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State Senate Acts to Stop Bias in Permanent Disability Cuts

Sen. Carole Migden has sponsored legislation to stop doctors from reducing Permanent Disability benefits based on an injured worker's age, race and gender. Senate Bill 1115 would prohibit the consideration of race, religious creed, color, national origin, age, gender, marital status, sex, or genetic predisposition in apportionment decisions.

Unions, seniors and legal associations have rallied behind Migden's bill, which has also been endorsed by some unusual supporters. *Sacramento Bee* columnist Dan Weintraub, a conservative on most issues, recently wrote that some doctors are interpreting Gov. Schwarzenegger's 2004 Workers' Compensation changes too broadly. "In a San Diego case, a black man who developed hypertension because of exposure to toxic chemicals lost half of his disability award after a doctor concluded that African Americans are more susceptible to hypertension."

Victims Receive \$5 Million for Mining Accident

Personal Injury attorneys Howard Krepack and Gary Stern recently won a \$5 million settlement for two victims of a catastrophic mining accident. The employees, both in their 40s, were clearing large rocks stuck in a "jaw crusher," a unit 10-15 feet above the ground fed by a conveyor belt. The workers planned to remove the rocks by attaching one end of a strap to the rocks and the other end to a 2,780-pound bucket attached to an excavator by a hydraulic coupler. The bucket, however, fell off of the coupler and into the crusher, striking both plaintiffs and causing brain injuries and other serious and permanent injuries. Attorneys Krepack and Stern proved that the accident was caused by a defect in the hydraulic coupler.

Workers' Compensation attorney Sherry Grant also obtained a 100% permanent disability award and lifetime medical care for one of the injured miners. The other miner's case is still pending. "Our firm is one of very few that handles both Personal Injury and Workers' Compensation cases under one roof. This enables us to coordinate legal strategies and obtain the maximum benefits for our clients," Grant said.

The Fastest Source for Personal Injury and Workers' Comp News

Many of the stories in this issue of *The Bulletin* have appeared recently in the law firm's regular E-blasts – the fastest source for the latest political and legal news in Personal Injury and Workers' Compensation law. Subscribing is free and easy. Visit us online at www.geklaw.com to sign up. And while you're online, a free evaluation of your Workers' Comp or Personal Injury case is only a click away.

Are You Suffering Side Effects From Your Medications?

If you are taking medication for a work-related injury, you may be entitled to additional Workers' Compensation benefits for any side effects related to the drugs. Additional benefits may include medical treatment and increased Permanent Disability benefits. If you are experiencing side effects, immediately notify your physician and, if you have legal representation, your attorney. Following are some common medications and the conditions they may cause or aggravate:

- Prednisone and other steroids, including cortisone – cataracts, osteoporosis, obesity, hypertension, diabetes
- Coumadin and other blood thinners – anemia, hemorrhage, blood clots, hair loss
- Non-Steroidal Anti-inflammatory Drugs (NSAIDs) – hypertension, upper gastrointestinal disorders, heart attack, renal damage
- Narcotics – lower gastrointestinal disorders, irritable bowel syndrome, sleep apnea, drowsiness, abdominal distension, sexual dysfunction
- Muscle relaxants – lower gastrointestinal disorders, irritable bowel syndrome, sleep apnea, drowsiness, abdominal distension
- Psychotropics (including anti-depressants) – sleep apnea, diabetes, sexual dysfunction

Court Rules for Injured Workers With Permanent Disabilities

In what may be the beginning of a new trend, a California Court of Appeals has ruled in favor of injured workers in two significant cases. On Jan. 29, the Second Court of Appeals ruled in *Zenith Insurance Co. v. WCAB (Cugini)* that a worker's permanent disability could be rated under the previous law if there was "substantial evidence" of permanent disability before January 2005. The same court issued a similar ruling in *Zavala v. Genlyte Group* three weeks earlier.

Another Court of Appeals previously ruled that a worker's condition had to be found "permanent and stationary" before January 2005 to avoid being rated under Gov. Arnold Schwarzenegger's 2004 law.

"The Zavala and Cugini decisions will benefit many workers who would have otherwise been rated under the less equitable and hotly litigated new permanent disability schedule," said attorney Richard Felton. "Ratings under the new law are as much as two-thirds lower than the old law."

New Mileage Rate, Temporary Disability Rate and T.D. Timeframe

Three significant Workers' Compensation changes took effect Jan. 1, 2008:

Medical and legal travel will now be reimbursed at 50.5¢ per mile. The new rate must be paid for travel after Jan. 1, regardless of the date of injury. You can download a copy of the new expense reimbursement form from our website. The 2007 mileage rate was 48.5¢.

The new maximum rate for Temporary Total Disability (TTD) is \$916.33 per week. The new minimum TTD rate is \$137.45 per week. Workers with dates of injury on or after Jan. 1, 2003, who are receiving Life Pensions or Permanent Total Disability benefits are also entitled to the 3.9% increase.

Temporarily disabled workers injured after Jan. 1, 2008, may now receive TTD benefits for up to five years. Employees may receive 104 weeks of payments over a 5-year period that begins on the date of injury. Before, injured workers could only receive these benefits for two years, and the clock began ticking when the first benefit was paid.

Janitors Remember Union Dynamo Ray Burruel

SEIU Local 1877 members gathered March 25 to honor Ray Burruel, one of the union's top officials in Orange County, who died last month from head injuries suffered in an accident. Before joining the

janitors' union, Burrue! worked for the Hotel and Restaurant Employees and the Communications Workers of America. He served in the U.S. Marine Corps, and as a young activist with the Brown Berets. Attorney David Goldstein remembered Burrue! as an untiring fighter for labor rights and injured workers. "Ray was a charismatic leader who combined a passion for justice with a sense of humor. He leaves big shoes to fill," Goldstein said.