

A Worker's Guide to the Rights and Benefits Provided by the Illinois Workers' Compensation Act and Related Third Party Matters.

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Introduction:

The primary purpose of this guide is to inform the worker who has sustained an on the job injury of his rights and benefits under the Illinois Workers' Compensation Act and related third party cases. This guide will assist the worker in recognizing, protecting and maximizing his workers' compensation claim and the recovery of damages against legally responsible parties other than his employer.

This guide is intended to clarify numerous misconceptions many workers have about the practical application of the Workers' Compensation Act. Examples follow:

1. The injured worker is entitled Workers' Compensation benefits as a legal right as opposed to the various benefits that employers voluntarily provide their employees (such as group health insurance, pension benefits, disability benefits, etc.)
2. An injured worker that files for Workers' Compensation benefits (with or without the assistance of a Workers' Compensation attorney) is not suing or filing a lawsuit against his employer, but simply seeking to receive various rights and benefits, which the worker is entitled to under Workers' Compensation Act.
3. Employers or their Workers' Compensation insurance companies are not legally or "morally" required to inform injured workers of their rights or benefits, which they may be entitled under the Act. In fact, it is not uncommon for an injured worker to be misinformed to the most basic provisions of the Act.
4. Workers' Compensation insurance companies staff or retain attorneys experienced in Workers' Compensation and third party law. The primary function of these attorneys is to assist the insurance companies in minimizing their monetary obligations and responsibilities relative to workers injured on the job. If an experienced and knowledgeable Workers' Compensation attorney does not represent the injured worker, he could be placed in an unfair position relative to his employer's Workers' Compensation insurance company.

Finally, Section III provides the injured worker with forms, if properly utilized, help protect and preserve the rights of the worker to receive maximum benefits provided by the Workers' Compensation Act. Furthermore, the claim information form, if accurately and fully completed by the injured worker and reviewed in a timely manner by a third

party attorney, may establish the ability of the worker to pursue a valuable third party case.

It is important for the worker to understand that the information contained in this guide is intended to inform workers of significant provisions of the Workers' Compensation Act and that there are numerous other provisions of the Act that, due to space limitations are not discussed in this guide. The provisions that are discussed are subject to both exceptions and interpretations by the courts. Therefore, the information contained in this guide should not be relied upon or utilized by the injured work to settle or litigate his Workers' Compensation claim without first consulting with an experienced Workers' Compensation attorney.

Please note:

1. Any reference in this guide indicating solely to the male gender (he, his) was done merely for purposes of convenience. The information contained in this guide and all provisions of the Act apply equally to male and female workers.
2. Throughout this guide, the indication of "the Act" refers to the Illinois Workers' Compensation Act.
3. Finally, should you decide to retain our firm to represent your legal rights, an attorney's fee is charged only when a recovery is made on your behalf.

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Section I. The Illinois Workers' Compensation Act

A. Basic benefits of the Illinois Workers' Compensation Act.

1. Who provides the benefits under the Act?..... 1
2. What workers are covered by the Act?..... 1
3. What injuries are covered by the Act?..... 1
4. What benefits should an injured worker receive for injuries that result from performing repetitive motions in the course of his employment..... 1
5. What benefits should an injured worker receive re-injures or aggravates a pre-existing condition..... 2
6. What benefits should a worker receive if his injuries cause disfigurement..... 2
7. What medical benefits are provided by the Act..... 2
8. What benefits should an injured worker receive while off work. 3
9. What benefits should an injured worker receive if

his injuries are permanent in nature.....	4
10. What if an injured worker is unable to return to his usual trade or profession.....	5
11. What if an injured worker is unable to return to any type of work.....	5
12. When is an injured worker entitled vocational rehabilitation.....	5
13. What death benefits are provided under the Act.....	5

B. Protection of benefits and rights under the Act

1. Notice of accident to employer	
2. Statute of limitations for filing a Workers' compensation claim.....	6
3. Should an injured worker submit to a recorded statement.....	6
4. Should an injured worker sign any documents.....	8
5. Examination or second opinion from a company doctor.....	8
6. Cooperating with the rehabilitation nurse.....	8
7. What if the injured worker is not receiving the benefits he is legally entitled to under the Act.....	9
8. Should an injured worker apply for unemployment benefits.....	9
9. Should an injured worker apply for social security benefits.....	10
10. Should an injured worker apply for group insurance benefits.....	10
11. Can an injured worker be harassed or fired for filing a Workers' Compensation claim.....	11
12. When is a Workers' Compensation permanently closed.....	11
13. Giving an accurate and extensive description of the accident to the injured worker's medical providers.....	12
14. Selecting the "right" attorney.....	12

C. Commonly Asked questions by workers injured on the job
Section II. Third Party Cases

A. Basic Aspects of Third Party Cases

1. What does "third party" mean	14
2. Who are frequent third parties.....	15
3. Is a violation of the Structural Work Act a third party case.....	15
4. What are the monetary awards under third party cases.....	15

- B. Protecting and preserving the worker's rights to a third party case
 - 1. Statute of limitations for third party cases.....16
 - 2. How can a worker protect his third party case.....17
 - 3. Does the injured work need an attorney if he has a third party case.....17
 - 4. Selecting the "right" party.....18

Section III. Injured Worker's Documentation Forms

- A. Workers' Compensation and third party information forms
- B. Workers' claim diary

Section I The Illinois Workers' Compensation Act

A. Basic Benefits of the Illinois Workers' Compensation Act

- 1. Who is responsible for providing the benefits under the Act?

The employer is, by law, 100 percent responsible for providing benefits under the Act. The employer, in certain situations, provides directly (self-insured), or indirectly through a Workers' Compensation insurance company. A worker cannot be charged for benefits provided by the Act or any portion of his employer's Workers' Compensation insurance premium.

- 2. What workers are covered by the Act?

Every worker injured in Illinois, hired in Illinois but injured while working in another state or injured while working in another state for an employer whose principle place of business in Illinois, is covered by the Act.

- 3. What injuries are covered by the Act?

Any worker who has sustained an injury "**arising out of and in the course of their employment**" has a potential claim under the Act.

- 4. Is a worker entitled benefits under the Act for injuries that result from performing repetitive motions in the course of the job?

Yes. A worker who has sustained an injury, commonly referred to as "**repetitive trauma**," is entitled to benefits under the Act. These types of injuries generally result from a worker's repeated, consistent, physical movement of a particular part of their body in the performance of their normal work activity. Unfortunately, due to the fact that symptoms with these types of injuries manifest themselves over a period of time, the worker might not associate the eventual diagnosis of the injury as being work-related.

5. Does a worker have a viable Workers' Compensation claim if they re-injure a previously injured part of their body or aggravates a pre-existing physical condition?

If a worker sustains a work-related injury to a previously injured part of their body, regardless of whether the previous injury was work-related, they are not barred from recovery under the Act. Similarly, if they sustain an accident that aggravates or accelerates a pre-existing physical condition, (arthritis, congenital back condition, etc.) they are still entitled to all the rights and benefits provided by the Act.

6. Is a worker who sustains an on the job injury entitled to compensation if the injury causes disfigurement?

A worker who suffers a serious and permanent disfigurement (scar, burn, etc.) to the head, face, neck, arms or legs as a result of a work-related injury, is entitled to benefits under the Act.

7. What medical benefits does the Act provide to workers after they have incurred a job-related injury?

An injured worker is entitled to receive 100% of "**all necessary and reasonable medical expenses incurred as a result of a job-related accident.**" These include first aid, emergency room services, hospital care (inpatient/outpatient), doctor's fees, prescriptions, etc.

The Act further provides that an injured worker is entitled to treatment by **two (2) doctors** of their own choosing (excluding emergency room care) at the insurance company's expense. The insurance company is also responsible to pay for fees and charges of any doctors or hospitals, which the injured worker is referred to by either of their first two choices (commonly known as the **chain of referral**). If the injured worker wants to see or be treated by a third doctor, they will be responsible for any medical expenses incurred, unless approved by the Workers' Compensation insurance company.

8. What benefits is an injured worker entitled while off work?

The Act provides that a worker receive **Temporary Total Disability benefits or T.T.D. benefits** for the entire time the worker's treating doctor requires them to remain off work to receive treatment and recuperate from their injuries.

T.T.D. benefits are required to be paid within **fourteen (14) calendar days** from the date the employer or one of his agents receives notice of the accident from the injured worker, unless the Workers' Compensation insurance company indicates, in writing, the reason for its refusal to pay T.T.D. benefits to the injured worker.

T.T.D. benefits are calculated as two-thirds (2/3) of a worker's average, gross, weekly wage for the year preceding the accident (excluding overtime and bonuses). In addition to numerous variations and complications in calculating the worker's average, gross, weekly wage, the T.T.D. rate is subject to various minimums and maximums prescribed by the Act.

NOTE: If you are interested in obtaining additional information, or simply want to verify that you are receiving the correct weekly T.T.D. benefits, please contact our office and we will send you a free copy of our "Worker's Guide to Temporary Total Disability Benefits," which will provide you with a total detailed explanation of how T.T.D. benefits are calculated, including tables containing current maximum and minimum rates and simple instructions on how most workers can calculate their T.T.D. weekly benefit rate. There is no cost or obligation whatsoever when you call our office requesting the T.T.D. guide.

9. What benefits are provided by the Act if the injuries sustained by the worker are permanent in nature?

Even though an injured worker may return to their usual profession or trade after sustaining an on-the-job injury, they could be entitled to compensation for any complete or partial permanent loss of use of any part of their body. This compensation is called **Partial Permanent Disability benefits or P.P.D.**

The amount of Partial Permanent Disability benefits a worker is entitled to is based on their P.P.D. rate and the level of permanency of their injury. A worker's P.P.D. rate is calculated as sixty percent (60%) of the worker's average, gross, weekly wage for the year preceding the accident (subject to specific statutory minimums or maximums). There is no predetermined or fixed amount (level of permanent disability) that is applicable to a worker's injury. There are numerous factors which must be taken into consideration to determine the approximate monetary value of an injured worker's entitlement to P.P.D. benefits under the Act. It is essential to understand that every injury sustained by a worker is unique, therefore, requiring the knowledge of an experienced Workers'

Compensation attorney to assist the injured worker in recovering the maximum amount of P.P.D. benefits to which they are entitled under the Act.

10. What if an injured worker is unable to return to his usual trade or profession after his treating doctor has exhausted all forms of treatment?

If an injured worker can no longer perform their usual trade or profession and must, therefore, accept a lower paying position, the worker could be entitled to benefits equal to **two-thirds (2/3)** of the difference between the average, gross, weekly, wage earned before the accident and the wage they are earning after the accident.

11. What if the injured employee, after his recovery period, is unable to return to any type of work?

Under the Act, if the injured worker is unable to return to "**any type gainful employment**" they would be considered totally and permanently disabled and, therefore, would be entitled to weekly benefits at the worker's T.T.D. rate for life or until such time as they are capable of returning to some type of gainful employment.

12. Is an injured employee entitled to vocational rehabilitation?

The Act provides that if a worker sustains an injury of such severity that they are unable to return to the type of work they were doing at the time of the accident (established by medical evidence), the Workers' Compensation insurance company could be responsible to pay for vocational rehabilitation to retrain the worker for a new job, trade or profession consistent with their physical limitations. The employer's Workers' Compensation insurance company may also be required to continue paying the worker's weekly T.T.D. benefits for the entire rehabilitation period. Whether an individual is eligible for vocational rehabilitation depends on numerous factors specific to each worker.

13. What death benefits are payable to survivors of a worker whose death is caused by a work-related accident?

The maximum death benefit provided by the Act is twenty (20) years of the deceased worker's T.T.D. rate or \$250,000 whichever is greater. Death benefits are payable to the widow(er) and or the worker's dependent children under eighteen (18) years of age. Under certain circumstances, monies could be paid to other dependent relatives of the deceased worker if there is no surviving widow(er) or dependent children.

B. Protection of benefits and rights under the act

1. Must an injured worker notify his employer of an on the job accident?

Yes. The Act provides that an injured worker must report any accident to their employer or any employee of the employer who is in a supervisory capacity (foreman, superintendent, company nurse, etc.). Notification, oral or written, must be within **forty-five (45) days from the date of the accident.**

There are **four important factors** an injured worker should remember about the "notice" provisions of the Act:

1. Informing a co-worker of an accident is not considered proper notice under the Act.
2. Notice of the accident should be given to the employer as soon as possible after the accident regardless of the fact that the Act allows forty-five (45) days.
3. Notice of a worker's accident should, if possible, be in writing even though it is not required by the Act. A worker should never sign a blank accident report form. The worker should also retain a copy of the completed accident report.
4. **Failure to give notice of the accident to the employer within forty-five (45) days could result in the loss of all benefits and rights under the Act.**

2. Does an injured worker have to file his Workers' Compensation claim within a specific period of time?

Yes. A worker who is injured as a result of a work-related accident, must file a claim with the Illinois Industrial Commission within **three (3) years of the date of their accident or within two (2) years of the latest payment of compensation, whichever of these dates is later?**

This provision of the Act is legally referred to as the Statute of Limitations. With regard to the Statute of Limitations, it is important that every worker remember the following:

(a) Completion of an accident report form (or any other type of form relative to an accident), for the employer or its Workers' Compensation insurance company is not considered "filing" of a claim under the Act.

Either the worker or their attorney must file a specific form entitled "Application for Adjustment of Claim" with the Illinois Industrial Commission.

(b) If an Application for Adjustment of Claim form is not filed with the Illinois Industrial Commission within the Statute of Limitations, the worker would lose their rights and benefits provided by the Act.

3. Should an injured worker allow his employer or its Workers' Compensation insurance company to record a statement of the accident?
No. In order for an injured worker to be entitled to benefits under the Act, the employer or its Workers' Compensation insurance company must simply receive proper notice of the accident, and the name and address of the doctor(s) from which the worker is receiving treatment. **There is no requirement in the Act that this or any other information be transmitted to the employer by a recorded statement. Furthermore, a recorded statement is never taken to the benefit of the injured worker.**

It is important the worker **not submit to a recorded statement considering that the statement could be used as evidence against the worker** at a subsequent hearing before the Illinois Industrial Commission. **A recorded statement may also negatively affect the worker's rights relative to a potential Third Party case resulting from the accident.**

4. Should an injured worker sign any documents for his employer or his employer's Workers' Compensation insurance company?

No. The only document an injured worker should sign is an accurately completed accident report. Any other documents signed by the worker, no matter how harmless or insignificant they may appear, could adversely effect the worker's rights and benefits under the Act and/or a potential third party case.

5. Is an injured worker required to submit to an examination from a doctor selected by his employer's Workers' Compensation insurance company?

Yes. If an injured worker claims they are entitled to receive or are receiving benefits under the Act, the Workers' Compensation insurance company is entitled to have the worker examined by a doctor of its own choosing at a reasonable time and place. The Workers' Compensation insurance company must pay for the exam.

Failure to attend the examination could result in an interruption of benefits to the injured worker.

6. Is an injured worker required to cooperate with a rehabilitation nurse retained by his employer's Workers' Compensation insurance company?

Yes. The Act provides that any injured worker who fails to cooperate with the rehabilitation process can have their benefits terminated by the Workers' Compensation insurance carrier?

CAUTION: Seemingly innocent statements made by a worker to a rehabilitation nurse are forwarded to the insurance adjustor handling the claim. Such statements could have a negative affect on an injured worker' claim, as well as, a potential recovery in a Third Party case.

7. What redress does an injured worker have if he is not receiving the benefits he is entitled to under the Act?

If an injured worker, under active medical treatment and off work pursuant to their doctor's instructions, is not receiving their benefits, they have the right to a hearing before an Arbitrator of the Illinois Industrial Commission. At this hearing, the worker would have the opportunity to present medical evidence and witnesses in support of their claim for Workers' Compensation benefits.

Considering the complexity of such a hearing and the fact that an experienced attorney will be defending the claim on behalf of the insurance company, it is advisable that the injured worker retains an experienced and competent Workers' Compensation attorney.

8. Should an injured worker apply for an unemployment benefits?

No. In applying for unemployment benefits during the period a worker is off work due to an on-the-job injury, **the worker must state in writing that they are willing and able to work.** Even though the injured worker will rarely, if ever, be called for work, the Workers' Compensation insurance company could argue that the injured worker's statement to unemployment, is contrary to their claim that they are unable to work.

However, recent court decisions have recognized the financial difficulties facing an injured worker who is not receiving T.T.D. benefits under the Act and have ruled that a worker who has applied for unemployment benefits, in certain circumstances, is not barred from claiming they are entitled to T.T.D. benefits.

Nevertheless, it is advisable that the worker discusses the circumstances of their accident with an experienced Workers'

Compensation attorney before applying for unemployment benefits.

9. Can a worker receive Social Security Disability benefits as a result of a work-related injury?

Yes. If an injured worker is **disabled from working and it is anticipated that their disability will continue for one year or more**, the worker could be eligible for Social Security Disability benefits. If the above circumstances exist, **it is advisable that the injured worker files an application for Social Security Disability benefits with their local Social Security office.**

If the Social Security Administration denies the worker's initial claim and subsequent reconsideration, the next step in the appeal process would be to request a hearing before a Social Security administrative law judge. It should also be noted that a Social Security claimant **is responsible for attorney's fees in only those situations where they receive an award by the Social Security administration.**

10. Should an injured worker apply for group insurance benefits instead of Workers' Compensation benefits?

No. Often an employer will encourage their injured workers to apply for group health insurance benefits instead of Workers' Compensation benefits. However, it is advisable not to apply for group insurance benefits for the following reasons:

1. Most group health insurance policies do not provide for lost time or Temporary Total Disability benefits (T.T.D.).
2. Most group health insurance policies usually require that the injured worker pay a portion of the medical expenses, whereas, **Workers' Compensation pays 100%** of any injured worker's reasonable and necessary medical expenses.
3. The extensive rights and benefits an injured worker is entitled under the Act (T.T.D., P.P.D., rehabilitation, etc.) **are not provided by group health insurance plans.**
4. **Finally, and most importantly, group health insurance policies frequently exclude the payment of any benefits for work-related injuries and therefore, might require the injured worker to indicate, in writing, that the benefits being provided are not a result of a work-**

related injury. Such an admission could jeopardize their Workers' Compensation claim.

11. Can an injured worker be harassed or fired for filing a claim for Worker's Compensation benefits with the Illinois Industrial Commission?

No. The Act provides that it is unlawful for any employer or its Workers' Compensation insurance company to interfere with, coerce or discriminate against any injured worker, in any manner, whatsoever, for exercising their rights to obtain any or all of the benefits provided for by the Act.

Additionally, if it can be proven that an employer fires or forced to resign any injured worker in retaliation for filing a Workers' Compensation claim, the worker could file a civil lawsuit against his employer seeking damages in the Circuit Court. This type of lawsuit is referred to as a "**Retaliatory Discharge**" lawsuit, which could result in substantial damages against the employer.

12. When is a Workers' Compensation claim considered settled and permanently closed?

A Workers' Compensation claim is considered settled only after "**Lump Sum**" **settlement contracts** are prepared and signed by the appropriate parties and approved by the Illinois Industrial Commission. After the above process is concluded, the worker's claim is closed and they are no longer entitled to Workers' Compensation benefits for their injuries. In the event of a subsequent accident, the worker would need to file a new claim for Workers' Compensation benefits.

NOTE: If an injured worker has received various Workers' Compensation benefits from his employer but **never signed Lump Sum Settlement contracts, he may still have a viable Workers' Compensation claim if the Statute of Limitations has not expired.**

13. Is it important for a worker to give an accurate and extensive description of the accident to his own medical providers?

Yes. If a dispute arises as to how, when or if a worker sustained an injury as a result of a work-related accident, a detailed and accurate description of the accident given by the worker to his medical providers could substantiate the worker's claim.

14. What are the essential factors a worker should consider in selecting the “right” attorney to represent his interests in a Workers’ Compensation claim?

Whether a worker is presently being represented by an attorney or contemplating retaining an attorney to represent his interests in a Workers’ Compensation claim, he should know the answers to the following questions before retaining an attorney:

- (a) Does the attorney concentrate his practice in his Workers’ Compensation laws?
- (b) Can the attorney give proper individualized attention to the client and not treat his claim as one of hundreds handled in a mass production manner?
- (c) Is the attorney aware of other significant remedies and benefits (Social Security Disability, potential third party cases, etc.) that may be available in addition to his Workers’ Compensation benefits?
- (d) Does the attorney communicate in “layman’s terms” to ensure the worker’s full understanding of his rights and the procedures involved in the Workers’ Compensation claim process?
- (e) Can the attorney be reached at home in the evenings or on the weekends in the event of an emergency?

C. Most commonly asked questions by workers injured on the job.

It is important to note that the answers to these questions do not apply in 100 percent of all Workers’ Compensation claims and the “practical” answers could vary depending upon the specific circumstances of your claim.

1. Are Temporary Total Disability Benefits (T.T.D.) or Partial Permanent Disability Benefits (P.P.D.) taxable?

No. Workers’ Compensation benefits are considered “compensation for an injury” and not “income” and therefore not subject to Federal or state income taxes.

2. Does an injured worker have to be employed a specific period of time to be eligible for benefits provided by the Act?

No. Under the Act, there is no specified length of time a worker must be employed to be entitled all benefits provided by the Act.

3. Can a worker file a lawsuit against his employer for the injuries he sustained from a job-related accident?

No. In Illinois, the only remedy a worker has against his employer is a Workers' Compensation claim filed with the Illinois Industrial Commission.

4. Is an injured worker entitled (under the Act) monies for payment of union dues, continuation of health insurance benefits or other similar benefits?

No. Unfortunately, the act does not provide monies to a worker for any of the above-mentioned benefits.

5. If an injured worker decides, for whatever reason, to discharge his present attorney, will he have to pay more than 20 percent in attorneys' fees or be concerned about an interruption of his Workers' Compensation benefits?

No. An injured worker dissatisfied with his present attorney has the right to discharge his attorney and retain a new attorney. Retaining a new attorney will not result in the injured worker being charged more than a 20 percent attorney fee for legal representation relative to his claim or result in the interruption of his Workers' Compensation benefits. It is the exclusive responsibility of the newly retained attorney to pay the previous attorney any out-of-pocket expenses he may have incurred, or for any time the attorney might have expended during the time he was handling his claim.

Section II. Third Party Cases

A. Basic aspects of third party class

1. What exactly does "third party" mean?

The Act provides that a worker who sustains an on the job injury cannot file a lawsuit against his employer regardless of some action or negligent conduct of his employer clearly caused or contributed to the worker's accident. Therefore, the sole remedy the worker has relative to his employer are his benefits provided by the Workers' Compensation Act.

2. Who are frequent "third parties?"

Whether a third party can be held legally responsible for the worker's injuries depend on the facts and circumstances surrounding the worker's job-related accident. The best ways to illustrate possible third party situations follow:

- (a) The most frequent accidents involving third parties occur on construction sites. At a construction site, there are workers representing building trades (carpenters, electricians, ironworkers, plumbers, pipe-fitters, sheet metal workers, laborers, etc.) performing their duties. These workers are frequently employed by subcontractors who are, in turn, hired by a general contractor. If a worker is injured as a result of negligent conduct by an employee of another subcontractor, the injured worker, in addition to receiving benefits under the Illinois Workers' Compensation Act, could have a potential third party case against the subcontractor, general contractor or possibly, the owner of the property where the accident occurred.
- (b) A third party case may result if a worker is injured as a result of defective equipment or tools (ladders, power drills, power saws, etc.). This type of case is referred to as a "Products Liability Lawsuit," which could be filed against the manufacturer of the defective piece of equipment or tool.
- (c) Another typical example of a third party case would be a truck driver injured (while working) in an automobile accident caused as a result of a negligent driver. In this case, the truck driver would have a third party case against the negligent driver of the other automobile or truck involved in the accident in addition to a Workers' Compensation claim.

3. Is a violation of the Illinois Structural Work Act a third party case?

Yes. The Structural Work Act, commonly referred to as the "Scaffold Act" was enacted for the "purpose of providing protection and safety for those persons engaged in and exposed to the traditionally recognized dangers of construction." Due to the complexity of the Structural Work Act, a determination of the existence or potential of a third party case can only be made by a careful and thorough examination of the circumstances of the accident by attorneys competent and experienced in this area of law.

4. Are there greater monetary recoveries under a third party case compared to a Workers' Compensation claim?

Yes. The monetary recovery (damages) to any injured worker in a third party case is usually considerably greater than a Workers' Compensation settlement or award of the Illinois Industrial Commission, relative to the same accident and injuries sustained.

Unlike a Workers' Compensation claim (which is a claim filed with the Illinois Industrial Commission, an Illinois administrative agency), a third party case is a lawsuit filed in the circuit or federal courts. As opposed to a Workers' Compensation claim, a third party case generally has no limitations on the amount of recovery an injured person can receive. A judge or jury, in determining damages in a third party case, may consider the worker's pain and suffering, future loss of earnings, inability to perform non-work activities and the amount of medical expenses. Lastly, the third party cases frequently involve multiple defendants, which increase the potential for considerably higher recoveries of damages than in Workers' Compensation situations.

B. Protecting and preserving the worker's rights to a third party case

1. Is there a statute of limitations to a third party case?

Yes. An injured worker must file a civil complaint against the responsible third parties in the circuit or federal courts generally within two years from the date of the worker's accident. Failure to file a lawsuit within two years from the date of the accident may result in forfeiture of any claims or rights the worker may have had against the third party.

2. What actions can a worker take to protect and preserve his potential third party case?

Unlike a Workers' Compensation claim, a worker in order to receive monetary benefits, must prove that a third party was negligent or otherwise legally responsible for the accident. Therefore, a worker should take the following actions to preserve his rights and maximize his recovery in the event an experienced and knowledgeable third party attorney determines that the worker has a viable third party case:

- (a) An injured worker should not give any statements, recorded or transcribed, to anyone other than his attorney or an investigator from his attorney's office.
- (b) As soon as possible after the accident, the worker (or a friend or co-worker) should take pictures of the accident scene, the mechanical device or scaffold, or possible hazardous conditions surrounding the job site.
- (c) If possible, the worker should try to secure potential evidence such as ladders, portable equipment, etc.

(d) The worker should try to obtain the names and addresses of any potential witnesses or possible legally responsible third parties.

3. Is it necessary for an injured worker to retain an attorney to pursue his third party case?

Absolutely. Due to the complex nature of third party cases, it is imperative that a worker retains an attorney that concentrates his practice in the handling of third party matters. Only an experienced attorney can determine the potential existence of a third party claim, identify the legally responsible parties and take the proper and timely actions to recover damages on the injured worker's behalf.

Contacting an attorney immediately following an accident involving a third party is necessary to protect the injured worker's third party rights. By contacting an attorney in a timely manner, he can arrange for an investigator, within hours, to be at the scene of the accident to take pictures of the accident site or take statements from witnesses that could be pertinent to a subsequent third-party lawsuit. As in serious Workers' Compensation accidents, employers and their insurance companies are knowledgeable and experienced and recognize the necessity for an immediate investigation. If not counteracted by the injured worker or his attorney's investigator, the injured worker could be prevented from successfully recovering damages from the legally responsible third party.

4. What factors should a worker consider in retaining the "right" third party attorney?

The following factors should be thoroughly considered by the injured worker in his evaluation and the retaining of a third party attorney:

(a) Does the prospective attorney request a personal visit to his office in order to conduct a thorough interview and an evaluation of the circumstances of the accident?

(b) Does the third party attorney appear to be rushing the interview or does it appear that he is concerned about knowing and understanding all the available facts surrounding the accident? Is he willing to answer, to the best of his ability, any questions that the worker may have regarding any aspect of his potential third party case?

- (c) Does the attorney express a commitment to expend countless hours, advance costs and be prepared, if necessary, to argue the case before a jury?

In addition to the above considerations, the injured worker should ask the attorney if he concentrates his practice on personal injury cases, how many years he has been practicing law, approximately how many third party cases he has handled in his career, how many of the cases he tried before a jury, whether he has a sufficient number of attorneys in his office that concentrate in third party cases and any other questions that the worker may feel necessary to instill confidence in his decision to retain this particular attorney.

Section III Injured Worker's Documentation Forms

A. Workers' Compensation and Third Party Information Form

Instructional Note:

It is important that the following information form be completed by the worker to the best of his ability and knowledge. This form should be completed as soon as possible after the worker's on the job injury in order to accurately document the facts and circumstances surrounding the accident (important legal and practical details can be easily forgotten or become unobtainable after a period of weeks or months). Additionally, this form can assist the worker in recording significant dates, names and events, which could protect and ensure timely payment of the maximum benefits provided by the Illinois Workers' Compensation Act.

Furthermore, if the injured worker, after reading Section II of this guide, has reason to believe that he has a potential third party case and provides his attorney, in a timely manner, with the completed information form, it could result in valuable third party case that might otherwise be difficult to establish and/or prove.

If the injured worker has any questions regarding his rights and benefits under the Act or the potential of a third party case, he should mail the following pages to our Chicago office. After receiving the form, we will contact him (at the time and telephone number(s) indicated) to discuss the circumstances of his particular situation.