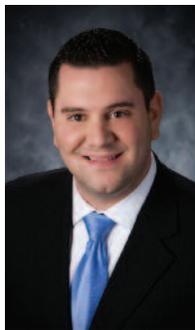


Social Security Disability and Workers Comp Recipients Beware Retirement

By Attorney Matthew Dempsey & Attorney Michael Dempsey



Attorney Matthew Dempsey



Attorney Michael Dempsey

Our Commonwealth of Pennsylvania has always provided lifetime benefits for injured workers who are incapable of returning to gainful employment following a work-injury. In 1996, that benefit changed and our State Legislature limited the amount of benefits an injured worker could collect by utilization of an Impairment Rating Evaluation. For injuries occurring after July 1, 1996, an injured worker would be limited to 604 weeks of compensation for individuals who are unable to return to any type of gainful employment, unless you can establish that your functional impairment is greater than 50% under the American Medical Association's Guidelines for Permanent Impairment. Practically, it is virtually impossible to reach that 50% impairment rating unless you are a paraplegic. As a result, most of the work-related injuries in Pennsylvania are subject to a cap of 604 weeks.

Additionally, the Employer does have the ability to reduce your Workers' Compensation benefit amount by establishing that you are capable of a return to work and that suitable work is available in the market place and your employer does not have any light-duty within your restrictions. In the event the Employer wishes to reduce the amount of your benefits as well as the length, the Employer has the burden of proof. Traditionally, the Employer will have you examined by a Physician chosen by them who will give an opinion that you are capable of returning to some type of light-duty work. At that point, a Vocational Expert would be obtained by the Employer to review the marketplace and give an opinion as to your earning capacity based on your medical restrictions. The burden would then shift to the Claimant to establish that he or she remains totally disabled or that no suitable employment is available, generally, by applying for the jobs that were located and submitting a list of additional applications for jobs that were denied. In the event the Judge accepted the Defendant's evidence, your benefits would be reduced by 2/3 of the shown earning capacity. (ie. average weekly wage - \$1,000.00 = comp rate - \$666.00 per week; available employment \$500.00; new comp rate = \$333.00). The Defendant was required to continue to pay that partial disability rate for 500 weeks.

More recently, an attempt is being made to avoid a reduction in the Claimant's Workers' Compensation benefit by establishing a retirement. In the event the Employer can establish that you have removed yourself from the work force, your benefits would cease as of the date that you became able to work, regardless of your actual earning power. Basically, the Defendants argue that if you have applied for Social Security Disability, that you have voluntarily removed yourself from the work force and the Workers' Compensation benefits should cease. In that manner, the Defendant would not be required to show job availability or even an earning capacity.

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Basically, the Defendant would be able to cease payments of any and all wage replacement benefits regardless of your earning capacity. The Defendant asserts that you have voluntarily retired or are not entitled to any wage replacement benefits into the future.

In most cases, the injured workers are forced to file for Social Security Disability benefits because of an inability to work and the need to obtain health care benefits into the future for non-work-related conditions. In those situations, the Employee is forced into Social Security Disability. The cause of your removal from the work force has been the injury, not a voluntary choice. In reviewing the recent case law, some Courts have misinterpreted the basis for Social Security Disability benefits. It is unfair for the Employer to use the application for Social Security Disability as a basis for retirement.

Workers' Compensation case law clearly allows the Defendant to stop making wage payments to a Claimant who voluntarily removes himself from the work force and refuses to seek any re-employment. In order to avoid a reduction in benefits, we would recommend that you continue to assert that you are interested in returning to work if a suitable job becomes available within your restrictions. If you meet with a Vocational expert, you need to establish that you did not voluntarily retire. In fact, if they can find a position which fits into your restrictions, you would be glad to return to the work force.

At Lenahan & Dempsey, we are concerned with protecting your right to wage replacement benefits under the Workers' Compensation Act. It is essential that you understand the difference between involuntary and voluntary retirement. If you have any questions, please contact our office through our web page or by phone at: 888-536-2426.

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It's Time To Renew Your "Do Not Call" Registration

By Attorney Brian Lenahan



Attorney Brian Lenahan

In 2002, the Pennsylvania legislature gave state residents a reprieve from unwanted telemarketer phone calls by initiating the "Do Not Call List." Pennsylvanians who signed up for this list registered their phone numbers with the Pennsylvania Attorney General's Office. Telemarketers in turn were required to obtain this list from the state and then purge all of those on the Do Not Call list from their files. Telemarketers who violated the terms of the Do Not Call laws risked heavy fines.

The program was an overwhelming success. Pennsylvanians who signed up for the list almost immediately saw the volume of often annoying telemarketing phone calls dramatically drop.

The Do Not Call list however requires state residents to re-register with the state Attorney General's office every five years if they wished to help insure they are not contacted by telemarketers. 2012 marks the second cycle of re-registration.

We urge those who wish to remain on the Do Not Call list to go click www.attorneygeneral.gov/dnc.aspx. At the top of the page find the box marked "Verify Your Enrollment" and click on that box. Enter your phone number on the next page and the system will verify if you are currently on the list. You may wish to go back to the main page and click on "Enrollment" and again input your phone number on the Enrollment page - this will help insure you are not bothered by telemarketers.

If you wish to enroll in the Program and do not have access to the internet, call the Pennsylvania Attorney General's office Do Not Call List hotline at 1-888-777-3406.

All adults living in a household are suggested to enroll even though they may share a home phone number.

Online enrollment, as well as enrollment through the Hot Line, is always free. Beware of companies who may contact you and offer to enroll you in the Do Not Call program for a fee.

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In addition the Pennsylvania Do Not Call list, there is also a national listing at www.donotcall.gov. Unlike the state Do Not Call list the national list does not ever expire and you need not register more than once thanks to the Do-Not-Call Improvement Act of 2007. It's worth a few moments of your time to visit the National Do Not Call List site and verify if your phone numbers are protected. Again, the process is free, fast and easy.

If you find yourself on either the Pennsylvania or National Do Not Call list and still receive unwanted telemarketer phone calls, simply go to the websites mentioned above and click on "File A Complaint." Both the state and national site allow you to file your complaints through their websites.

You also need to know there are exceptions to the Do Not Call laws. If you provide your phone number to a business, odds are you have also waived your right not be called by representatives of that particular business. We advise you to be careful when you give out your phone number and don't be afraid to ask a company who wants your contract information about their Privacy Policy.



Congratulations to Lenahan & Dempsey's John Mulcahey

Attorney John Mulcahey has recently been named a Certified Civil Trial Specialist. The professional designation is overseen by The National Board of Trial Advocacy (NBTA), an American Bar Association designated agency. According to the NBTA, fewer than 4% of all practicing lawyers are certified by an ABA accredited or state sponsored certification board.

Founded in 1977, NBTA offers board certification for Trial Lawyers, Criminal Lawyers, and Family Lawyers and Social Security Lawyers. According to the NBTA website, to qualify for certification lawyers must have extensive experience in their specialty and meet rigorous objective quality standards.

Attorney John Mulcahey joins Lenahan & Dempsey lawyers John R. Lenahan, Jr., Joseph Lenahan, Timothy Lenahan, Matthew Dempsey, Alan Schoen and Lawrence Moran in earning the designation of Certified Civil Trial Specialist. Attorney Lawrence Moran also holds the designation of being a Certified Criminal Trial Specialist.

www.lenahandempsey.com/lawyer-attorney-1611700.html

Visit us online and see what we have done for other seriously injured clients.

Call us and find out what we can do for you.

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VERDICTS AND SETTLEMENTS*



\$ 15,000,000.00	Verdict	Medical Negligence
\$ 13,600,000.00	Settlement	Insurance Bad Faith
\$ 6,775,000.00	Verdict	Motor Vehicle Collision
\$ 5,000,000.00	Settlement	Mistreatment of Disabled Children
\$ 4,601,387.00	Settlement	Insurance Bad Faith
\$ 4,500,000.00	Settlement	Work Place Injury
\$ 4,350,000.00	Settlement	Motor Vehicle Collision
\$ 3,078,825.00	Verdict	Insurance Bad Faith
\$ 2,700,000.00	Verdict	Motor Vehicle Collision
\$ 2,600,000.00	Settlement	Motor Vehicle Collision
\$ 2,520,809.00	Settlement	Motor Vehicle Collision
\$ 2,500,000.00	Verdict	Motor Vehicle Collision
\$ 1,700,000.00	Settlement	Motor Vehicle Collision
\$ 1,625,000.00	Settlement	Motor Vehicle Collision
\$ 1,600,000.00	Verdict	Medical Negligence
\$ 1,460,000.00	Settlement	Pedestrian Injury
\$ 1,350,000.00	Settlement	Pedestrian Injury
\$ 1,200,000.00	Verdict	Medical Negligence
\$ 1,130,000.00	Settlement	Work Place Injury
\$ 1,000,000.00	Settlement	Motor Vehicle Collision
\$ 1,000,000.00	Verdict	Personal Property
\$ 1,000,000.00	Settlement	Motor Vehicle Collision

* The facts of each case are different. No specific results are implied. Descriptions of awards in previous cases are no guarantee of future results and should not create any expectations that our firm, or any firm, can achieve similar results in another case.

1-888-LENAHAN

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We maintain offices throughout Northeast, Central Pennsylvania and The Poconos to serve our clients. We also offer home, hospital and nursing home consultations.

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