

THE COURT REPORTER

OUR INAUGURAL ISSUE



QUESTIONS AND ANSWERS

Editor: Joel D. Strasser, Esq.

WHAT IS THE DIFFERENCE BETWEEN WORKERS' COMPENSATION AND STATE DISABILITY BENEFITS?

By Laurence R. Lerner, Esq.

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Workers' Compensation Benefits are provided to you when you are injured at work, while State Disability Benefits provide you with weekly benefits if you are ill or injured off your job and cannot work at your normal or customary job. However, you can draw State Disability Benefits for any day you are entitled to receive Workers' Compensation Temporary or Permanent Disability Benefits, if State Disability Benefits are higher than the Workers' Compensation Benefits.

If your employer, or its insurance company, is disputing whether you should receive Workers' Compensation Benefits, the State can provide you with State Disability until the dispute is resolved, then the State will ask for its money back if you are successful in your Workers' Compensation case.

Workers' Compensation Temporary Disability Benefits are paid until your condition becomes permanent and stationary. Thereafter, you may be entitled to permanent disability benefits and life-time medical care. However, State Disability Benefits are payable for a maximum of only fifty-two (52) weeks.

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MORE ANSWERS TO QUESTIONS

MAY I RECEIVE FEDERAL SOCIAL SECURITY DISABILITY BENEFITS AND WORKERS' COMPENSATION OR STATE DISABILITY BENEFITS AT THE SAME TIME?

There are occasions when an industrially injured worker can receive both Social Security Disability Benefits and Workers' Compensation Benefits. If you are disabled, or expect to be disabled for at least a year and a day, or have a terminal illness, and have paid in the necessary monies to be covered under the Social Security Disability System, you may be able to draw both Social Security Disability and Workers' Compensation, or State Disability Benefits at the same time.

The Social Security Disability Benefits may be partially reduced by your receipt of Workers' Compensation or State Disability Benefits, unless you are a high-wage earner.



MAY I RECEIVE UNEMPLOYMENT BENEFITS AND WORKERS' COMPENSATION BENEFITS?

Not normally. Unemployment Benefits are not payable while you are receiving temporary disability benefits through Workers' Compensation. However, if your doctor finds you permanent and stationary and unable to return to work, you may be entitled to unemployment benefits if your employer indicates they have no work available for you and you can not find another job. You must be ready, able and available for work. The maximum benefit is payable for up to six months.

QUESTIONS AND ANSWERS WILL BE A QUARTERLY FEATURE OF THIS PUBLICATION

DID YOU KNOW? BY FRANK SILVA, ESQ.

“Frank Silva, our newest partner, has made the firm proud by his ability to help our Spanish speaking clients”

Did you know you know that you are entitled to be reimbursed at the rate of \$.31 per mile *for* reasonable transportation expenses for medical examinations requested by the employer as well as all medical treatment or trips to the pharmacy. If a day of work is lost due to an employer requested medical examination, you are also entitled to recover wage loss.

Reasonable transportation expenses includes mileage fees from your home or place of employment to the place of examination, medical treatment or to pick up medication and back. Parking fees and toll road fees are also included. Bus fare would also be reimbursed.

You will not be reimbursed, however, unless you request reimbursement. You have probably been provided a form by your employer’s insurance carrier for this purpose. If not, you may obtain one from our office or simply fill out the information on a sheet of lined paper. You must include the date, where you went and the round trip mileage. It’s that simple.

It is recommended that the mileage reimbursement forms be submitted at least once a month to your employer’s insurance carrier for faster processing. Or, you may submit the forms to our office. Once the request has been submitted, the law allows sixty (60) days for payment without the insurance carrier becoming liable for penalties for delay in reimbursement.

FAILURE TO CARRY AUTO INSURANCE

By Robert Mammano, Esq.

Historically, the innocent victim of an automobile accident was entitled to collect money damages from the negligent driver’s insurance company. Money damages fall into two (2) separate categories.

- (1) economic damages, which are out of pocket expenses such as medical bills and lost earnings; and
- (2) non-economic damages or compensation for pain, suffering, inconvenience, disfigurement, etc.

Usually, non-economic *damages* are the biggest part of the settlement or verdict.

On November 5, 1996, the voters of this state passed Proposition 213 which became Civil Code Section 3333.4. This law states that if the innocent victim did not have automobile liability insurance, then he or she cannot collect non-economic damages. The only exception is when the negligent driver is convicted of drunk driving. Thus, it is very important to verify that your insurance policy contains liability coverage.

Over the last two (2) years or so that the law has been in effect, there have been some very unusual situations where the law has been said to apply, such as situations where the car is parked and not even running or broken down on the side of the road.

Sadly enough, some of our clients have been involved as victims in automobile accidents where they thought they had the appropriate insurance because they had financed the car through a bank or credit union who made them get insurance. However, those policies usually only cover the car, collision and comprehensive, and may not contain liability coverage. This subjects the victim to the harsh and unfair results required by Proposition 213.

Do yourself and your family a favor. Always carry liability insurance on your car or truck, avoid traffic tickets, loss of drivers license, and loss of damages which will otherwise result.

JACKIE COSTA WINS CONTEST

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My name is Jackie Costa and I started working for *Lerner, Moore, Mammano, Strasser & Silva* on September 28, 1988. In the last ten years, I have seen this firm grow from three to five attorneys. I worked my way up from file clerk to receptionist, then to secretary for Mr. Moore. I find my work satisfying and am happy to see my contributions rewarded.

(Editor's Note: Jackie has been happily married for eight years and has two sons and a daughter.)



**Jackie Costa, Secretary to
Attorney Kirk D. Moore**

HISTORY OF THE FIRM

Lerner, Moore, Mammano, Strasser & Silva (LMMSS), a professional law corporation, specializes in workers' compensation, social security disability, and personal injury law and is one of the largest and oldest firms with a continuous practice in the Inland Empire.

The founder and senior partner of the firm, Laurence Lerner, has championed the causes of injured workers for over a quarter of a century. He served as president of the California Applicants' Attorneys Association from 1996-97 and is currently on its Board of Governors.

The firm has been an integral part of the Inland Empire and the High Desert communities. Mr. Lerner and the firm have been prominently involved in community, civic, and philanthropic projects.

Any individual who needs help with a workers' compensation claim, or has been denied social security disability benefits, or has a personal injury case, may call for a free consultation. The staff speaks English and Spanish and is always ready to assist new clients.

EXCLUSIVE REMEDY AND THIRD PARTY CASES

All employers in the State of California are required to have Workers' Compensation insurance. Workers' compensation is designed to provide an *exclusive remedy* against your employer in the event of a work-related injury or illness. If your employer is covered by Workers' Compensation insurance, and you are injured on the job, you may file for workers' compensation but you cannot sue your employer.

However, if the negligence of someone other than your employer (a third party) is partly responsible for the injury, you may sue this third party, in addition to filing a workers' compensation claim. For instance, if you use an unsafe product, like a defective machine at work, and this machine contributes to the cause of injury, you may be able to sue the machine manufacturer for damages in a third party lawsuit.

More commonly, however, a third party case arises out of an automobile accident, which occurs during the course of your duties, and is the fault of the other driver. You can sue the other driver and pursue workers' compensation benefits at the same time.

We at *LMMSS* take pride in our unique ability to coordinate the workers' compensation and personal injury aspects of these complex cases, enabling us to achieve the best possible results on behalf of our clients.