



Justice for the INJURED

The law firm of Gordon, Edelstein, Krepack, Grant, Felton & Goldstein is dedicated to protecting the legal rights of injured people. The firm promises honesty and integrity, and delivers expertise in the areas of Workers' Compensation and Personal Injury law. Our goal is to provide each client with the most responsive service and best resolution of his or her case.

Sacramento Cuts Comp Benefits

Changes to take effect Jan. 1, 2004, will seriously affect those whom the system was meant to help – injured workers.

As the final hours of the 2003 legislative session ticked down on the clock, State Senators and Assembly members agreed to cut Workers' Compensation benefits to quiet employer protests over rising insurance premiums.

The new law will not roll back a series of benefits increases that went into effect Jan. 1, 2003. Even so, the cuts are bad news for the people whom the system was meant to help – injured workers.

Advocates estimate the cuts could save up to \$6 billion. All the reductions, however, are to services and benefits for injured workers. The insurance industry

that sparked the crisis remains untouched.

Beginning Jan. 1, 2004, payments to pharmacies, outpatient clinics and vocational schools will be slashed and the number of visits to physical therapists will be capped. Key provisions in the bill include:

Prescriptions – Fees will be linked to the Medi-Cal reimbursement rate, although studies show that 65 percent of independent pharmacists would be unable to fill prescriptions at such low prices.

Outpatient surgery centers – New fee schedules will pay the Medicare reimbursement rate plus 20 percent.

Chiropractors and therapists – Visits to each are capped at 24 times per

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Portable Classroom Maker, School District Compensate Teacher's Baby For Birth Defects

A manufacturer of portable classrooms and a Southern California school district recently agreed to compensate a teacher's baby born with severe birth defects.

The settlement came after Attorney Roger Gordon proved the defect was caused by a "witches' brew" of dangerous gases emitted by the portable classrooms. Details of the case are being withheld because of a confidentiality agreement.

Gordon is also representing four other teachers with similar claims of severe health problems caused by portables "off-gassing" toxic chemicals.

Portable classrooms are built like mobile homes, but that industry has long been regulated by the Dept. of Housing and Urban Development. Although HUD strictly limits formaldehyde and other chemicals

in residential trailers, there are no similar standards for portables.

"There are no safe doses of chemicals that cause cancers, mutations and birth defects," Gordon said. "Even regulatory standards of 'allowable amounts' are for the majority of people – not the particularly vulnerable – and there are no standards for what is safe for a fetus or embryo. These poisons cross the placenta and are metabolized by the fetus."



Gordon

Inside the portables, teachers and students breathe a swirling mix of volatile organic compounds (VOCs) from the glues, resins, paints, adhesives, carpet and insulation. These neurotoxic, carcinogenic and teratogenic substances are known to cause nerve and respiratory

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Pre-Designating Your Treating Doctor Is More Important Than Ever

The primary treating physician (PTP) is responsible for managing an injured employee's care and providing an opinion on his or her medical condition to determine eligibility for Workers' Compensation benefits.

The PTP writes a full report on the worker's medical treatment and need to be off work due to the injury. Ultimately, this doctor will also write a final report describing permanent pain, work restrictions, and future medical needs resulting from the injury.

Finding the right PTP and designating them before a work-related injury or illness was always important. Now, though, changes in the Workers' Comp law give new urgency to pre-designating a physician who will evaluate and treat their condition fairly.

For many years, the PTP was "presumed correct." The law required the Workers' Comp Appeals Board – the court for Workers' Comp cases – to regard the PTP's opinion as the most important evidence in

determining a worker's benefits. This "presumption" can be very important to ensure an injured employee receives all benefits to which they are entitled.

Under the new Workers' Comp law, however, only pre-designated treating doctors will be presumed correct for injuries on or after Jan. 1, 2003.

If an employee has not pre-designated a treating doctor, their employer can require them to see a company-appointed doctor for their first 30 days of treatment. After 30 days from notice of injury, they may be entitled to choose their own treating doctor, unless their employer contracts with a Health Care Organization. An HCO is like an HMO for industrial injuries. Employees may be required to treat with their employer's HCO for up to six months before they can change treating doctors – *unless they have pre-designated a treating doctor!*

To pre-designate a doctor, the employee should advise their employer in writing

before an injury that, if hurt on the job, they wish to be treated by their personal physician. An employee who has been treated for a previous industrial injury by a doctor whom they trust may wish to designate him or her for future care. Call the law firm at (213) 739-7000 for additional Pre-Designation Forms.

To pre-designate your doctor:

- Fill out this form
- Give the top half to your employer
- Keep the bottom half for your records

i Viva Villaraigosa! Ludlow Rocks!



The law firm actively supported two labor-backed candidates in the recent L.A. City Council elections. Partner Richard Felton (below left) introduces Antonio Villaraigosa to attorneys and staff at a February lunch. Villaraigosa – who has known the firm since he was a UTIA staffer – shares a moment (at left) with Managing Partner Mark Edelstein on his way to a first-round victory in the 14th District. Tenth District candidate Martin Ludlow visited the law firm in April (below right), followed by a May fundraiser (above right) with Partner Sherry Grant and SEIU Local 99 President Janett Humphries.



Date of an Injury Isn't a Simple Question

Workers' Compensation benefit increases that took effect this year for injuries after Jan. 1, 2003 have made the issue of "date of injury" extremely important. Employers are likely to argue that the old rates for temporary and permanent disability apply whenever possible.

The question of when a work injury occurred may seem obvious, but the answer can be very complicated. For example, consider an employee who was off work for an injury in 2002 and returned to work until January 2003, aggravating the symptoms. An employer will usually classify such a situation as a 2002 injury (old rates), but such a worker would likely be entitled to 2003 benefits (new rates) since an additional injury – the aggravation – occurred into 2003.

Or consider injuries like hearing loss, carpal tunnel syndrome or other conditions caused by years of cumulative trauma. The employer may claim the date of injury was when the claim was first reported, or when treatment was first received. However, if the "injurious exposure" continues past Jan. 1, 2003 the new rates may apply.

The date of an injury is a question of law and fact that, if disputed, is ultimately decided by a Workers' Comp Judge. Changes slated to take place Jan. 1, 2004, raise additional issues concerning date of injury. To avoid such disputes and to receive proper benefits, it is more important than ever to consult with an attorney as soon as possible after an injury to ensure the claim is properly handled.

Classrooms...

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damage, throat and nose cancer, and a broad range of other permanent injuries. The risks are dramatically worse in portables with inadequate ventilation systems built before 1989.

Moisture also aggravates the problem. The "off-gassing" reaches dangerous levels in water-soaked portables as sunlight heats soluble chemicals. In these situations, it isn't unusual to see evidence of mold – itself a neurotoxin.

Portable classrooms sprouted in playgrounds across California as school districts sought cheap alternatives to building permanent structures. Now, however, many districts are facing epidemics of watering eyes, scratchy throats, stuffy noses, headaches, asthma, and memory loss – all classic symptoms of exposure to formaldehyde and VOCs.

"No one can say that minor brain damage causing memory loss is no big deal," Gordon continued. "School districts and portable manufacturers are sympathetic if a teacher gets cancer or her child has a

birth defect, but they will deny that it had anything to do with their portable."

If teachers across the state were aware of the health problems, he added, their union might coordinate present and future grievances to ensure that all teachers who have worked in portable classrooms have lifetime monitoring and care for problems that result

Krepack Honored for 'Skill, Integrity and Experience' in Jury Trials

The American Board of Trial Advocates recently conferred the rank of Associate on Personal Injury attorney Howard Krepack. ABOTA is a prestigious national legal association of plaintiff's attorneys and defense counsel recognized for their "skill, integrity and experience in the special art of advocacy."



Krepack

"As an attorney," Krepack said, "jury trials provide the most interesting forum to present a case. They require great preparation, skill and creativity. Most importantly, the right to trial by a jury of our peers helps protect our freedom."

The ABOTA recognition reflects the high regard in which other attorneys hold the law firm.

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year, regardless of the circumstances or seriousness of the disability.

Vocational rehabilitation – Injured workers currently receive up to \$16,000 for job retraining and living expenses. The new law provides training vouchers based on the severity of the injury, but eliminates weekly disability payments during retraining.

The new law also revokes the "presumption of correctness" of treating doctors except physicians

who have been pre-designated by employees. Rigid guidelines will be adopted to restrict how much treatment can be given for different injuries.

These changes have made the Workers' Compensation system even more complicated and fraught with obstacles. Expert legal representation is more important than ever. Do not delay if you have been injured or become ill on the job. If you have questions regarding a possible claim, call the law firm to schedule a free consultation as soon as possible.



Partner Richard Felton (at left) discusses new law with SEIU Local 660 staff members, while partner Sherry Grant (at right) explains new provisions to CTA staff.

Helping Unions Apply Changing Comp Laws

This year, a broad range of Workers' Comp benefits

has increased, from temporary and permanent disability to death benefits. Meanwhile, Sacramento has responded to employer complaints with a series of service cuts to take effect in 2004. (See page 1)

The law firm has responded by updating its highly regarded **Consumer Guide to Workers' Comp and Personal Injury Law**. The 2003 edition includes a schedule

of new benefit rates, a physician pre-designation forms, and the popular "Ten Tips If You Are Hurt at Work."

The firm has also begun training unions to use the new law effectively. Sessions have been given recently to staff and stewards from the California Teachers Association and Service Employees International Union locals from across Los Angeles County.

For a copy of the updated booklet or to request a training session, please call Steve Weingarten at (213) 739-7000, extension 378.

THE WORKERS' COMPENSATION AND PERSONAL INJURY LAW

REPORTER

is published as a service to our clients and friends. It is not a substitute for legal advice. If you have a question in the areas of our specialties, please call to arrange a free consultation.

Roger L. Gordon
Mark Edelstein
Howard D. Krepack
Sherry E. Grant
Richard I. Felton
Irwin L. Goldstein
David A. Goldstein

Associate Attorneys
Eugenia L. Steele
Vincent Vallin Bennett
Adam Dombchik
Jennifer S. Weisman
Gary N. Stern
Noah Green
Joanna Sacavitch
Lidia Felix Pioli

**Gordon, Edelstein, Krepack,
Grant, Felton, & Goldstein**
3580 Wilshire Blvd., Suite 1800
Los Angeles, California 90010
(213) 739-7000 • (213) 487-1520
Fax: (213) 386-1671

Email: newsletter@geklaw.com
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THE WORKERS' COMPENSATION
AND PERSONAL INJURY LAW

REPORTER

**Gordon, Edelstein, Krepack,
Grant, Felton & Goldstein**

3580 Wilshire Boulevard, Suite 1800
Los Angeles, California 90010

FALL 2003

Employee Personal Physician Designation Form

To: _____

From: _____

Date: _____

In the event I am injured or taken ill on the job, I reserve the right to be treated by my own physician and/or chiropractor from the time of my injury or illness.

My Physician's name is _____

Address _____

City, State, Zip _____

Area Code, Telephone # _____

TOP HALF TO EMPLOYER



KEEP BOTTOM HALF

Employee Personal Physician Designation Form

To: _____

From: _____

Date: _____

In the event I am injured or taken ill on the job, I reserve the right to be treated by my own physician and/or chiropractor from the time of my injury or illness.

My Physician's name is _____

Address _____

City, State, Zip _____

Area Code, Telephone # _____

Formulario de Designación del Médico Particular del Empleado

Para: _____

De: _____

Fecha _____

En caso de que me enferme o lesione en el trabajo tengo el derecho de recibir tratamiento de mi médico y/o quiropráctico particular desde el momento en que ocurra la enfermedad o lesión.

El nombre de mi médico particular es _____

Domicilio _____

Ciudad, Estado, Código postal _____

Area Telefónica, Número de Teléfono _____

Parte Superior al Empleador



Retenga Parte de Abajo

Formulario de Designación del Médico Particular del Empleado

Para: _____

De: _____

Fecha _____

En caso de que me enferme o lesione en el trabajo tengo el derecho de recibir tratamiento de mi médico y/o quiropráctico particular desde el momento en que ocurra la enfermedad o lesión.

El nombre de mi médico particular es _____

Domicilio _____

Ciudad, Estado, Código postal _____

Area Telefónica, Número de Teléfono _____