

LawClips

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Topic for the Month

Personal Injury

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KNOWING YOUR RIGHTS AS A RESULT OF INJURY OR DISABILITY

It is important to know that an injury resulting in disability, or a disabling condition or disease may give rise to more than one remedy. A person can be seriously injured in an automobile accident, for example, while employed and the disability resulting from those injuries could prevent that individual from returning to substantial gainful employment. The above scenario may give rise to a recovery against any party who negligently caused the injury, resulting in a personal injury claim, a claim under the Wisconsin Worker's Compensation Act, and may entitle the disabled individual to social security disability and/or supplemental security income benefits. Individuals may also be covered by private disability insurance which would be available, during periods of short term or long term disability.

PERSONAL INJURY CLAIMS: Individuals who are injured and suffer disability as a result of the negligence of another are entitled to recover their past and future medical expense, past and future wage loss and past and future pain, suffering and disability. In addition, the injured party's spouse is entitled to recover for the loss of society and companionship of his or her injured spouse. These cases are either settled with the insurance company or are decided by a judge or a jury, typically in the county where the injury occurred.

WORKER'S COMPENSATION: A person who is injured while in the course and scope of employment and is completely unable to work due to disability is entitled to temporary total disability, permanent partial disability, retraining benefits and loss of earning capacity benefits. Benefits under the worker's compensation act are limited as provided in the Wisconsin Worker's Compensation Act. Most worker's compensation cases are settled with the insurance company. Remaining cases are decided by a state administrative law judge. If an individual receives a personal injury recovery and a worker's compensation recovery, the worker's compensation insurance company is entitled to be reimbursed pursuant to statutory formula.

SOCIAL SECURITY DISABILITY: In the event an individual is rendered unable to return to any substantial gainful employment, that person may have a claim for social security disability benefits. An application for benefits is filed with the local social security office. If unsuccessful, a hearing is held before a federal administrative law judge. Social security disability benefits are dependent on many factors but once awarded the benefits are paid absent a change in circumstances. Receiving social security disability benefits may result in an offset against any worker's compensation benefits that are received.

PRIVATE DISABILITY INSURANCE: Some employees have private disability insurance as a benefit of their employment. Typically premiums would be deducted from the employee's paycheck to pay for the insurance. In the event an individual were rendered disabled from performing his or her occupation that individual may be entitled to recover short term disability benefits for a set period of time. If the disability continues and the individual is unable to perform any occupation for which they are trained by education or experience, then long term disability may be available. Many disability policies have subrogation language. This means that the disability insurance company is entitled to seek recovery from any worker's compensation or personal injury recovery that the disabled individual receives. If the disabled party has not been made whole, subrogation or reimbursement may not be allowed to the insurance company.

EMPLOYMENT ISSUES: In certain cases where a person is injured and unable to work, that inability to work may affect the employment relationship with the employer. Attorneys at Stellpflug Law, S.C., are also familiar with and practice in the area of employment law and are able to provide services to those who have questions regarding their employment status during the pendency of the matters which arise following an unexpected injury or disability.

YOUR REPRESENTATION: It is important that the attorney representing injured and disabled individuals be aware of all available remedies so that individuals and their family receive all compensation available, especially during stressful times when income and resources are limited. The lawyers at Stellpflug Law, S.C., are well versed and experienced in personal injury claims, representing those injured on the job and those who may be unable to return to substantial gainful employment and are therefore eligible for social security disability and possibly supplemental security income. In addition, Stellpflug Law, S.C. has attorneys who are experienced in the areas of insurance, including disability insurance and are prepared to address employment related issues that may arise. In the event an unfortunate circumstance causes you or a family member to become disabled, the attorneys at Stellpflug Law, S.C., can analyze and pursue all available remedies as opposed to focusing on only one aspect of your circumstances. Contingent fees are available so that clients do not have to concern themselves with legal fees until the case has been resolved. Stellpflug Law, S.C., welcomes the opportunity to review your legal matters and we urge you to visit all of our attorneys www.stellpfluglaw.com