also received a separate award of compensation for the total loss of use of her arm totaling nearly \$150,000. Future compensation and benefits are projected to total approximately \$2,000,000.

- 3) Don C. from Crooksville Ohio suffered injuries to his wrist and low back while working as a semi truck driver for a national pizza chain. At age 44, he underwent a carpal tunnel release and a series of nerve blocks for his back. Having quit school in the 10th grade and not obtaining a GED, Don's employment options were limited to begin with and further reduced when he sustained his injuries at work. His back continued to worsen and he was diagnosed with a chronic pain syndrome. Eventually, he needed a cane to assist with walking.

After failing to improve in spite of extensive medical treatment, Don became depressed when his injuries prevented him from providing for his young family. We were able to have depression recognized in his claim as having resulted from his injuries so that he could begin receiving treatment to improve his quality of life. Ultimately, when it became clear he could no longer return to work in any capacity, we were successful in obtaining Social Security benefits for Don as well as permanent total disability under his workers' compensation claim.

- 4) Marc S. was employed by Muskingham County when he sustained a devastating injury at 41 years of age. He fell out of the back of a moving pickup truck, striking his head on the pavement and losing consciousness. His skull was fractured and blood clots developed on his brain. He was diagnosed with a traumatic brain injury (TBI). In addition to his physical injuries, his TBI resulted in a profound personality change. He has required ongoing residential treatment in a program that can support his complex medical and behavioral needs and will require lifetime care.

Not long after his injury, we were instrumental in obtaining approval for Marc to be transferred to a nationally recognized center in Pennsylvania for long term treatment of his condition. Following several years at this facility, his condition improved to where we were able to assist in having him relocated back to Ohio to be closer to family, including his brother who has been granted guardianship.

After several years of temporary total disability benefits as his condition continued to show modest but steady improvement, we were able to obtain a 72% disability rating for Marc and have him placed on permanent total disability. Compensation and medical benefits paid and payable in his claim total several million dollars.

- 5) Stanley M. celebrated his 44th birthday by getting injured at work! Employed as sanitation foreman for a municipality near Columbus, Stanley was loading a washer and dryer on a truck in January. The lift gate had ice and snow on it and he slipped and fell. Although he was knocked out, he didn't think his injury was serious. He continued working but, by the end of the month, he went to his doctor and discovered he had torn a meniscus in his knee. Following surgery, he returned to work until he underwent the first of several back surgeries, shoulder surgery and another knee surgery. Previously very active, Stanley's symptoms were aggravated with activity and even pain medication offered little relief.

Ultimately, Stanley's drastically altered lifestyle (he could no longer work, enjoy hobbies such as tinkering on his car, or even cut his grass) resulted in depression that further impacted his ability to enjoy life. He experienced significant stress worrying how he would continue to

provide for his family. Owing to his significant physical injuries, his emotional decline, 9th grade education and inability to return to work, we were successful in having Stan placed on permanent total disability for his work-related injuries as well as Social Security Disability. After his award of Social Security Disability, Stan decided to settle his permanent total disability claim with the Bureau of Workers' Compensation for nearly \$300,000.00.

- 6) Tinh P. and her husband moved to the Columbus area at a young age from Southeast Asia. After their 3 children started school, Tinh went to work on the assembly line at a large food processing plant. After several years, she noticed the onset of pain in her hands and elbows and was diagnosed with bilateral carpal tunnel syndrome. Following surgery to each wrist, she returned to work but her condition did not improve. She wore night splints and took appropriate medication but complained of pain in both wrists and experienced numbness and tingling in her middle, ring and little fingers. Repeat surgeries did not improve her condition.

The following year, she slipped on a wet floor and fell, suffering a microfracture of the near inner ear, strains and sprains from her neck to her low back and a disc herniation in her neck. Given that surgery failed to improve her wrists, Tinh opted not to undergo surgery for her herniated disc. Instead, her doctors recommended pain management, including a series of epidural steroid injections. She subsequently developed myofascial pain syndrome in her neck, a painful condition that results in significant pain and loss of motion.

Her employer vigorously fought her treatment and all of the additional conditions. We were successful in overcoming the reports of the hired defense doctors and obtaining approval for the additional conditions and treatment following many hearings over several years.

Ultimately, Tinh's employer inquired about settlement of the claims and we were able to negotiate a settlement of nearly \$200,000, four times higher than the employer's initial offer. Tinh and her husband have continued to send us Christmas cards each year, telling us how they continue to pray for all of us. It was a blessing and honor to represent her and it is exciting that her children themselves have gone on to complete professional degrees in medicine and elsewhere.

- 7) Kenny H. worked as an iron worker, welder, fabricator and lead worker/shop foreman. A mere six weeks before his 40th birthday, Kenny was riding a Dynapak machine that hit a hole and jerked the steering wheel. The machine flipped over and he jumped off onto his right leg, feeling it pop three times. Many knee surgeries followed, including two ACL repairs. After successfully returning to work for a couple years, Kenny developed a deep vein thrombosis (DVT) and a blood clot that lodged in his lung. His physicians confirmed these conditions resulted from his surgeries. Additional allowance hearings were necessary before the doctors could implant a vena cava filter with a thoracotomy and wedge resection of Kenny's lower lung lobe. He subsequently developed a cellulitis and abscess of his left arm requiring more treatment.

Twice denied permanent total disability, Kenny attempted vocational rehabilitation but was determined by the Bureau of Workers' Compensation and Industrial

Commission of Ohio not to be a suitable candidate in 2008. He reapplied and successfully completed vocational training services including job seeking skills training in 2011 but his case was closed in 2011 as his job search was unsuccessful. His DVT continued to cause problems and he underwent extensive surgery, including angioplasty of five veins in 2011. Kenny's inability to work and ongoing health problems plunged him into depression, and we were successful in obtaining treatment for this condition under his claim to help him cope and improve his quality of life.

The third time being the charm, Kenny was granted permanent total disability nearly 19 years after his injury. After all this time together, Kenny and his wife have become like family to us. We are honored to represent them.

- 8) Mary S. injured her back while performing the Heimlich maneuver on a co-worker who was choking after a seizure. We were originally retained to help Mary obtain workers' compensation benefits that were vigorously contested by her employer (they argued it wasn't Mary's responsibility to save her co-worker's life, thus she shouldn't have a valid workers' compensation claim!) and also represented her in filing for Social Security Disability benefits. Extensive medical treatment followed Mary's selfless act, including lumbar and caudal epidural injections, nerve blocks, hip and pelvic surgery, a spinal cord stimulator and medications. During one of her surgeries, she developed a fracture in her pelvis when the doctor was harvesting her iliac bone for use in a spinal fusion.

Mary's condition not only failed to improve, it actually got worse. She was diagnosed with a Failed Back Syndrome and developed severe depression. Recognizing the

severity of her injuries, we recommended she apply for Social Security Disability benefits. Mary was only 31 years old when her injury occurred but she had never been able to return to work. Although her request for benefits was denied at the initial stages, we submitted reports from Mary's workers' compensation claim file that established the severity of her injuries. In addition, we asked her doctors to explain how Mary's injuries prohibited her from returning even to part-time sedentary work. Mary was approximately 35 years old when she was awarded benefits. Although benefits are more difficult to obtain under the age of 50, we have successfully obtained them for many younger clients whose injuries are clearly disabling by presenting medical evidence explaining limitations and restrictions in an understandable way. We also filed for and were successful in having Mary determined permanently and totally disabled under her workers' compensation claim. While being declared disabled by Social Security is no guarantee of permanent total disability in a workers' compensation claim (and vice versa), Mary's case is an example of how a person's injuries may entitle her to both forms of benefits.

- 9) Ruth K. worked as a nurse for more than 30 years. She suffered several injuries over the years working and was always able to bounce back and return to work at a job she loved. While working in the labor and delivery unit at a major hospital, however, she sustained a very serious back injury while quickly pulling up a mechanical bed in a delivery patient who was in the Trendelenberg position.

Rupturing discs at three levels in her lower back, Ruth underwent several extensive surgeries and began using a TNS unit. Given that she was in her mid-50s at the

time of her accident and could not return to nursing, we suggested Ruth file for Social Security disability benefits in addition to pursuing her workers' compensation claim. In spite of Ruth's advanced education, we were able to compile evidence from her treating physicians to establish that Ruth would have been able to engage in no more than sedentary (i.e., sit down) work. Given Ruth's age, the seriousness of her injuries and her inability to return to the work she enjoyed over the preceding 15 years before she became disabled, we were able to secure nearly three years of accrued benefits for her as well as monthly benefits in excess of \$2,000 per month plus Medicare. When her employer became aware of Ruth being declared disabled by Social Security, they asked about her interest in settling her workers' compensation claims rather than risk her being declared permanently and totally disabled by the Ohio Industrial Commission (meaning the employer would be responsible for compensation and injury-related medical payments for the rest of Ruth's life). We were able to assist Ruth in negotiating a very favorable settlement of her claims.

- 10) Darrell S. is a member of a well-known construction family in Columbus. He suffered two industrial accidents in the same year, resulting in injuries to his ankle, knee, leg, head and wrist. Following three knee surgeries, two back surgeries, three wrist surgeries and an ankle fusion, it was clear Darrell was unable to return to construction work. We were successful in having Darrell declared permanently and totally disabled in his workers' compensation claims and recommended he file for Social Security Disability. We utilized several of the medical reports from his workers' compensation claim files in pursuing social security disability benefits,

including reports from Industrial Commission specialists who opined that Darrell was unable to work. We were able to obtain more than three years of back benefits for this hard working laborer along with a guarantee of future monthly benefits and Medicare coverage.

11) Sondra O. sustained more than eight injuries during the course of her employment with a well-known manufacturer of household cleaning supplies in Springfield, Ohio. These injuries involved her back, neck, shoulders and a partial great toe amputation. In addition, she had undergone chemotherapy following a non-work related mastectomy and had a history of hernia repair. During our representation of Sondra in her various workers' compensation claims, which we were able to settle for three times the initial offer proposed by the Bureau of Workers' Compensation, we recommended to Sondra that she file for social security disability. Given that she was over age 50 and clearly couldn't return to her manufacturing job, she was qualified for social security benefits even though she was physically capable of a limited degree of sedentary work. Not only were we successful in obtaining a favorable settlement of Sondra's industrial claims, we were able to secure several years of accrued social security benefits for her as well as Medicare coverage.

12) James W. sustained two industrial injuries while working as an electrician. The first happened when he sustained an electrical shock that jolted him off a 15-foot ladder. This resulted in two surgeries, including a posterior fusion at L5-S1 and artificial disc replacement at L4-5 with an anterior fusion at L5-S1. After he returned to work, he developed pain and numbness in both hands performing repetitive work as an electrician. He underwent bilateral

carpal tunnel release and bilateral ulnar nerve release procedures. He attempted vocational retraining to return to work but was unable to continue. We were successful in having him granted lifetime permanent total disability compensation by the Ohio Industrial Commission and suggested he also apply for social security disability. Social Security denied his application initially and upon reconsideration. Prior to a hearing scheduled before an Administrative Law Judge (ALJ), we submitted a pre-hearing memorandum summarizing the voluminous medical record and presenting the limitations resulting from James' failed back syndrome and spinal epidural fibrosis. The ALJ granted a fully favorable "on-the-record" decision without need to attend a hearing. This resulted in nearly three years of back benefits as well as Medicare coverage for James.

- 13) Larry N. sustained an on-the-job neck injury requiring rehabilitation. While in a BWC-sanctioned rehab program, he aggravated his underlying neck injury so badly performing exercises that he was forced to undergo an anterior discectomy and fusion at C6-7. Six days later, he had a second surgery to reposition the graft that had slipped. An MRI done 18 months later revealed a herniated disc at C3-4. He returned to work but began experiencing excruciating headaches and developed significant depression and anxiety. His doctors ultimately recommended he stop working. He requested and was granted permanent total disability under his workers' compensation claim. We also encouraged Larry to file for social security disability benefits. His application was denied initially and at the reconsideration (first level appeal) levels. At hearing before an Administrative Law Judge, we successfully argued that Larry's combination of physical and mental

impairments, including his debilitating headaches, made it impossible for him to sustain any form of gainful employment. The ALJ awarded Larry nearly three years of accrued benefits totaling nearly \$50,000.

- 14) While making deliveries in his employer's work van, Adam G. was involved in a head-on collision resulting in him being flown via life flight to Miami Valley Hospital in Dayton, Ohio. He suffered severe traumatic brain injury, including coma, and multiple orthopedic traumas. He underwent placement of an intracranial pressure monitor device and five subsequent surgeries for his orthopedic injuries. Following six efforts at vocational rehabilitation, Adam acquired certification in welding and obtained full time work for nearly a year and a half. He began having difficulty coping with the stress of the job and was unable to continue working. The medical record in this case was substantial given the nature of Adam's injuries and treatment. We obtained records from his treating doctors verifying the limitations resulting from Adam's head injury, including his poor memory and concentration, his inability to cope with stress and production demands and his difficulty handling changes in his work environment. Incredibly, his initial application for permanent total disability was denied as an Industrial Commission Hearing Officer concluded he should be able to do some type of work as Adams was only in his mid-40s. This decision was particularly surprising since the BWC's examining neurologist opined that Adam had lost significant cognitive function and could work only part-time at best. After a couple more failed attempts at vocational rehabilitation, we encouraged Adam to re-file for permanent total disability. This time it was granted and Adam was awarded more than 2 years of accrued compensation as well as an estimated 45 years of future

benefits. We also recommended Adam file for Social Security disability. Following preparation and submission of a pre-hearing memorandum, the Administrative Law Judge assigned to the case determined the record had been so well presented that a hearing was unnecessary. He issued a fully favorable “on-the-record” decision awarding Adam more than three years of back benefits, an ongoing monthly benefit and Medicare coverage.

WA

WHAT ARE THE FIRST THREE THINGS YOU SHOULD DO IF YOU GET HURT ON THE JOB?

IS A WORKPLACE INJURY A TICKET TO EASY MONEY?

CAN A PRE-EXISTING CONDITION PREVENT YOU FROM FILING A WORKERS' COMPENSATION CLAIM?

If you find yourself in the unfortunate position of being injured on the job, you risk having your Ohio workers' claim contested causing lengthy delays in claim approval, treatment authorization and compensation—unless you follow proper procedures in a timely fashion.

Understanding how to navigate the workers' compensation highway is best left to a knowledgeable and experienced compensation attorney.

The Workers' Guide to Injury Compensation in Ohio by Attorney James P. Monast explains in easy-to-understand language how to report your workplace injury and how to get the benefits you deserve.

With more than 30 years of experience, Monast and his law firm have the tools to properly and successfully guide you through your case.



Like doctors, lawyers have an oath. It's not a hollow formality; rather, it distills the essence of lawyers' duties concerning justice, the law and the courts, clients and the public. When I took the oath, I pledged to my clients to conduct myself with dignity, civility and respect; and to honestly, faithfully and competently discharge the duties of an attorney-at-law. I also swore not to pursue any unjust lawsuit. The lawyers' oath is not just a set of words, but a moral code. It is the code that guides my practice. Everyone who works with me shares my commitment. We are not just a law firm—we are a team.



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