



BULLETIN

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

TAKES 7 MINUTES TO READ

Summer 2003

Updated Consumer Guide to Workers' Comp Just Off the Press

On Jan. 1, 2003, the most important reform of Workers' Comp since the 1980s went into effect. The new law increases a broad range of benefits for injured employees, from temporary and permanent disability to death benefits. Our updated Consumer Guide explains the changes, including a new role for primary treating physicians (PTP), along with a schedule of new benefit rates, a physician pre-designation form, and our popular *Ten Tips if You Are Hurt at Work*. The new booklet is available in Spanish as well. The firm is also training labor leaders and activists in the new law. Please call (213) 739-7000 extension 378 to arrange a seminar for your union's officers, staff and stewards.

Court Clarifies Injured Workers' Right to Change Treating Doctors

The California Appellate Court recently clarified the legal right of injured workers to receive proper medical treatment. On May 28, the court ruled that Martin Gaytan, a gardener for the L.A. Unified School District, was entitled to seek treatment while disputing the opinion of his original primary treating physician (PTP) that additional care was not needed.

When a PTP finds a worker's injury is "permanent and stationary" and not in need of continued treatment, the law presumes this medical opinion is correct. If an injured employee disagrees, he or she must object within strict guidelines. The Appellate Court held in its earlier *Tenet* decision that an injured employee who didn't object in a timely fashion could not receive additional medical care paid through Workers' Comp. The Workers' Comp Appeals Board interpreted the *Tenet* decision to mean an insurer doesn't need to pay for additional treatment until an injured employee files a proper objection and a Workers' Comp Judge agrees with a Qualified Medical Examiner that continued care is necessary.

According to the *Gaytan* decision, an injured employee who files a timely objection may also seek medical care while waiting for the legal issues to be decided. Workers' Comp will cover any additional treatment that is later proven to be necessary.

Insurance Companies Blame Injured Workers for Comp Crisis

Who is to blame for the current crisis in state Workers' Compensation? Employers may point their fingers at the recent increase in disability benefits for injured workers, but a closer look reveals that most of the financial misfortune has been caused by tumbling investments in the stock market and greedy manipulation of the state insurance market.

Thanks to deregulation in the mid-1990s, Comp carriers are the only property or casualty insurers in California who do not need approval from the insurance commissioner to raise rates.

GORDON, EDELSTEIN, KREPACK, GRANT, FELTON & GOLDSTEIN

WORKERS COMPENSATION AND PERSONAL INJURY LAWYERS 3580 Wilshire Boulevard, 18th Floor, Los Angeles, CA
90010 • Tel 213.739.7000 Fax 213.386.1671



WORKERS COMPENSATION &
PERSONAL INJURY LAWYERS

BULLETIN

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

TAKES 7 MINUTES TO READ

For a decade, carriers deliberately under-priced premiums to drive out competitors, and California businesses saved billions. But the Comp carriers didn't charge enough to cover claims, and lost about \$2.6 billion in 2001.

Insurance Companies Blame Injured Workers ...

Surviving insurers have since tried to recoup losses from their reckless, predatory practices and poor investments by raising premiums and blaming the hike on the first increase in benefits that most injured workers have received in more than 20 years. In fact, the higher benefits that went into effect Jan. 1 will increase premiums by only three-tenths of 1 percent by the time they are phased in over four years.

Rescinding the benefit increase won't roll back rising insurance premiums, but more than 50 bills proposed by Republicans in the Legislature attempt to limit worker benefits and access to treatment. None addresses insurance industry reform. You can help ensure that local newspapers hear the voices of injured workers in this debate. For help drafting a letter or for more information about the Workers' Comp crisis, contact Communications Consultant Steve Weingarten at steve@gekllaw.com.

The Unfriendly Skies of United Airlines

Supervisors at United Airlines have been threatening employees injured on the job with termination unless their doctors release them without any restrictions or disability – even though their restrictions do not exceed their job duties. This is patently illegal. California Labor Code 132(a) prohibits any employer from discriminating against injured workers. Partner Sherry Grant, who represents many injured UAL employees, has filed 132(a) petitions on behalf of these clients and successfully fought against this practice. “The company makes it up as they go, then gets burnt when they wind up paying back-wages with substantial penalties.”

The People Who Make Our Unions Strong

Congratulations to President Mike Garcia and SEIU Local 1877 members for negotiating significant advances on the janitors' master contract, even during rocky economic times. And best wishes to Rod Diamond for new responsibilities as Secretary-Treasurer of UFCW Local 770.

Election Victories Bloom in L.A. this Spring

Hats off also to Antonio Villaraigosa and Martin Ludlow for their successful City Council races, and to UTLA for playing a leading role in the School Board victories of David Tokofsky,

GORDON, EDELSTEIN, KREPACK, GRANT, FELTON & GOLDSTEIN

WORKERS COMPENSATION AND PERSONAL INJURY LAWYERS 3580 Wilshire Boulevard, 18th Floor, Los Angeles, CA
90010 • Tel 213.739.7000 Fax 213.386.1671



WORKERS COMPENSATION &
PERSONAL INJURY LAWYERS

BULLETIN

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

TAKES 7 MINUTES TO READ

Marguerite LaMotte and Jon Lauritzen. Congratulations also to AFT 1521A for helping pass Prop AA and re-elect a slate of progressive trustees to the L.A. Community College Board.

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.”

“As an attorney,” Krepack said, “jury trials present 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 help protect our freedom.”

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

GORDON, EDELSTEIN, KREPACK, GRANT, FELTON & GOLDSTEIN

WORKERS COMPENSATION AND PERSONAL INJURY LAWYERS 3580 Wilshire Boulevard, 18th Floor, Los Angeles, CA
90010 • Tel 213.739.7000 Fax 213.386.1671