



REPORTER

PERSONAL INJURY AND WORKERS' COMPENSATION LAW

WWW.GEKLAW.COM

SUMMER 2007

Justice for the INJURED®

Fight Grows Against Toxic Schools

Negligent Construction in Bassett District, Toxic Pollution Across LAUSD

Personal Injury attorney Roger Gordon recently filed suit on behalf of 17 teachers and students against the Bassett Unified School District, as well as the architect, contractors and inspectors of the Edgewood Academy.

A simple – almost laughable – mistake was made when Edgewood Academy was built in 2000: No one connected the toilets in Building L to the sewer line. The oversight went undetected for six years.

Meanwhile, human waste built up under the portable classroom, producing horrible odors, contaminating the soil, water and air, creating a cockroach infestation, and causing the building itself to decompose and emit toxic chemicals into the air.

The consequences have been devastating. The Edgewood plaintiffs' medical complaints range from diarrhea and cramps to miscarriages and children with birth defects.

Continued on page 2

Hotel Worker's Death Casts A Long Shadow Across Century Boulevard

Hotels along Inglewood's Century Boulevard have tried to counter a union-organizing campaign by ratcheting up pressure on employees. The stress of cleaning additional rooms and company demands to denounce the union were too much for Margarita Uriostegui.



Margarita Uriostegui

Uriostegui suffered a devastating stroke hours after more than 300 supporters were arrested recently in a peaceful sit-in near L.A. International Airport. The 37-year-old Radisson Hotel housekeeper was declared dead two days later.

Attorney David Goldstein filed a claim for death benefits on behalf of

Uriostegui's three sons: Ricardo, Alex and Francisco Jr. Benefits include \$320,000, burial costs and unpaid medical bills.

Workers' Compensation law only requires evidence that job-related stress contributed to a fatality – not that it caused the stroke.

Goldstein announced the legal action at a press conference in front of the Workers' Comp Appeals Board. With him were widower Francisco Uriostegui, the couple's three sons, and her mother and sister.

The hotel workers' union, UNITE-HERE Local 11, held a weeklong fast in to commemorate Uriostegui's death and redouble efforts to bring justice to the Airport Corridor.



"There's no doubt that you're in a toxic war zone," attorney David Goldstein recently told Del Amo teachers at a packed meeting in the elementary school's faculty lounge.

Fired Circuit City Employees to File Suit Against Age Discrimination

Circuit City employees who were fired because they make too much money recently picketed in front of the chain's Culver City store. The workers and their attorneys also held a sidewalk press conference to announce plans to assert their rights against the electronics giant for employment discrimination.

In late March, Circuit City announced that it was terminating 3,400 employees, including more than 300 veteran salespeople and others in 34 stores in the Los Angeles area. The company told the workers they could reapply for their jobs after a 10-week hiatus – at significantly less pay.

According to attorney Roger Gordon, the firings amount to a statutory case of age discrimination because they are having a disparate impact on older employees. Many of those terminated were over 40 years old.

"Circuit City is terminating hard-working employees who have dedicated years of service to the company," Gordon said. "We will do everything we can to right this terrible wrong."

The impact of the firings, he predicted, will go far beyond the damage to veteran employees and their families. "Society in general is hurt when experienced, knowledgeable workers are lost, and we hope Circuit City pays a steep price for their actions."

CONGRATULATIONS TO THE UNITED FOOD AND COMMERCIAL WORKERS ON WINNING A SUPER-MARKET CONTRACT THAT REWARDS THE MEN AND WOMEN WHO DO THE WORK.

Artist Who Created Unique Holiday Cards for Firm Dies

Scholarship planned to honor Seichi Kiyohara

Seichi Kiyohara, who studied art in Japan and illustrated the concepts of leading American space experts, has died. Kiyohara was born in California in 1921. He moved to Japan with his family when he was 11, and attended Tokyo's prestigious TAMA Art School after high school. Severe asthma and his American birth kept him out of the military. After the war, he worked for the U.S. Army and the U.N. Korean Reconstruction Agency.

Once his U.S. citizenship was restored, Kiyohara settled in Los Angeles and began illustrating the concepts of Dr. Robert Forward, a leading expert in space travel and propulsion at Hughes Aircraft. His work was published in

Forward's books and Encyclopedia Britannica publications, and displayed at the San Diego Aerospace Museum.

After retiring, Kiyohara began creating original holiday greetings, including seven cards for our firm. He is survived by his wife of 60 years, Tatsuko, and their son, Ko.

The law firm plans to honor Kiyohara by establishing an art scholarship in his name for students in public high schools. Watch for more details in future newsletters.



Fight Grows Against Toxic Schools...

Continued from page 1

News reports focus daily on violence in schools, but the media has been nearly silent about another killer on campus: Toxic contamination.

Gordon and the law firm's Workers' Compensation attorneys are working with teachers' unions and community organizations at schools across Los Angeles County. The firm is handling Workers' Comp cases for employees' on-the-job injuries and P.I. cases against the polluters.

In Carson, attorney David Goldstein suspects a truck-cleaning company next to Del Amo Elementary is the source of teachers' muscle spasms, numbness, blurred vision, difficulty sleeping, drifting mental focus, blurry vision, frequent sore throats and coughing, stomach cramps, nausea and fatigue.

Noxious smells routinely waft from Rainbow Transport Tank Cleaners across a fence over the school's playground. Rainbow removes hazardous wastes from customers' trucks and uses powerful solvents to clean tanks. The state Department of Toxic Substances Control

has ordered it to clean up contaminated soil to about 20 feet and groundwater below 20 feet.

Under Workers' Comp, limited benefits are paid if an employee can prove they were injured at work, regardless of fault. Benefits can include medical care for injuries, including treatment that may become necessary later.

Personal Injury attorneys Gordon and Vincent Vallin Bennett have filed lawsuits on behalf of five babies born to teachers at Gulf Avenue Elementary in Wilmington. All were born with rare cardiovascular defects.

"One has had a heart transplant, and all have required surgery," said Jeanne Contreras, who chairs the United Teachers Los Angeles chapter at Gulf.

Teachers suspected the birth defects were linked to the vast network of petrochemical plants and pipelines crisscrossing the Harbor area. But Bennett identified the source of the problem as something that could affect any school: pesticides, herbicides and rat poisons.

Gordon and Bennett are also representing dozens of teachers, students and neighbors of 28th Street Elementary. The law firm is coordinating legal action against Palace Plating, a chrome-plating factory across the street, with UTLA leaders and ACORN Vice President Marta Sanchez, whose two children attend the central L.A. school.

Supreme Court Rules Against Injured Workers on Apportionment Formula

The California Supreme Court has reversed two lower courts that favored injured employees when calculating Permanent Disability benefits. The 1st and 5th District Courts of Appeal, as reported in the last issue of this newsletter, ruled that only the money received for a prior injury should be deducted from any overall disability award.

Now, though, the state's top court has nullified that one favorable decision since Gov. Arnold Schwarzenegger's Workers' Compensation law was enacted in 2004. The court ruled that the percentage of an employee's earlier disability should be subtracted from the overall disability. This policy hurts the most seriously injured the most.

According to all seven justices, the Legislature's only intention when it passed SB 899 was to lower Workers' Comp costs for employers. Therefore they interpreted the law in a way that was least costly to employers, disregarding its effect on disabled workers.

At the center of the ruling was a claim by Kenneth Welcher, who received a Permanent Disability rating of 62.5% and \$32,193 in benefits after injuring his right arm and leg in a 1990 conveyor belt accident. Welcher continued to

work until 2001, when doctors amputated his leg below the knee after a new injury, raising his level of disability to 71%.

Welcher's attorney argued that he should receive about \$68,000 in additional benefits, after deducting the prior \$32,193 award from the monetary value of a 71% total disability. The Supreme Court ruling means he will only receive \$3,360.

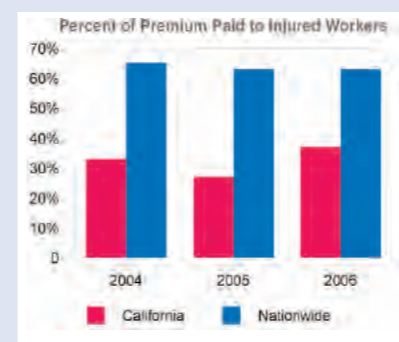
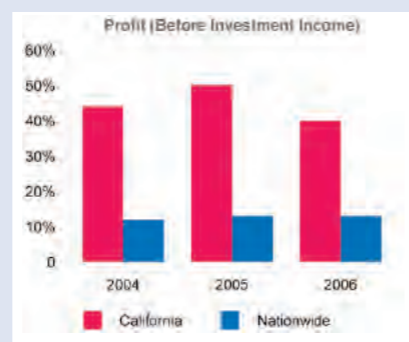
Put simply, a worker who is totally disabled due to two industrial injuries may receive far less than a coworker who was totally disabled by one injury. Why?

The head of the California Applicants' Attorney Association called the opinion a "severe blow" for permanently disabled workers. "The only relief injured workers are going to have is through the Legislature," said CAAA President Linda Atcherley.

Readers can join Voters Injured at Work through a link to VIAW on our website. The law firm continues to fight the Schwarzenegger Law's tragic effects on injured workers case by case and issue by issue at the trial court and appellate level.

A worker who is totally disabled due to two industrial injuries may receive far less than a coworker who was totally disabled by one injury. Why?

Soaring Insurer Profits Leave Injured Workers Sore



Gov. Arnold Schwarzenegger's 2004 changes in California's Workers' Comp laws have been a windfall for insurance companies.

Workers' Comp insurers in California have reaped record profits over the past three years, more than triple the profits that insurers have reported in other states.

Meanwhile, only about a third of Workers' Comp premiums are paid out as benefits to injured workers in California, about half the national average.

Legal Briefs

Comp Claimants With Attorneys Can Choose New Medical Panels

Workers' Compensation claimants who choose a Qualified Medical Evaluator they later decide they don't like now have one opportunity to pick another QME: Hire a lawyer – quickly!

In June, a Workers' Comp Appeals Board ruled that an unrepresented worker who retains counsel can pick another QME if the medical evaluation hasn't already begun. The WCAB ruled that an injured employee who hired legal representation could request a new panel that included chiropractors because she hadn't yet seen the orthopedist assigned to evaluate her.

The flip side of the ruling is that not even an attorney can fix the problem if the claimant "attends and participates in the medical evaluator's examination."

The safest course of action for an injured worker, of course, is to hire a qualified Workers' Compensation specialist the moment they begin the Workers' Compensation process.

Knowledge is Power

Attorney Adam Dombchik (below) recently trained dozens of shop stewards and worksite activists on Workers' Comp law at a program organized by the Southern California Coalition for Occupational Safety and Health. Dombchik is a Board member of SoCalCOSH. Earlier, members of the Machinists' union met at the headquarters of IAM Lodge 1932 for a Comp training by attorney Sherry Grant.



What is a "Third-Party" Case?

A civil suit against something or someone other than an employer who contributed to a work-related injury can maximize recovery.

When it comes to a work-related injury or illness, an employee's first recourse is almost always the Workers' Compensation system. Comp benefits are usually paid without questioning who was to blame for an on-the-job injury.

In some cases, though, a "third party" may also be involved. For example, someone other than the employer or a coworker – like an electrical subcontractor or a delivery person – could have contributed to an accident. Or a defective product – like a poorly designed power tool or an improperly labeled chemical – may have caused the injury. If so, it could be possible to sue this third party while also pursuing Comp benefits.

However, some firms that specialize in either Workers' Comp or Personal Injury law can win a third-party settle-

ment that reduces their client's benefits.

But our firm – with Comp and P.I. attorneys under one roof – is positioned to maximize your overall recovery in third-party cases. This combined expertise gives our lawyers a "big picture" view of your whole situation.

Our legal team works together to:

- develop the most effective strategies;
- identify the most qualified expert medical witnesses;
- gather all the evidence necessary to support a claim; and
- negotiate or litigate for the highest overall recovery.

For a free case evaluation, please call (213) 739-7000 or visit our website at www.geklaw.com and one of our professionals will contact you to discuss your particular situation.

Comp Law Covers All Injured Employees

Immigrants often fail to report on-the-job injuries because they believe the Workers' Compensation law only covers U.S.-born employees or are afraid their legal status will disqualify them for benefits. Neither, however, is true.

Attorney David Goldstein recently settled a claim for \$100,000 for a janitor at Los Padrinos Youth Authority who required surgery after injuring his back lifting heavy boxes. Goldstein convinced the State Comp Insurance Fund to rate the injury under the old code, allowing

triple the benefits that would have been paid under the new rate.

"California laws protect all workers, not just American citizens or legal immigrants," Goldstein said. "And employers are not allowed to bring up a worker's immigration status in these cases."

Lilia Garcia, head of the Maintenance Cooperation Trust Fund, a janitors' advocacy group, said settlements like this "are changing the industry one case at a time."

SEIU Local 721 Keeps L.A. Running



Attorney Richard Felton shares a post-race moment with Alejandro Stephens at the 14th Keep L.A. Running event at Dockweiler Beach. Stephens founded the annual charity run-walk when he was president of Service Employees Local 660, which has since merged with six sister locals to represent public-sector workers in Los Angeles, Ventura, Orange and San Bernardino counties. The law firm has co-sponsored the 5K-10K for the past 10 years. Best of luck to SEIU Local 721!

REPORTER
PERSONAL INJURY AND
WORKERS' COMPENSATION LAW



The 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
Adam Dombchik

Associate Attorneys

Eugenia L. Steele
Vincent Vallin Bennett
Jennifer S. Kuklin
Gary N. Stern
Noah Green
Joanna Sacavitch
Erika L. Domarew

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

3580 Wilshire Blvd., Suite 1800
Los Angeles, CA 90010
(213) 739-7000 • (213) 487-1520
Fax: (213) 487-1520
E-Mail:
newsletter@geklaw.com

Copyright © 2007 Gordon, Edelstein, Krepack, Grant, Felton & Goldstein. All rights reserved. No part of this newsletter may be reproduced without written permission.