



BULLETIN

News for Labor Leaders on Workers' Compensation and Personal Injury Law

TAKES 7 MINUTES TO READ

October 2005

Comp "Reform" Hits the Most Seriously Injured the Hardest

Arnold Schwarzenegger's version of Workers' Compensation has been a bonanza for insurance companies – and a betrayal for Californians hurt on the job. When the debate over "reforming" Workers' Comp began, all sides said they agreed that seriously injured employees needed greater relief. What happened? The governor's mean-spirited 2004 law capped Temporary Disability benefits and changed apportionment laws discriminating against older workers. Most injured workers lost the right to pick their doctor, and utilization reviews have delayed and severely limited medical care.

And that was just the beginning. Schwarzenegger's hand-picked Comp Administrator, Andrea Hoch, has imposed policies that go far beyond anything State Legislators ever intended. Hoch has used American Medical Association guidelines to cut Permanent Disability ratings an average of 40%. The most severely injured workers have felt the greatest pain.

Take the case of Sandra Howell. According to Voters Injured At Work (VIAW), an organization for injured employees, Howell ruptured three disks when she grabbed a falling metal shelf in 2001, and would have been rated 100% disabled under the old law. "I have two rods and six screws in my back. I'd like to go back to work, but I'm unable." Under the new law, though, her Permanent Disability benefits would be cut 90% – from **\$25,480 every year** for the rest of her life to a **total of only \$30,940**. For more "horror stories," visit the law firm website at www.geklaw.com and click on our link to VIAW.org

Two things are clear: First, the Workers' Comp deck has never been more stacked against injured workers. Between the risk of having a claim denied by choosing an antagonistic evaluating doctor from a State Medical Panel, and having benefits cut because of AMA guidelines or apportionment, it is more important than ever to consult a skilled lawyer as soon as possible.

Second, injured Californians may never get relief unless unions help. Pick up the phone today and call Sacramento. Let your elected representatives know that you demand fair Workers' Comp reform, and instruct your government relations specialists to make it a top legislative priority.

Law Firm Files Suit Against Toxics at 28th Street School

In October, Attorneys Roger Gordon and Vincent Vallin Bennett filed suit against a Central L.A. chrome-plating plant for dozens of serious medical problems. Many of the lawsuit's 24 plaintiffs are teachers at a public school across the street. The Personal Injury legal team is working with United Teachers Los Angeles to confront the broad problem of toxic exposure at local schools.

The case centers on 28th Street Elementary, which opened its doors in 1895. In 1941, Palace Plating set up shop, dipping sheet metal in a toxic bath including chromium-6, cadmium, arsenic, zinc, formaldehyde, and hydrochloric and sulfuric acids. During the process, these contaminants are emitted into the air, soil and water around the plant. The suit also targets chemical companies that failed to provide proper instructions on how to safely use and store the toxics they made, distributed and sold.

Questions That Employers Are Not Allowed to Ask

By law, employers may not ask job candidates – either verbally or on a written application – about their health or medical history, or if the applicant has ever filed a Workers' Comp claim.

On Nov. 8, Vote “No” on Props 74 – 78; “Yes” on Props 79, 80

Gov. Schwarzenegger and his supporters are continuing their attack on working people with a series of ballot initiatives to punish teachers and silence public employees, limit reproductive rights, impose a budget that shortchanges schools, and reward drug makers and electric utilities. Following are our suggested votes for the special election:

No on Prop 74 – extends probation for new teachers from two to five years, but doesn’t reduce class sizes, pay for textbooks or schools, or otherwise improve public education.

No on Prop 75 – silences teachers, nurses and other public employees by requiring their unions to get annual written permission to use dues for political action.

No on Prop 76 – allows governor to ignore school funding requirements and impose prior-year appropriations when there’s a budget deadlock in the Legislature.

No on Prop 77 – empowers a panel of three retired judges (instead of the Legislature) to draw legislative and congressional districts.

No on Prop 78 – prescription drug makers only promise to provide voluntary discounts.

Yes on Prop 79 – requires drug makers to discount drugs for millions of Californians.

Yes on Prop 80 – “re-regulates” electric utilities after deregulation helped cause the state power crisis in 2001.

Back-to-Back Personal Injury Verdicts in “Tough” Courts

Attorney Howard Krepack and his legal team recently won substantial back-to-back jury verdicts in districts often considered “conservative” on Personal Injury cases. Krepack represented a young mother in Ventura County who slipped in a restroom in a Ventura multiple-screen cinema. She severely injured her left wrist and elbow, and required three surgeries. Krepack, supported by experts in accident reconstruction and orthopedics, convinced the jury to award \$327,000 – far exceeding the firm’s pre-trial settlement demand. The total judgment, with interest and costs, surpassed \$370,000.

Three days later, Krepack was in Burbank Superior Court. A Ralph’s employee slipped on a wet floor maintained by a sub-contractor, causing a spinal injury that required surgery. Again, Krepack presented a compelling case supported by medical, vocational and economics experts, and the jury awarded a \$770,000 verdict.

Dombchik Joins SoCalCOSH Education Committee

The Southern California Coalition for Occupational Safety & Health recently elected new leaders. SoCalCOSH’s newly named Executive Committee is led by President Charles Burk of the Mail Handlers union. Best wishes to Attorney Adam Dombchik, who joined the Education sub-committee, and 16 other labor activists sitting on SoCalCOSH committees.

Law Firm Publications Now Available Online, by E-Mail

The law firm’s website – www.geklaw.com – features archived issues of our twice-yearly newsletter, *The Reporter*, our quarterly update for labor leaders and activists, *The Bulletin*, and important Workers’ Comp documents, including pre-designation and claim forms. You can sign up in the website’s “Newsletters” section to receive these publications by e-mail. Help us save trees and postage.

Guide to New Comp Laws Now Available in Spanish

Our attorneys continue to hold training sessions for union officers, staffs and stewards on the governor’s new Workers’ Comp rules. That information is also available in the new *Consumer Guide to Personal Injury and Workers’ Compensation Law*. The firm’s highly regarded booklet is now available in Spanish. Call Steve Weingarten at (213) 739-7000 ext. 378 to order copies or arrange a training session.