

**Courtesy of the Attorneys at
Munley, Munley & Cartwright, PC**

**Workers' Compensation
Knowing Your Rights
A Guide for Workers in Any Occupation**

Workers' Compensation Defined

Every job carries with it some degree of "risk" or what the dictionary defines as the chance of becoming injured. The key to a safe working environment is limiting the risk so as to limit the chance of injury.

Your employer may do his or her best to reduce on-the-job hazards and to create a safe work environment. Nevertheless, as the cliché goes: "accidents will happen."

Workers' compensation laws place accident responsibility on the employer. By definition, workers' compensation makes industry responsible for compensating workers (or their survivors) injured or killed on the job.

No matter who is at fault or who is to blame for the accident, an injured worker has rights to receive compensation for the occupational injury.

For the most part, employers pay workers' compensation premiums on the basis that the cost of work-related accidents is part of the expense of doing business. Under workers' compensation, employers take on a substantial portion of an injured workers' financial loss.

Workers' compensation, however, is not a financial safety net that takes the place of a full-time job. The insurance does not pay back 100 percent of your wages. The insurance does not cover compensatory claims such as pain and suffering, loss of on-the-job dignity and confidence plus other "quality of life" issues.

The previous paragraph tells you what workers' compensation is not. The next several pages in this booklet will explain your rights to receive workers' compensation, should you be injured.

Injuries Covered By The Workers' Compensation Act

In simplest terms, if your work causes you an injury, irritates an existing medical or physical condition or causes an illness, the law entitles you to workers' compensation.

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A physical or medical condition that already exists (a heart condition, diabetes or even high school sports injury) does not affect your eligibility for benefits.

For example, a man who for years had a problem with his right knee because of a football injury is eligible for workers' compensation if the job makes his knee problem worse.

Work that irritates an existing disability or causes a disabling injury entitles you to benefits.

Employers who deny you workers' compensation because of a prior back problem, a pre-existing heart condition or other reasons, either do not know the law or are not telling you the truth.

No compensation shall be paid when an injury or death is intentionally self-inflicted, or is caused by an employee's violation of the law including, but not limited to, the illegal use of drugs. An injury or death caused by intoxication also may not be covered.

Work-Related Disease Or Illness

Long term exposure to chemicals, dust, fumes, solvents and various compounds may cause a serious illness or disease or irritate an existing medical or physical condition. A liquid you use readily today may be tomorrow's cancer causing chemical.

You are eligible for workers' compensation if your job causes, in whole or in part, your disease or illness.

How Much Will You Be Compensated?

Total Disability:

If you are totally disabled by your job, you are entitled to weekly cash benefits payable on the eighth day you cannot work. If your condition lasts more than 14

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days, you may receive benefits payable after the first week. Such benefits are applicable for the length of your disability. These payments are tax free.

Total disability payments equal two-thirds of your pay or \$779.00, whichever is lower. The \$779.00 maximum weekly amount applies to workers injured in 2007. This number changes yearly.

Under recently enacted amendments to the Workers' Compensation Act, your disability will be reviewed after two years. If you are not at least 50% disabled, according to the guidelines of the American Medical Association, your disability will convert to a partial disability and will extend for a period of 500 weeks.

Partial Disability:

A partial disability may keep you from performing your old tasks (and keep you from earning your old pay). Should a partial disability result in the loss of earnings (that is, what you used to receive), the law entitles you to weekly benefits equal to two-thirds of the difference between your average weekly wage at the time of the injury and your present earnings. You can receive these benefits for as long as 500 weeks or as long as you are working at the lower wage.

Specific Loss:

Workers' Compensation covers injuries that cause you to lose certain parts of your body and injuries that cause you a permanent disfigurement of the head, face or neck. The law covers you if the injury disables a certain part of your body.

Payments follow the following guidelines:

Specific Loss or Permanent Loss of Use	Maximum # of Weeks Comp	Healing Period
Hand	335	20
Forearm	370	20
Arm	410	20
Foot	250	25
Lower Leg	350	25
Leg	410	25
Eye	275	10

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Thumb	100	10
Index Finger (1 st Finger)	50	6
Middle Finger (2 nd Finger)	40	6
Ring Finger (3 rd Finger)	30	6
Little Finger (4 th Finger)	28	6
Great Toe	40	12
Any Other Toe	16	6
Hearing		
Complete loss in Both Ears	260	10
Complete loss in One Ear	60	10
Disfigurement, Head, Neck or Face, Maximum	275	None

Should you lose one-half of your thumb, finger or toe, the law entitles you to compensation for one-half of the weeks mentioned.

How To Compute Benefits: Average Weekly Wage Formulas

Compensation benefits are based upon your "average weekly wage," a figure that may seem obvious to compute but involves a specific formula. You should know how to calculate this figure, so as to ensure correct payment. Talk with your employer and/or insurance carrier if you have questions about this benefit calculation.

Once again, total disability benefits are two thirds of your average weekly wage up to the maximum. For partial disabilities, if you return to work and earn less because of the injury, the law entitles you to two thirds of the difference between your average weekly wage and your post-injury earnings.

Since it is your right to get all the benefits under the law, you should know how to calculate the average weekly wage (AWW). A few dollars in your favor may mean hundreds of dollars over the life of the claim.

The AWW does not follow a standard 40 hour work week. It includes gross wages from all employers including overtime, incentives, bonuses, board, lodging, gratuities (if at least one-third of wages are in tips) and second jobs with no deductions. Please note, bonuses and vacation pay are pro rated over the

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entire year in which they are earned.

The following methods are used to calculate the AWW:

Method 1: Employee is paid on fixed weekly basis: $AWW = \text{weekly wage}$.

Method 2: Employee is paid on fixed monthly wage: $AWW = \text{monthly wage} \times 12 \text{ divide by } 52$.

Method 3: Employee is paid by fixed yearly wage:

Method 4: Employee is paid by hour, day or productivity: AWW shall be calculated by dividing by 13 the total wages earned in the employ of employer in each of the highest three of the last four consecutive periods of 13 calendar weeks in the 52 weeks immediately preceding the injury and by averaging the total amounts earned during these periods.

Method 5: New Employees

- a). If the employee has not worked three consecutive periods of 13 weeks in the year preceding his work injury, the employee's AWW is calculated by dividing by 13 any completed periods and by averaging the amounts earned during such periods.
- b). If the employee has worked less than a complete 13 week period before his injury, the employee's AWW is the employee's hourly rate multiplied by the number of hours the employee was expected to work per week under the terms of employment. The Act does not specify whose expectation controls in the event of a dispute.

Method 6: Seasonal Employees

A seasonal employee's AWW is calculated by adding employee's total earnings for a period of one year pre-injury and dividing by 50. Unless by reason of "exceptional causes," the computation does not "ascertain fairly" the earnings of an employee, the calculation can be "extended" to give a basis for "fair ascertainment" of a reasonable employee's AWW.

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Fringe benefits, including retirement, pension, health insurance, life insurance, Social Security, or any other plan of benefit to employees or their dependents are not included in the computation of a worker's AWW.

Death Benefits

Workers' compensation covers funeral expenses up to \$1,500. The law also covers dependents who lost loved-ones to a work related injury, disease or illness. A dependent is someone who relies on the worker's income for support. Dependents include a spouse, parent(s) or children.

Medical Benefits

Workers' Compensation covers all necessary costs associated with medical care and treatment of your injury, illness or disease, even if you have lost no time from work. The amount paid by an insurance carrier for medical care and treatment is equal to 113 percent of the amount the health-care provider would receive from Medicare for the same service. The health-care provider may not bill you for the difference of the total bill for services rendered and the amount paid by the insurance carrier. If your injury causes you to receive life-long treatment, you may continue collecting payments for your medical bills from the insurance carrier.

Giving Notice: The "ASAP" Rule

The sign in the employees' washroom in the machine shop read: "If you are injured at work, tell your supervisor as soon as possible."

The sign in the cafeteria read: "If you are injured at work, tell your supervisor as soon as possible."

Get the message?

Do not play games with your illness, injury or disease. Do not keep the pain to yourself.

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Typically, an injured worker will complete the shift and go home thinking that the pain will subside. Some workers return home injured because they either do not want to bother with the dispensary, or think that the injury is not serious. Such a person may not be able to get out of bed the next day.

The phrase "as soon as possible" applies here and is of extreme importance.

An employer is likely to fight a workers' compensation claim if an employee did not "give notice in a timely fashion." Translation: "ASAP."

The law says that you have 120 days to tell your employer about your work related injury, illness or disease. The first day starts with the day of injury, or the day you discovered the illness or disease.

If you notify your employer within the first 21 days of the injury date, benefits are payable retroactive to the injury day. Within 21 and 120 days, benefits start the day you give notice.

Once again, for the sake of sounding redundant, it is important to give notice "as soon as possible."

Insurance companies, in order to provide your employer with an affordable rate, are checking continuously for fraudulent claims. Fraud drives up the workers' compensation premium. Claims filed days, weeks or months after an injury occurs are more likely to be investigated, challenged and/or denied.

Communicate With Your Doctor

Do not hesitate to speak with your doctor about work and the hazards exposed to you day-to-day. If you suspect that work caused your injury or illness, you have to tell your employer. "Giving notice" to the employer means informing him or her about the work-related illness, injury or disease.

This is where your doctor comes into the picture. He or she is the one person who has the authority to say whether or not you can safely return to work after being injured.

It's important to be pro-active with your health. The average physician does not have time to ask you question after question in order to obtain a medical history.

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More often than not, the doctor says hello, where does it hurt and leaves the rest of the conversation up to you. Doctors are not mind readers; they can only work with what you tell them. If something is wrong and you suspect that it is job related, tell your doctor. Inform him or her about the work place and the hazards you suspect are causing the pain or sickness.

When Will You Receive Benefits?

Unless you are denied compensation, benefits should start arriving within 21 days of the time your employer received notice of the injury. If within this time you are denied, contact an attorney immediately and file a claim

You Are Entitled To Have The Compensation Check Mailed To Your Home

That's the law. No one should tell you that "checks must be picked up at the office." Contact a lawyer or a union official if your employer tells you something other than what is in the law.

Choice Of Doctor

For the first 90 days of medical care, the law requires you to select from a list of doctors chosen by your employer. The law says that there must be at least six doctors for you to choose from. Your employer cannot (and should not) make the choice for you. You are free to choose your own doctor if your employer does not have a list available. You are free to select another doctor on the list if the first choice was unsatisfactory. The list usually appears on letterhead from the workers' compensation insurance carrier. The sheet should explain your rights and obligations under the law.

Should your work-related injury, illness or disease require treatment beyond 90 days, you then have the option of choosing your own doctor. Should your choice stray from the employer's list after the 90 day period, you must tell your employer within five days after your first visit. During treatment, the employer or employer's insurance company is entitled to receive monthly reports from your physician or provider.

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The word "doctor" in this legal sense, means any licensed practitioner of medicine, or what is called the "healing arts." A doctor includes chiropractors, medical (MD) and osteopathic (DO) doctors. During the initial 90 day period, the company doctor may certify you to return to work. If this happens, seek a second opinion from your doctor. Please note, if this occurs during the first 90 days you will have to pay for the visit to your doctor. You do not have to return to work regardless of what your employer may suggest (or demand) if your doctor does not permit you to return to work. After 90 days has lapsed, you may continue treatment with your doctor and have his services paid for by worker's compensation insurance. If you have questions concerning this matter, consult a lawyer as soon as possible.

Workers' Compensation Benefits Versus Group Benefits

Sometimes an employer or injured worker may confuse workers' compensation and group benefits. There should be no confusion. The two benefits are distinctly different.

Group benefits are disability payments received for a non-work-related injury. Termed "sickness and accident (S & A) benefits," the group provision is no substitute for workers' compensation, which covers an on-the-job injury. If you become injured at work, you should apply for workers' compensation.

There are other reasons why workers' compensation benefits are better than group benefits:

1. **Taxes** -Unlike group benefits, workers' compensation payments are not subject to taxes. Withholding taxes are deducted from group benefits.
2. **More Money** -Workers' compensation pays better benefits. Under workers' compensation insurance, you receive two-thirds of your gross pay or \$779 per week, whichever is lower. Group benefits are usually less than \$150 per week.
3. **Longevity** -Workers' compensation covers the total disability with payments for as long as you need it. Depending on the injury, the payments can last for the rest of your life. Generally, group benefits last for up to 26 weeks -usually less.

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4. **Pay Scale Adjustment** - A person injured, who goes on workers' compensation and works certain tasks because of his or her injury, will not suffer a substantial pay loss. Workers' compensation pays two-thirds of your pay loss if you return to work at a lower-rate, limited-duty job because of your injuries. Group benefits do not pay this adjustment.
5. **Medical Coverage** -Workers' compensation pays all of your work related medical bills. Under a group benefits plan, your coverage may be limited depending upon the insurance carrier your employer selects.

In some cases, employers may deny you workers' compensation benefits. Should this happen, apply for group benefits. Once you start receiving payments, contact an attorney and file for workers' compensation.

Your "Right To Know" About On-The-Job Hazards

Employees have the right to know about chemicals and other hazardous materials used in the workplace. There are two laws that deal specifically with an employees' right to know -laws designed to help improve the health of the workplace.

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1. **OSHA Medical Access Regulation** -The federal Occupational Safety and Health Administration Medical Access Regulation gives employees the right to review their medical records held by the company.

Under this law, employees can also obtain information about air quality and the types of chemicals used in the workplace. Detailed chemical information is found by obtaining a "Material Safety Data Sheet," or MSDS.

Chemical manufacturers provide an employer with an MSDS. If you work with chemicals, your employer and physician should have this

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information on file if you suspect a chemically induced illness or disease.

Chemical producers must provide a MSDS when they make a sale. The sheet contains the chemical or compound name (sometimes combined with a common name), the ingredients and what concentrations, physical properties, exposure hazards and first aid treatment recommended.

The law entitles you to copies of this information, should you request it.

If a sheet is not available, your company must provide you with the information about the chemical, and/or its ingredients.

Sometimes, the chemical information you seek may be the so called "company secret." You are still entitled to the information, although the employer may have you sign a confidentiality agreement.

One flaw with the MSDS Access Standard is that it only requires the company to give you the information it has on file. The law does not require the safety information to be up to date. Another flaw with the MSDS is that sometimes a sheet will provide only a partial list of ingredients.

2. **OSHA Hazard Communication Standard** -Simply put, this standard intends to make you aware of the chemical hazards at work.

To comply with this standard, your employer must:

- A. Inform you about hazardous chemicals and the OSHA rule.
- B. Have hazardous substances labeled clearly as being hazardous. The warnings should also give the short and long-term exposure risks (e.g. "Skin irritant; long-term exposure is known to cause certain types of skin cancer in laboratory animals").
- C. Provide, upon request, the MSDS for every hazardous

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chemical used.

- D. Outline and provide a written hazard communication standard that explains how your employer is complying with the law.

An important aspect of this safety standard is that it sets training on how to safely handle potentially hazardous chemicals or compounds. Part of that training includes knowing how to read chemical labels and symbols; knowing how to read a MSDS and knowing where to find one.

Report employers who are not following the law to the nearest OSHA office. After OSHA receives the complaint, the employer is subject to inspection. Employers found in violation of the law must follow the rules or face a stiff fine.

Other Ways To Obtain Information

Some chemical manufacturers will send a material safety data sheet upon request. Write to the company, or check containers for information. Many times, your co-workers will be able to provide you with this information (it's in their best interest to know as well).

Unionized workers should request chemical safety information through the union health and/or safety committee. Working through the union is the fastest, most reliable way of doing things versus legal action or filing a grievance.

What To Do If Your Request For Workers' Compensation Is Denied

If your employer denies you compensation, you have three years from the date of your injury to file a claim with the Bureau of Workers' Compensation. It is your responsibility to file a claim. If you do file, it is best to obtain a lawyer that knows the current workers' compensation laws and has experience representing injured workers.

Most lawyers will represent you on a contingent fee basis - the "we do not get

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paid unless we get money for you" idea.

What To Do If Payments Stop

If workers' compensation payments stop for any reason, contact a lawyer immediately.

Things To Consider When You Do Return To Work

Only through a doctor's advice should you return to work. Your doctor should advise you in writing if your injury, illness or disease restricts you (or does not restrict you) to do certain tasks. For example, a worker who injures his or her back may be told to work under so called "light duty status." Such a restriction may be setting weight limits on what amount that person can lift safely.

Present a copy of your doctor's recommendation to your supervisor so you can avoid being assigned to jobs that may injure you.

On your first day back, have someone (a friend, co-worker or union representative) accompany you. That person should witness what transpires during the time you report back to work. Do not sign any forms if the work you are returning to is an assignment other than your regular job, or if you feel that you have not recovered from the injury.

Beware of Signing Final Settlement Receipts

Sometimes an employer may ask you to sign a pink form called a "Final Settlement Receipt of Compensation." Contrary to what you may hear, this receipt does terminate your workers' compensation benefits.

Do not sign the form (or any form for that matter) unless your doctor says you have recovered fully.

Otherwise, request the company to provide you with a "Supplemental Agreement" so you may suspend compensation benefits while you are working.

Employers, more often than not, will say the final compensation payment is being

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held until the employee signs the "Final Settlement Receipt." This is not true.

If someone threatens you with a payment cutoff because you refused to sign the "Final Settlement Receipt," contact a lawyer or your union representative.

Other conditions where you should not sign a "Final Settlement Receipt" are:

1. You return to work and are paid less, or are working less because of your injury.
2. You are still receiving medical treatment for your injury.
3. You have restrictions in the use of any part of your body because of the work-related injury
4. You have a scar on your face, neck or head. Any of the above situations may entitle you to additional workers' compensation benefits even after you have returned to work.

Things To Watch Out For:

Insurance Company Doctors

Sometimes the employer may tell you to visit an insurance company doctor to get a "second opinion." That second opinion may lead to the cancellation of your benefits. Under most circumstances, unless your lawyer says differently, avoid the insurance company doctor.

Reasonable Medical Care

Under this guideline, the law requires you to follow any treatments, therapies or medication regimens recommended by your doctor.

"Reasonable medical care" includes, but is not limited to; surgery, special treatments, medications or physical therapy. Should you refuse such recommended treatment, your employer or his or her insurance carrier has the right to petition the Bureau of Workers' Compensation to have your benefits suspended.

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Dealing with an insurance company doctor is a somewhat different matter. An insurance company doctor who recommends a specific test, treatment, therapy or operation can have his or her recommendation challenged by your doctor. If both agree to the treatment regimen, you have the obligation to arrange for treatment with your doctor. If you refuse, you may lose your benefits.

Vocational Rehabilitation Services

Part of the “road to recovery” may involve visits by a vocational rehabilitation practitioner. Periodically, you may receive in home treatments from a nurse or therapist. The purpose of such visits are to make sure that you are recovering. Most rehabilitation services have the patient in mind when delivering treatment, but there are some service companies that work for the insurance company.

Be careful. Sometimes the treatment you receive may not be in your best interest.

Although the insurance company or employer may suggest otherwise, you have the right to refuse any vocational rehabilitation services.

Your recovery is between you and your doctor.

The law says that you must make a “good faith effort” to return to work. This means that if you can work under certain restrictions, you should do so. The vocational rehabilitation person will advise you on what jobs are available and the specific duties involved with the work.

But, usually, your employer may not want you back unless you can perform your old tasks. The insurance carrier, through the vocational rehabilitation person, will work to find jobs that fit your limitations. As stated before, the law requires that you make a “good faith effort” to find employment.

Always, before accepting a job, check with your physician. When you apply for work, keep a record of each job that you apply for, the dates that you apply, the name of the person who interviewed you, the particulars of the job and the outcome of your interview or application. You may need this information as proof that you did make a good faith effort to obtain employment.

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If you have any questions, contact a lawyer or your union representative.

Blank Forms

Avoid signing them. Address any questions to a lawyer or your union representative. Obtain copies of any documents you do sign.

The No Discrimination Rule

No one can penalize you for filing a workers' compensation claim if you have a work related injury, illness or disease.

Retirement

At some point, depending upon your age and physical condition, an employer may ask you to retire if you are receiving workers' compensation. Retirement benefits should not affect the amount you receive under workers' compensation. Sometimes, however, there are instances where an unsuspecting worker gets his or her benefits reduced upon retirement.

Know the details of your pension agreement so that you don't lose all that is coming to you.

Before entering into retirement, and signing a pension agreement, there are some things to check. Make sure the agreement does not affect workers' compensation benefits (and vice-versa). Also, make sure that by signing a pension agreement you are not reducing your pension benefits only for the disability pension or only for retirement pension. For example, there may be a pension set-off against workers' compensation if you are to receive a disability pension and no pension set-off against workers' compensation if you are to receive a retirement pension. Therefore, you should consider delaying acceptance of the pension until you could qualify for workers' compensation.

Efforts to stop or reduce workers' compensation benefits do not end once you have retired. Those with partial disabilities should take particular caution. Your employer can halt benefits if he or she can prove that, while partially disabled, you have voluntarily retired and withdrawn yourself from the work force.

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If at the time you retire, you are available for light-duty work or part-time work, benefits cannot be stopped or reduced unless the company can show that there is light-duty or part-time work available for you. Some retirees have lost benefits by telling their employer (in the heat of the moment so to speak) that they were, "never going to work again." That "take this job and shove it" approach can cost you benefits.

If you intend to never work again, do not expect a benefits check in the mail.

If you developed a disability, whether it is an illness or disease, you may be eligible for workers' compensation benefits. Typically, it takes months or years for a chemical compound or material you used to trigger health problems. If you suspect that your job caused your wheezing, coughing, hearing loss, fatigue, shortness of breath or other physical ailment, tell your employer. If you suspect that your job made worse your physical problem, tell your employer either in writing or in person. After you "give notice," contact a lawyer.

If possible, before you make a retirement decision, contact a lawyer.

Social Security

If a total disability stops you from working for at least six months and your recovery will last at least one year from the date you became disabled, the law entitles you to Social Security Disability Benefits. Apply for these benefits at the Social Security office nearest you.

Receiving Unemployment Compensation Benefits And Workers' Compensation Benefits At The Same Time

It is possible to receive both benefits, depending upon the situation.

If you are receiving unemployment compensation benefits and seek to obtain workers' compensation benefits, the unemployment compensation benefits will be credited against any award of workers' compensation benefits you may receive, unless your award of workers' compensation benefits is for a specific loss or received in a fatal claim case.

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If you are already collecting workers' compensation benefits, you may not collect unemployment compensation benefits even if you suffer a specific loss or are filing a fatal claim petition.

Third Party Actions

A third party lawsuit can occur if someone (or something) other than your employer is wholly or partly responsible for your work-related injury, illness or disease.

Machinery that has a design flaw or lacks a safety feature often contributes to on-the-job injury and is the subject of "product liability lawsuits."

Getting compensation through a third party such as an equipment manufacturer is rare, but it does happen.

The law says that you can sue an equipment manufacturer for injuries caused by a product malfunction or a design flaw. The law also gives you the right to sue if you can prove that the manufacturer failed to provide adequate instructions for using the equipment.

It is in your best interest to contact a lawyer if a defective product causes an injury. He or she can hire experts who can determine whether or not a complex piece of machinery contained a design flaw or lacked safety features.

Equipment lacking safety equipment can lead to a manufacturer being sued. The National Safety Council estimates that unsafe equipment causes 10 to 15 percent of all industrial injuries.

In a product liability lawsuit, your attorney must prove that the manufacturer failed in its duty to design a safe product.

Equipment lacking detailed information about the dangers of equipment use can lead to a third party lawsuit of the manufacturer. In a recent case, a worker sued (and won) because the manufacturer failed to warn of the dangers that can happen if an operator did not tighten a wheel nut with a specific torque requirement. Although directions were supplied on how to use the product, the directions said nothing about what could happen if certain directions were not followed.

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A Final Issue To Consider:

Work Safety And Health

Preventing injuries and illness or monitoring health or safety conditions at the workplace are ongoing concerns.

If you work at a union shop, you can obtain additional health and safety information from the International Chapter of your local union. International unions usually have health and safety departments or committees to answer member's questions.

Another outlet is the federal Occupational Safety and Health Administration, or OSHA. Ensuring and regulating a safe work environment is this agency's responsibility.

There are six OSHA offices in the Commonwealth of Pennsylvania:

Philadelphia	215-597-4955
Allentown	610-776-0592
Wilkes Barre	570-826-6538
Harrisburg	717-782-3902
Pittsburgh	412-395-4903
Erie	814-461-1492

A third outlet is the National Institute for Occupational Safety and Health, an agency that conducts research on hazardous conditions and workplace exposures to toxic chemicals.

They can be reached at 1-800-356-4674.

Access to chemical information, other than your employer or the chemical company, is through the Pennsylvania Department of Labor and Industry. Under the state Right to Know Law, state Department of Labor and Industry has access to information about hazardous chemicals used in the workplace, plus the Material Safety Data Sheets, or MSDS, for each chemical.

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You can obtain this information by completing a form and submitting it to the Chemical Right to Know Office at the Department of Labor and Industry. Written requests for records may be sent via fax to 717-783-0240.

The Flow Of A Pennsylvania Workers' Compensation Claim

Injury - Remember: It is important to tell your employer about your injury. Employers are required to post form LIBC-500 to inform employees of the name, address and phone number of their workers' compensation insurance company, their third-party administrator or internal workers' compensation contact person.

Notice of Injury - An employee injury is to be reported to the employer within 21 days. If not reported within 120 days from date of injury or having knowledge of a work-related disease, no compensation is allowed (except for cases involving progressive diseases).

Employer's Report of Occupational Injury or Disease - Employers are required to immediately report all employee injuries to their insurer or, if self-insured, to report them to the person responsible for management of the employer's worker's compensation program. Employers are also required to file with the bureau a report of injury within 48 hours for every injury resulting in death, and after seven days but within 10 days after the date of injury for all other injuries which result in disability lasting more than a day, shift or turn of work.

Voluntary Payment - Within 21 days from the date the employee provides notification of an injury, the employer/carrier accepts liability for the injury and issues a Notice of Compensation Payable, a Notice of Temporary Compensation Payable, or an Agreement for Compensation.

Denial of Payment - Within 21 days from the date the employee provides notification of an injury, the employer/carrier denies liability and issues a Notice of Workers' Compensation Denial to the employee.

Employee Files Claim Petition - Generally, the employee has three years from the date of injury to file a Claim Petition. The law also provides that injured workers may reopen their claim within three years from the last date an indemnity payment was made on a claim. Mere payment of medical benefits would not be the same as reopening the claim.

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Case Assigned to WC Judge - Workers' Compensation petitions are normally assigned to a workers' compensation judge by the bureau according to the county in which the employee lives.

WC Hearing Scheduled - Once assigned, all parties involved in the case are notified in writing as to the date, time and place of hearing.

WC Hearing Held - A workers' compensation judge hears evidence presented by both the defendant (employer/insurer) and the claimant at one or more hearings, which may be extended by the need to obtain medical evidence and hear other witnesses.

Decision Rendered - A written decision is circulated to involved parties after a case is closed (all evidence has been submitted and the judge has everything necessary to render a decision). No further action is taken.

Appeal Made to Workers' Compensation Appeal Board - Either party has 20 days from the date the workers' compensation judge's decision is circulated to all parties to file an appeal with the Workers' Compensation Appeal Board.

Appeal Made to Commonwealth Court - Either party has 30 days from the date of circulation of the Workers' Compensation Appeal Board's decision to file an appeal with the Commonwealth Court.

Appeal Made to Pennsylvania Supreme Court - Either party has 30 days from the date of circulation of the Commonwealth Court's decision to file a Petition for Allowance of an Appeal with the Pennsylvania Supreme Court.

Fiscal Year 2004/05 Injury Statistics

- In Pennsylvania, 92,719 work injury and illness cases were reported to the bureau during FY 2004/05. This year's total was 5.4% lower than the 98,041 reported in FY 2003/04.
- Pennsylvania's Work Injuries and Illnesses Rate (the number of lost-time work injuries per 1,000 workers) was 16.1 in FY 2004/05. The 2003/04 FY rate was 17.3. Natural Resources and Mining had the highest injury and illness rate among the major industry divisions in FY 2004/05 at 40.2.

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- The divisions of industry with the highest percentage of accidents were Trade, Transportation and Utilities (20%), Education and Health Services (16%), and Manufacturing (14%).
- Sprain and strain injuries (39,872) accounted for 43% of the total cases reported in FY 2004/05. Over 23% of the cases were cuts, lacerations and punctures (10.2%) and contusions, crushes and bruises (12.7%).
- The most frequent types of accidents in Pennsylvania in FY 2004/05 were due to overexertion (31.7%), resulting in a sprain or strain in 79.1% of the overexertion cases. The second leading cause of injury resulted in a sprain or strain in 56.6% of the bodily exertion cases. Cuts, lacerations or punctures were the result in 29.9% of all "struck-by" accidents and 51.9% of all "struck-against" accidents.
- Injuries to the upper extremities (arms, wrists, hands, fingers, shoulders) accounted for over 30.3% (29,660) of the total cases reported in FY 2004/05. Back injuries alone (17,780) represented over 18.1% of the cases. Injuries to legs and fingers represented 16.9% of the total.
- Industry divisions with the highest number of work-related fatalities were Trade, Transportation and Utilities (29), Construction (25), and Manufacturing (16).
- Almost half (40,135) of the 92,719 cases reported in FY 2004/05 came from eight of the commonwealth's 67 counties. Those counties, which represent 48 percent of Pennsylvania's workforce, were Philadelphia (11,949), Allegheny (7,498), Montgomery (4,284), Lancaster (4,231), Bucks (3,248), Delaware (3,098), Berks (3,187) and York (2,640).
- Injuries by Body Part Affected:

Neck: 2,048 (2.1%)

Head: 6,674 (6.8%); Eyes: 2,603 (2.7%); Face: 675 (0.7%)

Upper Extremities: 29,660 (30.3%); Arms: 5,339 (5.4%); Wrists: 3,486 (3.6%); Hands: 4,854 (5.0%); Fingers: 6,256 (6.4%); Shoulder: 5,830 (5.9%)

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Trunk: 23,164 (23.6%); Chest: 1,704 (1.7%); Back: 17,780 (18.1%);
Abdomen: 2,442 (2.5%)

Lower Extremities: 20,825 (21.2%); Leg: 10,322 (10.5%); Knee: 7,528
(7.7%); Ankle: 4,683 (4.8%); Foot: 3,340 (3.4%); Toes: 803 (0.8%); Hips:
927 (0.9%)

Multiple Parts: 9,435 (9.6%)

Body Systems: 665 (0.7%)

Not Stated: 248 (0.3%)

Source: Pennsylvania Bureau of Workers' Compensation, Department of
Labor and Industry

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