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Topic for the Quarter

Wisconsin – A Pioneer In Worker's Compensation

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An Historical Background: Before worker's compensation, if a person was injured at work, they had very limited rights of recovery. Taken into consideration was whether or not the conduct of the injured worker contributed to the injury. This is known as "contributory negligence." If the injured worker was partly responsible for the accident, they could not force their employer to pay them — no matter how small their part. There was also no means of recovery if the injury was caused by a fellow worker. These were harsh rules.

These old rules created problems for the legal system. What was an injured worker to do while they were unable to work? How were they going to pay their bills? To make matters worse, to collect from the employer, the worker had to take the matter to a jury trial. It would take months to get to trial. Once the case got to trial, juries tended to be sympathetic to workers and would bend over backwards not to find workers at fault. Judges had the power to overrule juries where the negligence of the worker was clear. This led to a perception that the system was unfair.

The movement for a worker's compensation system began in Germany in the 1880's. By the turn of the 20th century, many American states were thinking about creating their own systems. Worker's compensation had advantages for both workers and employers. Workers could receive compensation even if they were partly at fault. This is what is referred to as a "no fault" system. Employers would have to pay, but only according to a fixed schedule based on the seriousness of the injury. This appealed to employers as they knew what the payments would be and no longer had to worry about jury verdicts, which were difficult to predict.

Wisconsin – A Pioneer: By 1909, the Wisconsin Supreme Court was openly urging the Legislature to adopt the new system. Justice Marshall felt it would be better to spread the cost of accidents throughout society, since workers labored for the good of society as a whole. In 1911 the Wisconsin Legislature passed a worker's compensation law. Some years later, the Legislature made Wisconsin's worker's compensation system mandatory. **Wisconsin became the first state in the nation to put a broad worker's compensation system into place.** Since that time, many other states have looked to our system as a model for balancing the interests of injured workers with management.

Worker's Compensation Advisory Council: As it was then and as it is now, the Wisconsin worker's compensation system is a compromise between the interests of business and labor. A Worker's Compensation Advisory Council was created, to advise the Department of Workforce Development (DWD) and the Legislature on policy matters regarding the development and administration of the worker's compensation law. The Advisory Council assists in maintaining the overall stability of the worker's compensation system, without regard to partisan changes in the legislative or executive branches

of government. The Advisory Council provides a vehicle for labor and management representatives to play a direct role in recommending changes in the worker's compensation law to the Legislature. These changes occur every two years. An "agreed upon" bill of recommendations is submitted to the Legislature. The Legislature traditionally accepts the Advisory Council's recommendations and forwards the bill to the Governor, for his approval.

The Advisory Council is comprised of five voting representatives from labor; five voting representatives from management; three non-voting representatives from the insurance industry; and one voting representative from the DWD. A list of these representatives can be found at the DWD website (www.dwd.state.wi.us).

Our Approach to Worker's Compensation Claims: At Stellpflug Law, we have a system in place for educating and advising all who call our firm. We have a team of attorneys and staff, who are knowledgeable on all aspects of the worker's compensation system. When someone calls our firm, we give the caller our time. This is true even if we are not hired to handle a matter. Our goal is to educate and advise each and every caller. While there are many resources available, to teach you about worker's compensation, it is nice to be able to turn to a firm, with knowledge, to provide the answers. The attorneys on our worker's compensation team are: Trish Sandoz, Bob Janssen and Steve Hitzeman.

Members of this team are involved with local and state organizations, whose purpose it is to promote, develop and improve our worker's compensation system. The bios of our worker's compensation attorneys are available at StellpflugLaw.com. While you are on our website, take a look at the Video Archives to see how several clients feel about their Stellpflug Law experience.



Welcome to Attorney Debra DeLeers: We are pleased with the recent addition of Debra DeLeers, as an associate attorney at our firm. Attorney DeLeers graduated from the University of Wisconsin – Oshkosh, in 2004 and Marquette University Law School in 2007. Attorney DeLeers's practice areas include: business transactions and estate planning.