



*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.

## Workers' Comp Reform to Bring Overdue Relief

Governor Gray Davis has signed the most important reform of Workers' Compensation since the 1980s. California's injured workers will be better served for job-related injuries or illnesses on or after Jan. 1, 2003, when AB749 goes into effect. During the next four years, the new law will increase the broad range of Workers' Comp benefits, from temporary and permanent disability to death benefits.

Despite improvements, employees will still not receive full compensation for the devastating losses that can result from a work-related injury or illness. Also, the new Workers' Comp law is often more complex, making early legal representation more important than ever to ensure fair compensation.

Permanent Disability (PD) rates are determined by the date of injury and degree of disability. See the chart inside for the new PD benefits levels.

Benefits for Temporary Total Disability (TTD) are calculated as two-thirds of an injured worker's average weekly wage. The maximum TTD benefit will increase from the current cap of \$490 weekly to \$602 for new claims in 2003, to \$728 for injuries during 2004, and to \$840 the following year. Beginning in 2006, the TTD maximum will increase in step with the State Average Weekly Wage.

The new benefit levels apply to new claims. Workers who sustained injuries or became ill before Jan. 1, 2003, and who qualify for maximum benefits, will continue to receive \$490 weekly.

However, TTD benefits for previous claims will "bump" up to the new maximum if the recipient continues to be temporarily disabled more than two years after the date of the injury or illness.

The minimum for TTD benefits will also rise in 2003 from the current level of two-thirds of actual wages to \$126 weekly. This increase will be especially beneficial for part-time

**Temporary Disability benefits for earlier claims will "bump" up to new levels after two years from the date of injury.**

## Jury Awards \$830,000 to Roofer for Defective Ladder

Jesse Dominguez knows his way around ladders. During decades of working as a roofer, Dominguez has gone up and down more often than a merry-go-round pony. But the veteran was caught off-guard when a hinged ladder collapsed and sent him flying to the ground below. His injuries included an ankle shattered beyond repair.

Dominguez was offered a paltry \$50,000, which was rejected. Attorney Roger L. Gordon tried the case, and prevailed with an \$830,000 jury verdict against Home Depot.

The workday began normally enough on Oct. 19, 1999. Dominguez led his crew up an articulated ladder to prepare a roof, and after about 15 minutes was about to lead the men down. That's when the ladder – which wasn't his company's usual equipment, and was being used until the "big equipment" arrived – collapsed without warning.

Several companies produce collapsible ladders. Dominguez's case hinged on a unique but defective one-hand release by Krause Inc. The manufacturer compounded the defect by locating the release where it is especially vulnerable to being unintentionally engaged.



Gordon

"A lock that doesn't lock isn't much of a lock," said Attorney Gordon.

"You shouldn't have to give up safety for the convenience of folding the ladder 15 seconds quicker," he added. "Other ladders have redundant safety features that can save you if one of the hinges doesn't lock."

Gordon said Dominguez inadvertently kicked the release bar when he began to descend. Although no other manufacturer

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## Is Your Job Hazardous to Your Health?

Many of the worst injuries on the job occur without ever being recognized as work-related. Muscles, bones, joints and internal organs can be damaged over time, especially by jobs that are physically or emotionally stressful.

The Bureau of Labor Statistics estimates that Repetitive Stress Injuries (RSIs) affect about 2 million people every year, but labor groups believe many more cases go unreported. Many workers don't realize their injuries are job-related because pain and other symptoms can take years to develop.

The most common RSI, carpal tunnel syndrome, affects the hands and wrists of millions of clerical workers and other

employees who use keyboards for long periods of time. But ongoing physical or emotional job stress – also known as Continuous Trauma, or CT – can cripple other body parts, and may even cause death.

- Heavy lifting, repetitive bending and prolonged sitting can take a toll on backs.

- Prolonged standing or walking can seriously injure legs and feet.

- Stress can aggravate or cause heart disease, hypertension and strokes.

Many CTs and RSIs could be prevented by proper training and ergonomic equipment. Ergonomics is the study of how working conditions affect employees' bodies.

Controversies over setting ergonomic

standards have flared in the decade since then. Secretary of Labor Elizabeth Dole called RSIs "one of the nation's most debilitating across-the-board worker safety and health illnesses."

President Bill Clinton issued new federal standards shortly before leaving office, but the Bush Administration repealed those rules earlier this year. Although California has had a state standard for three years, the regulations are not consistently enforced.

When the day is done, though, each employee is responsible for his or her health and safety. You aren't alone. An experienced Workers' Comp attorney can make sure you receive all due financial benefits, as well as any necessary medical care and equipment.

## Workers' Comp Reform to Bring Overdue R

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employees and minimum wage-earners.

The new minimum for TTD benefits also applies to injuries or illnesses after Jan. 1, 2003. However, the "bump" to higher benefits for previous claims will also apply if the recipient is still temporarily disabled two years after the date of injury.

Be sure to let us know if you are on Temporary Disability and are entitled to a "bump" on or after Jan. 1. In addition to getting a higher disability rate, you may also be entitled to penalties if the adjustment in your benefit level is unreasonably delayed.

**In 2006, the maximum permanent partial disability benefit will increase from \$140 to \$230 for all partial disability ratings under 70%, and from \$230 to \$270 for ratings above 70%.**

**In 2006, the death benefit will double from \$125,000 to \$250,000 for one totally dependent survivor or several partially dependent survivors. Benefits will also double in 2006 for additional survivors, up to \$320,000 for three or more totally dependent survivors.**

Class of Benefits		For Injuries Occurring C	
		1994 – 2002	2003
<b>Temporary Disability</b>	Minimum	Actual Wages	\$126
	Maximum	\$490	\$602
<b>Permanent Disability Minimum</b>			
	15%	\$70	\$100
	15 - 24.75%	\$70	\$100
	25 - 69.75%	\$70	\$100
	70 - 99.75%	\$70	\$100
<b>Permanent Disability Maximum</b>			
	15%	\$140	\$185
	15 - 24.75%	\$160	\$185
	25 - 69.75%	\$170	\$185
	70 - 99.75%	\$230	\$230
<b>Death Benefit Maximum</b>			
Single total dependent		\$125,000	\$125,000
No total dependents and one or more partial dependents		\$125,000	\$125,000
Single total dependents and one or more partial dependents		\$145,000	\$145,000
Two total dependents		\$145,000	\$145,000
Three or more total dependents		\$160,000	\$160,000

## Layoffs May Bar Claims for Unreported Injuries

Rumors and proposals are circulating about tens of thousands of layoffs at private businesses and government agencies across Los Angeles. The bad economy is touching everyone from employees at airlines and telecom companies to school districts and the County health department.

Remember: A layoff does not terminate an injured employee's right to collect Workers' Comp benefits for an existing claim if he or she was injured on the job.

However, a layoff can affect an employee's right to benefits for an unreported claim. According to the state Labor Code, a worker may be barred from receiving benefits for a work-related injury or illness that wasn't

reported to the employer before notice of the layoff.

All is not lost. There are a few exceptions to this harsh rule:

- A claim is not barred if the employee didn't know the injury or illness was work-related until after he or she was laid off. This is common with heart disease, cancer and other injuries or illnesses caused by long-term stress, continuous trauma or exposure on the job.

- Under another exception, a claim is not barred for an unreported physical injury if it is mentioned in any medical records. For a psychiatric injury, there must also be evidence of actual treatment.

- Also, a claim is not barred for injuries or illnesses that occur after layoffs are announced but before they go into effect. This rule only bars benefits for unreported claims before notice of a layoff.

Individual cases may offer additional exceptions. Consult an experienced Workers' Comp attorney immediately if you have questions about your legal or medical condition.

By law, every employer is obligated to provide injured employees with a Workers' Comp claim form. Don't forget to save your portion of the form. It is the best proof that a report was filed before layoff notices were given.

## Governor Appoints Law Firm Partner Steven J. Kleifield to Superior Court

On Aug. 23, Governor Gray Davis announced he was appointing Attorney Steven J. Kleifield to the Los Angeles County Superior Court. Kleifield will bring a keen eye for fairness and a heart beating passionately for justice to his courtroom.



"All of us are served well when an attorney of Steve's character wears the judge's robes," said Managing Partner Mark Edelstein.

During 13 years as a partner at the law firm, Kleifield represented plaintiffs in personal injury, product liability, medical malpractice, insurance bad faith, discrimination and wrongful termination cases.

Every partner, associate, paralegal and support staff member of Gordon, Edelstein, Krepack, Grant, Felton and Goldstein will continue to show the same high standard of legal representation that Steve has demonstrated throughout his career.

## Relief...

On and After January 1		
2004	2005	2006 and after
\$126	\$126	\$126 plus rise in State Average Weekly Wage
\$728	\$840	\$840 plus rise in State Average Weekly Wage
\$105	\$105	\$130
\$105	\$105	\$130
\$105	\$105	\$130
\$105	\$105	\$130
\$200	\$220	\$230
\$200	\$220	\$230
\$200	\$220	\$230
\$250	\$270	\$270
\$125,000	\$125,000	\$250,000
\$125,000	\$125,000	\$250,000
\$145,000	\$145,000	\$290,000
\$145,000	\$145,000	\$290,000
\$150,000	\$160,000	\$320,000

## Labor Leaders, Lawyers Hit the Links for Leukemia



Attorney Howard Krepack, center, led a law-firm foursome at the ninth annual UFCW Local 770 golf classic to benefit leukemia and lymphoma research. Seen from the left are Paralegal Steve Scardino, Ken Goodfried, Krepack, Lawry Goldberg and actor George Lazenby, who played 007 in one of the James Bond films.

## Roofer...

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includes it, Krause promoted the ability to collapse both sides of its ladders at once as a time-saver. Under current OSHA rules, each side of a ladder must be strong enough to carry the full weight by itself.

Krause has had other problems with the product. Dominguez is one of nearly 200 injured users across the country to file lawsuits. In California, seven or eight complaints of inadvertent collapses have also been reported to the state Consumer Product Safety Commission.

The manufacturer is now in bankruptcy, but Gordon focused legal action against Home Depot, which has sold nearly a million

ladders under a lucrative marketing agreement with Krause. "Home Depot distributed this defective product and had knowledge of the defects."

Over defense objections, Gordon was able to read into the record other plaintiffs' testimony about their injuries with Krause ladders. The jury was especially moved by a video produced by Gordon's engineering expert with stuntmen recreating how easily the one-hand release could be inadvertently activated.

The Van Nuys jury awarded Dominguez \$580,000 for lost earnings and medical expenses, and \$250,000 for pain and suffering. Attorney Mark Edelstein is also pressing forward with a Workers' Compensation claim for the injured roofer.

## ¡Viva la Unión! ¡Viva la Justicia!



Attorney David Goldstein, left, and Lilly Manzo, standing, celebrate Cinco de Mayo with SEIU Local 1877 staff. Goldstein and Manzo hold regular training sessions in Workers' Comp law at the union, which is best known for the "Justice for Janitors" campaign.

### THE WORKERS' COMPENSATION AND PERSONAL INJURY LAW

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