# A Guide to the Benefits Provided by the Illinois Workers' Compensation Act and Daily Log

Prepared by:



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# Illinois' Largest Workers' Compensation and Personal Injury Law Firm

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For additional information about Goldberg Weisman Cairo visit our website at www.gwclaw.com

# **URGENT WARNING FOR INJURED WORKERS!**

New workers' compensation laws will severely restrict and limit your rights to obtain impartial medical treatment and fair compensation if you are injured on the job. We urge you to call our office immediately for a free consultation. Don't wait until your case is compromised. You need us now!

# **IMPORTANT NOTICE** WORKERS' COMPENSATION AND THIRD PARTY ACCIDENT CASES

It is extremely important to consult with our office immediately after vou are involved in an accident. We can give you valuable information that can prevent potential mistakes that could affect your case. Call immediately for a free consultation at (312) 464-1200 or (800) 486-1002.

# THIRD PARTY ACCIDENT CASES

GOLDBERG WEISMAN CAIRO is also well-known for its aggressive handling of its NON-WORKERS' COMPENSATION ACCIDENT CASES. We have received verdicts and settlements record throughout the State of Illinois for our injured clients and have a multitude of million dollar verdicts and settlements to our credit. We have recovered more than ONE BILLION DOLLARS for our injured clients and their families. Please see our website to view our impressive results. If you have been involved in an accident (at work or not at work) call immediately to see if you have a THIRD PARTY CASE.

# THE LAW FIRM OF **GOLDBERG WEISMAN CAIRO**

is a Chicago-based law firm that is well known for representing injured workers throughout the State of Illinois. We concentrate in representing injured workers in workers' compensation and third party cases. We represent clients who work in various diverse industries, such as construction, manufacturing, fire safety, service and transportation, to name a few. We also represent police officers and other persons employed by municipalities. Our firm has 33 attorneys, a 60 person support staff and an on-going relationship with the types of expert witnesses necessary to professionally handle both workers' compensation and third party cases. We have the resources, experience and ability to aggressively and successfully represent the injured worker in both minor and major injury cases for both work-related and non-work-related injuries.

In addition to our Chicago offices, Goldberg Weisman Cairo has locations in the following places:

- Rockford
- Libertyville
- Joliet
- Springfield • DuPage
- Decatur
- Champaign
- Montgomery
- Kankakee
- Countryside
- Chicago Heights
- Ottawa

Our attorneys are also available to meet with you in various union halls throughout the State of Illinois. To get directions to one of our locations or to schedule an appointment with one of our attorneys, call us at 1-800-486-1002.

If you have any questions relating to this booklet or wish to discuss an injury that you may have incurred, please call us immediately. There is no charge or obligation for this call.

# **URGENT WARNING:**

New workers' compensation laws that are designed to limit an injured worker's right to obtain fair compensation and get impartial medical treatment have been enacted. These new laws are filled with TRAPS to help employers and their insurance companies save money by restricting your rights if you are injured at work. It is now more important than ever that you have experienced legal representation protecting you from the onset of a work-related accident. the largest workers' compensation and personal injury law firm in Illinois, we are one of the few firms that have the manpower and resources needed to protectyou. Small firms will have a difficult time getting into court and spending the money necessary to get you the fair treatment that you deserve. We have 33 attorneys, a large support staff and the financial resources available to get you into court as quickly as the law allows.

# A GUIDE TO THE BENEFITS PROVIDED BY THE ILLINOIS WORKERS' COMPENSATION ACT

### INTRODUCTION

The information contained in this booklet is intended to inform workers about the general provisions of the Illinois Workers' Compensation Act, outline the general benefits provided by the Act, and answer the most common questions about workers' compensation.

There are many provisions of the Illinois Workers' Compensation Act that, due to space limitations, are not discussed in this booklet. In addition, there are many exceptions to various provisions of the Act and many provisions that are subject to legal interpretation.

The information contained in this booklet should not be used by an injured worker to settle or litigate a workers' compensation claim without first consulting an attorney.

If you have any questions regarding the information in this booklet or wish to discuss a specific situation, please contact our office. There is no obligation or charge for a consultation.

There have been some major modifications to the Act which will make it much harder to get fair benefits for cases arising after June 28, 2011.



Main: (312) 464-1200 Fax: (312) 464-1212 Toll-Free: (800) 486-1002 Email: info@gwclaw.com

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### A. BASIC ASPECTS

1. Who is covered by the Illinois Workers' Compensation Act?

Virtually every worker who is hired or injured in the State of Illinois is covered by workers' compensation. Even if the worker is injured while working in another state, he may be covered by the Illinois Act if he can show that he was hired in Illinois or the principal state of his employment was in Illinois.

2. Who provides the benefits?

The employer provides all of the benefits either directly or through an insurance company. The costs of workers' compensation benefits cannot be charged to a worker.

3. What benefits are provided?

Employers are obligated to satisfy all necessary, reasonable and related medical expenses incurred as a result of any work-related disease or injury including first aid, emergency services, doctors' fees, and prescriptions. The worker may also be entitled to physical, mental, or vocational rehabilitation. However, amendments to the Act have changed how workers can obtain treatment. For more information on these changes, please see page three of this book.

The employer is also required by law to pay the worker Temporary Total Disability (TTD) benefits during the period of time that the worker is off work recovering from the injury or disease, provided that a doctor has prescribed the absence from work. The worker is to be paid at a compensation rate equal to two-thirds (2/3) of his average weekly wage. While there is no limit placed on the length of time that the worker can receive these benefits, no compensation is payable for the first three (3) working days unless the lost time continues for at least fourteen (14) calendar days from the date of the injury.

Finally, the employer may be required to pay additional benefits should the worker suffer Disfigurement, Permanent Partial Disability, Permanent Total Disability or Death on account of any work-related injury or disease. In the event of death, members of the worker's family are entitled to benefits.

The method used to calculate the TTD rate can be extremely complicated and confusing. If you have questions concerning your TTD rate or whether you are entitled to additional benefits as a result of your accident, you should consult a lawyer from our office immediately.

4. What injuries or diseases are covered?

Almost all job-related injuries or diseases, with few exceptions, are covered by workers' compensation. If an injury is not caused by anything relating to the job, the worker may still be covered by workers' compensation if he can show that by reason of his employment he was exposed to the danger of such an injury to a greater degree than was the general public. An injured worker may even be entitled to full benefits if the accident was the worker's own fault.

5. Must a worker be injured in a specific accident to be covered by workers' compensation?

No. Although it is generally considered necessary for a specific accident to have occurred before a worker is entitled to workers' compensation benefits, there are situations where the worker may be entitled to benefits without a specific accident having occurred. These types of cases usually involve repetitive physical movements in the work environment.

6. Can an aggravation of an old injury be covered under the Illinois Workers' Compensation Act?

Yes. The fact that a work accident may have re-injured an old injury does not bar recovery under the Illinois Workers' Compensation Act. Any new accident which aggravates a preexisting condition gives rise to the filing of a new case and may result in additional benefits.

### **B. REPORTING & BENEFITS**

1. What must occur for the injured worker to receive benefits?

The most important step toward getting benefits started after an accident is for the worker to give prompt notice to his employer. Even if a worker sustains an injury that does not at first appear to be serious, he should immediately report the injury to his **supervisor** or another person in charge and request to fill out an accident report, if one is available, especially if the injury arises before a weekend, holiday, or vacation period (notice to a coworker is not notice to the employer). Many cases are contested because the injured worker did not report the accident promptly. Failure to give the notice required by law can result in a loss of the worker's right to claim any workers' compensation benefits. Although the law allows an injured worker to give notice within forty-five (45) days from the date of accident, many potential problems can be avoided if notice is given

immediately following an accident. The **second most important step** an injured worker can take to protect his access to workers' compensation benefits is to give an accurate history of injury to any doctor, hospital, or nurse (health care provider). If the injury arose from employment, make sure to tell anyone who treats you, so that fact will be contained in the medical records.

2. Must the injured worker submit to treatment by the company doctor?

While an injured worker has the right to choose whether to treat with the company doctor or his own doctor, there are restrictions on the number of doctors he may see based on the Illinois Workers' Compensation Act as amended in 2011. The number of doctors that an injured worker may treat with ultimately depends on whether his employer is enrolled in a preferred provider program ("PPP"). A PPP is essentially a group of medical providers that has been approved by the employer to treat workers for their injuries. If the employer is not enrolled in a PPP, an injured worker has the right to treat with up to two doctors of his own choosing and any providers that he is referred to. However, if his employer has provided written notice that it has enrolled in a PPP, an injured worker may choose, in writing, whether or not he wants "opt in" or "opt out" of the PPP. If the injured worker decides to opt in to the PPP, he is eligible to treat with up to two of the listed providers and any providers that he is referred to. However, if the injured worker chooses to opt out of the PPP, he is limited to only one choice of doctor and any providers that he is referred to. If, before reporting an injury, the worker receives non-emergency treatment by a doctor who is not listed in his employer's approved list, this will be considered his one choice of doctor and he will not be allowed to choose another. Therefore, it is important that you speak with an attorney from our office immediately to understand your right to receive medical treatment under the amended Act.

A worker should always be certain to advise any hospital or treating doctor that his injuries arose out of an accident on the job (be as specific as possible). If an injured worker informs his medical provider that a claim is on file at the Commission, the provider must cease all efforts to collect payments from the employee until resolution of the claim (unless the worker fails to respond to status

inquiriès within 90 days).

# 3. What benefits should an injured worker receive while off work?

The worker is entitled to Total Temporary Disability benefits (TTD) for the entire period of time during which a doctor has ordered him to remain off work to recover from the effects of his injury. The weekly compensation rate is based upon the worker's average weekly wage for the one year period before the accident (excluding overtime). Further, the TTD rate is subject to certain maximums and minimums that can be explained by a lawyer from our office. "Moonlighters" who hold two jobs shall receive TTD based upon the combined wages of the two jobs, if the employer knows that the worker is holding two jobs. TTD benefits for volunteer firefighters, police officers and civil defense workers or trainees are based on the gross average weekly wage earned in their regular employment. A worker may collect TTD until his medical condition stabilizes.

4. What if, after the recovery period, the injured worker is still unable to return to any type of work?

An injured worker is considered to be totally and permanently disabled if he has a complete disability that renders him wholly and permanently unable to do any kind of work for which there is a reasonably stable market. If totally and permanently disabled, the worker is entitled to benefits for life payable by the employer at the worker's TTD rate.

# 5. What death benefits are payable to the worker's survivors?

A worker's widow or widower, minor children or totally dependent parents who qualify for death benefits are entitled to weekly payments at a worker's TTD rate. If the widow or widower remarries, and there are no minor children at the time of the remarriage, the widow or widower at the time of the remarriage is entitled to a lump sum payment equal to two (2) years of compensation and all rights to further benefits are extinguished.

The maximum death benefit allowable is either twenty-five (25) years of weekly compensation payments or \$500,000.00, whichever is greater.

### 6. What if the worker's earnings are permanently reduced because of the injury?

If, after his return to work, the injured worker can no longer earn as much as he did before the accident, he may be entitled to receive weekly compensation benefits equal to two-thirds (2/3) of the difference between the average weekly salary he earned before the accident and the amount he is able to earn after the accident, up until the injured worker reaches the age of sixty-seven (67) or five (5) years from the date that his award becomes final, whichever is later.

# 7. What if the worker does not receive benefits to which he thinks he is entitled?

If a worker is under the active treatment of a doctor of his choice and he is unable to work and is not receiving workers' compensation benefits, he is entitled to have a hearing on his case before an arbitrator of the Illinois Workers' Compensation Commission (the "Commission"). Workers have a right to present medical evidence and witnesses at this hearing. The worker should have an attorney represent him at this hearing before the Commission.

### C. PERMANENT PARTIAL DISABILITY

# 1. What compensation is payable to an injured worker for permanent injury to his body?

Compensation is payable for permanent partial disability if the job-related injury or disease results in the complete or partial permanent loss, or loss of use, of a part of the worker's body. The compensation rate for permanent partial disability is 60% of the average weekly wage, but is subject to minimum and maximum limits.

There is no fixed amount payable to a worker who is injured on the job. The methods used to determine the value of a workers' compensation case are extremely complex and confusing. One of our attorneys, experienced in the handling of workers' compensation claims, can protect the worker's rights and assist him in getting the maximum amount of recovery for his injury.

# 2. What compensation is payable for disfigurement to the body?

A worker who suffers serious and permanent disfigurement (such as scars) to the head, face, hand, neck, arms, legs (below the knee), and chest as a result of a job-related injury may be entitled to compensation. Disfigurement cases cannot be tried or settled until a six (6) month waiting period from the date of the injury; however, these cases should be filed with the Commission immediately after the injury occurs, the same as any other type of work-related injury case.

### 3. What compensation is payable for bodily injuries not specifically listed in the Workers' Compensation Act?

A worker who has suffered a permanent injury to a part of his body not specifically listed in the Illinois Workers' Compensation Act can receive up to 500 weeks of compensation for permanent partial disability to the man as a whole.

### D. PROTECTION OF BENEFITS

# Must a worker notify his employer if he has been injured?

Yes. The injured worker is required to report all accidents to his employer within forty-five (45) days from the date of the accident. It must be reported to someone in the company who has a position of authority, i.e., foreman, company nurse or personnel manager.

# 2. Is there a statute of limitations for the filing of a workers' compensation claim?

Yes. There is a period of time within which a worker must file his Workers' Compensation claim before the Illinois Workers' Compensation Commission. This time period is the Statute of Limitations. In a workers' compensation case, the Statute of Limitations requires that a claim be filed before the Commission on the worker's behalf within three (3) years of the date of his accident or within two (2) years of the last payment of compensation (whichever of these dates is later). If a claim is not filed on the worker's behalf within this time period, all of his workers' compensation benefits will be lost.

If you have suffered an accident within the above time frame, and have not had a claim filed on your behalf before the Commission, your rights may be jeopardized. You should contact our office immediately to make sure that your rights are protected.

It is important to note that the Statute of Limitations for a third party lawsuit is different than for a workers' compensation case.

Please refer to Section E.1(c) of this guide regarding the statute of limitations for third party lawsuits.

# 3. Should an injured worker apply for group insurance benefits?

Employers may encourage injured workers to apply for group insurance or sickness and accident benefits instead of workers'

compensation benefits to which they are entitled by law. Most of these alternatives do not provide for weekly benefits as great as those available under workers' compensation.

In addition, they usually require that the worker pay a portion of the medical expenses. Also, benefits for permanent partial disability and disfigurement are usually not available under most group insurance plans. Most group insurance policies exclude the payment of benefits for work-related injuries. If an injured worker signs a group form indicating that he was not hurt at work, it may prove difficult to later receive any workers' compensation benefits.

4. Can an injured worker lose his job for filing a claim for compensation?

Section 4(h) of the Illinois Workers' Compensation Act provides that it is unlawful for any employer or insurance company to interfere with, restrain, coerce or discriminate against any worker in any manner whatsoever because of his exercise of the rights or remedies granted to him by the Workers' Compensation Act.

It is also unlawful for any employer or insurance company to discharge a worker because of the exercise of his rights or remedies under the Illinois Workers' Compensation Act.

5. When is a workers' compensation claim permanently closed?

After a worker signs his Settlement Contracts, which are submitted to and approved by the Illinois Workers' Compensation Commission, his claim is closed and cannot be re-opened for any reason other than fraud committed by his employer or its workers' compensation insurance carrier.

After a contract is approved, the worker will not be entitled to any further workers' compensation benefits relative to his injury.

If a worker received money for his injury from his employer or its insurance company but never signed settlement contracts, his claim may still be open.

6. Should an injured worker submit to a recorded statement, in person or over the phone, if requested by his employer or its insurance company?

No. A recorded statement can be used as evidence against the worker at a hearing before the Industrial Commission. A statement could

also jeopardize a third party case. If a worker is asked to give a statement, simply have the agent or adjuster call our office for any information he or she may need regarding the accident.

7. Should an injured worker sign any documents, except an accident report, for his employer or its insurance company?

No. Any documents or forms that a worker signs, however harmless they may appear at the time, could possibly adversely affect his claim, especially if the worker's claim is contested at a later date.

8. Should an injured worker cooperate with a rehabilitation nurse hired by his employer or its insurance company?

Yes, with caution. In some situations, a worker's employer, or its insurance company, will request that the worker consult with a rehabilitation nurse while the worker is unable to return to his usual employment. In many cases, this may be an important benefit provided to the worker under the Workers' Compensation Act. However, unless handled properly, this relationship may compromise certain rights and benefits that an injured worker has in both his workers' compensation case and any potential third party case. If a worker is contacted by an insurance company representative regarding a rehabilitation nurse, the worker should contact our office immediately to make sure that his rights will be protected.

9. Should an injured worker apply for unemployment compensation benefits if he is not receiving workers' compensation benefits after an injury?

No. When you apply for unemployment compensation benefits, you must state you are willing and able to work. Even though it is doubtful that the worker will be called for work, it could be argued by the employer or its insurance company that the worker is not entitled to weekly workers' compensation benefits because of his statement to unemployment compensation that he is able to work.

10. Does an Injured Worker Need an Attorney To Assist Him in the Handling of a Workers' Compensation Claim?

Yes. It is essential that an injured worker retain an attorney who concentrates in workers'

compensation law to protect his rights and assure the maximum recovery under the law. Immediately after incurring an injury at work, a worker is involved in a legal claim under the Workers' Compensation Act. All employers and their insurance companies have competent staffs of attorneys representing their interests. Neither your employer nor its insurance company has any obligation to inform a worker of his rights under the Workers' Compensation law. In addition to compensating you for an injury, a workers' compensation claim has provisions that can protect a worker if he is unable to engage in his usual occupation as a result of a work-related injury.

### E. BENEFITS IN ADDITION TO WORKERS' COMPENSATION

### 1. Third Party Cases

(a) Are there rights in addition to workers' compensation, to recover damages for injuries sustained in a work-related accident?

Yes. If a third party, other than the worker's employer, is legally responsible for the accident, the worker has the right to pursue a second case. This second case would typically be based on the third party's negligence or manufacture of a dangerous product. Damages in this second case are generally more than workers' compensation benefits for the same injuries because there is no limitation on the amount of recovery. The damages to which a worker would be entitled in a "third party case" are for pain and suffering, disability, loss of earnings and medical expenses, etc.

### (b) How does a worker know if a third party may be legally responsible for his injuries?

A worker may not know; however, a competent third- party lawyer will. The determination of whether a third- party case exists often requires an analysis of all applicable laws and potential theories of liability before the existence of a third party case can be confirmed. It is important to have a third-party lawyer make this analysis on the worker's behalf.

In order to determine whether there might be some individual or company other than the worker's employer who might be at fault, the worker should give a complete description of his accident to a lawyer concentrating in the handling of third-party cases as soon as possible after the accident. The decision as to whether this second case exists should be made as quickly as possible, while any evidence pertaining to the case is still in existence. Any scaffolding or other equipment involved should be photographed and any individuals having knowledge of the accident should be interviewed while the facts surrounding the accident are still "fresh."

# (c) What is the statute of limitation for the filing of a third-party lawsuit?

Generally, a complaint must be filed in the Circuit or Federal Court within two (2) years following a worker's accident. In construction-related accidents, the statute of limitations may be extended to four (4) years if certain prerequisites are satisfied. If a complaint is not filed within the applicable limitations period, the worker will have no right to recover damages from any third party.

### (d) What is involved in the process of filing of a third-party lawsuit?

GWC handles personal injury cases for people who have been injured or who have lost a family member due to the negligence of another. The area of practice known as personal injury law encompasses any type of injury, fatal or nonfatal, sustained in a wide range of scenarios - for example, construction site accidents, vehicular collisions, falls, fires and medical negligence. The diverse types of cases we handle are discussed individually and more thoroughly in the Practice Areas listed on our website. Generally speaking, however, personal injury (or "tort") actions arise whenever someone is injured, dies or becomes ill as a result of the careless action or inaction by another person, and/or by a legal entity such as a company or corporation.

While many lawyers in Illinois purport to handle personal injury cases, only GWC can claim that it is Illinois' largest personal injury/workers' compensation law firm. Our size is a testament to our success: We have grown to be Illinois' largest as a result of our satisfied clients who refer their friends and family to us when they are injured.

In order to best preserve your rights in the event of an injury, you should retain counsel to conduct an immediate investigation of the facts and circumstances surrounding the accident. This will aid in identifying all potential causes. A lawsuit must also be filed within a prescribed time frame (statute of limitations) after the injury. For an injured person to succeed in a tort action, he or she has to prove certain things and meet certain legal standards. The proofs that are required will vary depending on the type of tort involved, and more than one person or entity may be at fault for your injuries. For these reasons, it is crucial that your attorney be well-versed in the field of personal injury law. GWC's experienced personal injury attorneys are familiar with the intricacies of a wide range of tort actions, and we are always available to discuss the specifics of your case with you.

Once we prove that a third party was legally responsible for causing your injury or illness, that person or entity will either volunteer or be ordered to pay you money damages. The compensatory damages to which you may be entitled include economic damages like medical bills and lost wages. They also include non-economic damages such as pain and suffering and disfigurement. The lawyers at GWC are relentless in their efforts to recover the maximum settlements or obtain the biggest verdicts possible for our clients, and these efforts pay off: Our results are unmatched by our competitors, and our verdicts and settlements are among the highest year after year

At GWC, we understand the severe impact that an unexpected injury can have on one's life. It is our goal to put our vast legal experience and resources to work for you and your family to help you through this difficult time. If you or a loved one has been injured in any type of accident, please call us for a free consultation to discuss your unique situation and learn what GWC can do for you.

## 2. Social Security Disability Benefits

(a) Can a worker receive social security benefits in addition to weekly workers' compensation benefits?

Yes. A worker may receive both Workers' Compensation benefits and Social Security Disability payments, but the amount a worker receives will be reduced while the worker is receiving Workers' Compensation benefits.

If you are considering filing for Social Security Disability Insurance ("SSDI") benefits, you should

first discuss what effect the receipt of SSDI benefits will have on your workers' compensation case.

### (b) Should a worker have an attorney to protect his rights at a social security hearing?

security hearing?

Yes. A Social Security Hearing is a legal proceeding. An attorney who is experienced in Social Security claims, knows what must be done to maximize a worker's chances for being awarded benefits.

In general, a worker should contact an attorney who concentrates in the handling of Social Security Disability claims immediately upon receiving an initial Denial of Benefits from the Social Security Administration. At this point, the attorney will be able to properly prepare the worker's case in anticipation of his hearing date.

# F. (PEDA) FIREFIGHTERS, PARAMEDICS, & POLICE OFFICERS

Firefighters, Paramedics and Police Officers are covered under the provisions of the Illinois Workers' Compensation Act (ILWCA) as well as the Public Employees' Disability Act (PEDA) for dutyrelated injuries. In certain circumstances, public employees injured by the negligence of a third party while in the performance of their duties may be entitled to a further recovery in addition to the previously mentioned statutes. Some seriously injured persons who are not able to return to their former duties may be entitled to a disability pension as set forth in the Illinois Pension Code.

There are also times when firefighters, paramedics and police officers may have a case against a responsible third party for their injuries. Each set of facts must be examined to determine if a possible third party case exists.

Navigating through these inter-related statutes in order to protect injured parties' rights and benefits and maximize their recovery is not always simple. Doing so requires experience and expertise in this area. Goldberg Weisman Cairo has been successfully handling firefighters' and police officers' cases for four decades.

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If you are injured, please fill out the following form:	Mo	nday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
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Location of Accident/Name of Project:								
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DO NOT GIVE A RECORDED STATEMENT TO AN INSURANCE COMPANY WITHOUT FIRST CONTACTING OUR OFFICE!								
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THE FIRM OF



Concentrates its practice in the following areas:

- Workers' Compensation Airplane Crashes
- Construction Accidents Product Liability
- Brain Injury
- Auto Accidents
- Medical Malpractice
- Birth Injury
- Motorcycle Accidents
- Nursing Home Negligence
- Asbestos-related Diseases Including Mesothelioma

- Dog Bites
- Railroad Crossing Accidents
- Railroad Employee
- Accidents
- Pharmaceutical Litigation

We are also available to assist our union members and their familes at at a reduced hourly rate for all General Practice matters including:

• DUI

- Divorce & Custody
- Criminal Matters
- Traffic
- Wrongful Discharge
- Social Security
- Wills and Trusts
- Real Estate

Should you need additional legal assistance, please call for a free consultation.

\*Identify yourself as a union member for reduced rates for General Practice Matters.

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This book is not intended to provide all of the information necessary to handle an injury claim without the assistance of an experienced worker's compensation attorney