



# Stellpflug, Janssen, Hammer, Kirschling & Bartels, S.C.

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## LawClips

August, 2003  
Vol. 2, No. 8

Topic for the Month:

### Worker's Compensation

Mark A. Bartels

Philip J. Danen

Marc A. Hammer

Timothy A. Hawley

Steven D. Hitzeman

Sandra L. Hupfer

Robert J. Janssen

Michael J. Kirschling

Evan Y. Lin

Jackson T. Main, Jr.

Lora A. Matzke

Peggy L. Miller

Christina L. Peterson

Patricia J. Sandoz

C. David Stellpflug

444 Reid St., Suite 200

De Pere, WI 54115

920-336-5766

920-336-5769 (fax)

866-525-5200 (toll-free)

info@wislawyers.com

www.wislawyers.com

## WISCONSIN LAWYERS

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**Work Injuries Happen - When They Do, You Need to Know Your Rights:** The Worker's Compensation system in Wisconsin is a "no-fault" system. As long as you were injured at work, during the course of your employment, worker's compensation benefits should be received. Worker's compensation benefits are the sole remedy for work injuries. An injured worker cannot sue his/her employer for injuries sustained at work. Worker's compensation benefits are also quite limited. In addition, permanent disability to extremities (i.e. arms and legs) are treated differently than permanent disability to the neck, back and head. Here is a broad overview of benefits:

- **Medical and Hospital Expense**—100% coverage. This is a lifetime benefit, as long as treatment relates to the effects of the work injury.
- **Temporary Total Disability Benefit (TTD)** (i.e. wage loss) - payable at 2/3 of your average weekly wage, with a 2003 maximum of \$ 669/week.
- **Permanent Partial Disability Benefit** based on a certain number of weeks and the part of the body injured.
- **Loss of Earning Capacity** - if a non-scheduled injury (back, neck or head) is sustained and permanent restrictions preclude a return to work, injured person may have claim for loss of earning capacity. This claim does not exist if a scheduled injury is sustained (i.e. to arms or legs).
- **Vocational Retraining** - If unable to return to work, due to restrictions, and injured person is retrained via schooling, additional TTD benefits may be payable. Important to coordinate retraining efforts with the Division of Vocational Rehabilitation (DVR).
- **Medical Mileage** - entitled to reimbursement for round-trip mileage for medical treatment.

**How is an "Injury" Defined?** An injury can either be caused by an ACCIDENT or can be due to an OCCUPATIONAL DISEASE. An accident is a specific incident which occurs on a specific day. An occupational disease (i.e. low back pain) is work place exposure which occurs over an extended period of time. Targeting the date of injury in an occupational disease claim is different than in an accidental injury claim. The date of injury is the

last day of work preceding the first wage loss (through reduction in pay or lost time), attributable to the disease. In occupational disease cases, it is important to educate your physician on the type of work you perform. The physician then needs to determine if your work duties were a material contributory causative factor in the onset or progression of your disease.

**If My Claim has been Denied, Can I Handle the Appeal on My Own or Do I Need to Hire an Attorney?** You can either file for a worker's compensation hearing on your own, or hire an attorney to handle your claim. Our firm handles worker's compensation claims on a contingency fee basis of 20% of the benefits in dispute. If the claim is lost, our firm does not get paid. This fee structure gives our firm an incentive to evaluate a claim early, to determine if the claim has merit.

We have a **TEAM** of attorneys who handle worker's compensation claims. Attorneys on this team are: Steve Hitzeman, Patricia Sandoz and Robert Janssen. Feel free to contact any member of our worker's compensation team to discuss your claim.

**Other Sources of Information on Worker's Compensation Claims?** A good source is the web site of the State of Wisconsin—Department of Workforce Development: [www.dwd.state.wi](http://www.dwd.state.wi)



Visit Our Website: [[www.wislawyers.com](http://www.wislawyers.com)].

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These topics have been covered in the past:

- What is a Will? What is a Trust?
- Social Security Disability
- What to Do if You Are in a Motor Vehicle Accident
- Trial By Jury and the Bill of Rights
- Your Automobile Policy: Know What Coverage You Have
- Divorce
- Buying or Selling a Home
- Personal Injury Claims
- Alcohol and Driving



