



WORKERS COMPENSATION &
PERSONAL INJURY LAWYERS

BULLETIN

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

TAKES 7 MINUTES TO READ

March 2004

UFCW Strikers Held the Line for Affordable Healthcare

We salute the 59,000 supermarket strikers for upholding the finest traditions of labor solidarity. Besides hanging together during a 5-month fight to defend their health benefits, members of UFCW Locals 770 and 1442 drew broad support from Los Angeles unions, community groups and customers, who respected picketlines throughout the long conflict. The law firm is proud to have contributed to several relief funds for strikers' families.

Cap Insurance Rates, Not Injured Workers' Care!

The debate over Workers' Compensation rates has overlooked one big issue: employers are unlikely to see any significant relief from rising rates until insurers are brought back under state regulation. For example, Sacramento slashed more than \$5 billion from the \$29 billion Workers' Comp system (see below) last year, but the effect on premiums has been negligible.

Workers' Comp is the only type of insurance that California does not regulate. In the 10 years since then-Governor Pete Wilson de-regulated the industry, the large insurers have whipsawed the system, first by launching a price war to drive smaller competitors out of business, and then by inflating premiums to make up for earlier losses.

Instead of re-regulating Comp carriers, Gov. Schwarzenegger blames the crisis on attorney fees and fraudulent claims. Meanwhile, insurance giants like AIG – which contributed hundreds of thousands of dollars to the new governor – want Sacramento to continue slashing care and benefits for injured workers, and are expected to spend tens of millions of dollars on ballot initiatives if the Legislature does not meet their demands.

2004 Comp Law Spells Trouble for Injured Workers

A series of cuts in Workers' Comp benefits that went into effect Jan. 1, 2004, are bad news for the people whom the system was meant to help – injured workers. Key changes include:

Treating doctors – The treating doctor's opinion is no longer presumed correct. Although pre-designated doctors may still be presumed correct on some issues, the new law makes it harder for injured workers to get proper treatment. This applies to all cases.

Medical Treatment – New utilization guidelines also limit medical treatment. As of Jan. 1, 2004, a treating doctor who wants to provide different or additional care must prove that the injured worker's case is special and requires it.

Chiropractic Visits and Physical Therapy – Injured workers are only entitled to 24 chiropractic visits and 24 physical therapy treatments per claim for injuries on or after Jan. 1, 2004.

Spinal Surgery – If a treating doctor recommends spinal surgery but an employer objects, the injured worker must get a second opinion from a doctor picked by the state or, if the worker is represented by an attorney, from an agreed upon Medical Examiner.

GORDON, EDELSTEIN, KREPACK, GRANT, FELTON & GOLDSTEIN

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Vocational Rehabilitation – The new law eliminates retraining for workers who cannot return to their job because of a permanent injury on or after Jan. 1, 2004. Employees may receive vouchers and other limited assistance.

Labor leaders should keep an eye out for union members who have been denied care or had their benefits terminated. These changes have made legal representation more important than ever. If you have questions about a possible claim, call the law firm to schedule a free consultation as soon as possible.

New Governor Continues Assault on Injured Workers

The fight to defend injured workers is just beginning! The President of the California Labor Federation, Tom Rankin, has described the additional Workers' Compensation cuts that Gov. Schwarzenegger wants as "the Chamber of Commerce's wish-list for the last 20 years." The new governor's proposal – introduced as AB-1 by Assemblyman Abel Maldonado – would:

Cover fewer injuries – Cumulative injuries such as carpal tunnel would not be compensated unless work is a substantial cause, greatly increasing the burden of proof on injured workers and eliminating many claims.

Allow employers to veto a pre-designated doctor – Workers could not pre-designate their personal doctors, and even after 30 days could not switch to the doctor of his or her choice unless the employer or insurer agrees.

Stop injured workers from challenging many medical reports – Injured workers could only request a medical evaluation to challenge the treating doctor over whether an injury is covered by Comp, the extent of permanent disability, the worker's ability to return to his or her old job, or the existence of a new and further disability. Other issues, such as the need for medical treatment, could no longer be challenged.

Make "independent medical reviews" final and binding – Disputes over treatment issues would be resolved by a doctor who has never examined the injured worker. Utilization reviews could not be appealed to a Workers' Comp judge.

Slash Permanent Disability – Ratings would no longer include findings of pain or other symptoms that doctors cannot directly measure or observe. Permanent disability and death benefits would not be available if the work injury wasn't the predominant cause of disability or death. PD would be reduced if the employee returns to work.

Law Firm Offers Workers' Comp Training to Caregivers

For nearly a year, attorney Sherry Grant has led a legal team training SEIU Local 399 staff and workplace leaders in Workers' Comp and labor law. To help answer a rising tide of questions about changing Comp coverage, Grant recently began holding office hours every Wednesday at the healthcare workers' Commerce headquarters. For more information or to arrange training for your staff, contact Grant at (213) 739-7000.

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Five Attorneys Receive High Honors from Legal Peers

The law firm recently received high honors from our peers. A poll of Southern California attorneys named four partners – Personal Injury attorney Roger Gordon and Workers' Comp attorneys Mark Edelstein, Sherry Grant and Larry Goldstein – as “Super Lawyers.” Survey results were published in the February 2004 issue of *Los Angeles* magazine. Hard on the heels of that distinction was a poll by *American Lawyer* magazine naming Comp attorney Richard Felton a “Best Lawyer.”

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