

If this isn't enough to make you fighting mad and want to contact your state representatives, here are some additional facts you need to know:

1. From 1997-2004 the Bureau of Workers' Compensation has paid \$10,100,000.00 (10 billion one hundred million dollars) to employers directly from the injured worker's fund.
2. In 1997 there were 287,701 new workers' compensation claims filed. In 2004 this number dropped to only 189,046.
3. In 1997 \$566,367,527.00 was paid to doctors and hospitals for medical treatment. In 2004 medical costs increased to \$870,409,716.00.

A system that takes 10 billion plus of your dollars and gives it to employers should be ashamed to cut your benefits. Your representatives in Columbus do not work for your interests no matter what they say when they are campaigning. When their campaign chests are filled with money from business they become indebted to these heavy contributors – it shows in their legislative decisions.

You must understand – House Bill 72 is a **disaster for injured workers**. We strongly oppose this bill and are fighting to stop it from becoming law. We need your

help. Tell your friends and family about this latest attack on injured workers. You and everyone you know must call your state representative and tell him to **vote NO on Workers' Compensation reform – Vote NO on House Bill 72**. Call the Ohio House of Representatives at 1-800-282-0253 to register your complaint.

Everyone in our office and workers' compensation attorneys statewide are working tirelessly to stop H.B. 72 from becoming law. We ask you to do your part as well. Make your call today – don't let them get away with it.

Referrals are always welcomed. The people that are important to you are important to us.
Feel free to call us anytime with a referral.
As always the same courtesy will be extended to your family and friends as we offer you.

Garson & Associates Co., L.P.A.

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LEGAL ACTION

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"Your legal needs define our practice."

Recent Legal Actions



Stuart Garson

Dennis Seaman

- Christian Patno negotiated an **\$8.5 million** settlement for a 20-year old construction worker who lost both arms and was in a coma for six months when the cherry picker he was sitting in hit a high tension wire. The cherry picker should have been grounded and the wires de-energized. Settlement was reached with multiple defendants after a complex lawsuit was filed and exhaustive negotiations.
- When a 13 month old toddler grabbed a brightly colored bottle of liquid hairspray and ingested the entire contents she filled her young lungs with the lethal toxic fluid. Within minutes her breathing passages were closed and she suffocated. Christian Patno battled the product manufacturer and obtained a **1.3 million** settlement for the child's distraught parents.
- A young man who was driving an all terrain vehicle didn't expect to

have a life-threatening spinal cord injury at the end of the ride. But he did, due to an improperly designed winch bracket. James DeRoche settled this case for **\$650,000** after filing a product liability lawsuit.

- The pain of losing a newborn infant was made even worse when the mother learned that an ultra-sound taken early in her pregnancy showed that severe defects existed, but the medical provider neglected to tell her. The mother sued for emotional damages caused by the medical provider's negligence. After successfully convincing the lower court of appeals to recognize a cause of action in favor of the mother, James DeRoche argued this case of first impression in front of the Ohio Supreme Court. The decision on the defendant's appeal on that issue is expected by the Fall.

Garson and Associates Co. LPA and Dennis Seaman and Associates Co. LPA have been representing individuals and their families for over 35 years.

- Personal Injury
- Medical Malpractice
- Business Litigation
- Stock Broker Mismanagement and Negligence
- Construction Site Accidents
- Nursing Home Negligence
- Product Liability
- Workers' Compensation

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Legal Action is an association of the firms of Garson & Associates Co. L.P.A. and Dennis Seaman Co. L.P.A. who are dedicated to providing outstanding legal services to injured persons and their families.

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Have You Been Burned By Your Broker?

By James DeRoche

Stock Broker Liability For Unsuitable Investment Advice

Millions of Americans have been encouraged for years to save more of their earnings for the future. Most employers offer some type of retirement savings plan, with tax advantages and even employer matching contributions. Often by the time of retirement substantial assets are saved, and are rolled over into a self-directed individual retirement account (IRA) held at a brokerage firm. That is when the trouble begins.

Most Wall Street brokerage firms, such as Merrill Lynch, Morgan Stanley Dean Witter, and PaineWebber, go to great lengths to convince the investing public that they are staffed with “financial advisors” who care for their clients’ financial well-being. The trusted stock broker is held out as a professional advisor who will keep an eye on your portfolio and protect your interests though thick and thin. Nothing could be further from the truth. Representatives at

most brokerage firms are really interested in only two things – making money from their existing clients and finding more clients to make even more money from them. They receive little if any training in such basic concepts as asset class diversification, risk analysis, periodic portfolio review, and investment suitability. They are salesmen, not professionals, despite the millions of marketing dollars spent by the large brokerage firms every year to convince the unsuspecting public to the contrary.

So when large retirement nest eggs are moved to a brokerage firm and invested as directed by the firm’s supposed “financial advisor,” most retirees find themselves on the losing end. Frequently, they are steered towards mutual funds or individual stocks that are far too risky for retirees. Their retirement portfolio is not properly diversified with fixed income investments or other less volatile types of investments. When market conditions change, no one calls and advises them to protect themselves against large losses. To make matters worse, many retirees are sold inappropriate, high-cost variable annuities, an

insurance product that almost always pays a large up-front commission to the broker but is simply unsuitable for the client. In the end, the client is the loser, and the brokerage firm invariably refuses to take responsibility for the excessive losses suffered due to the bad advice given to the client.

Fortunately, there is hope. Despite their efforts to avoid liability, the stock brokers do owe specific duties to their clients. They are required to “know the customer” – by gathering and maintaining pertinent information – and to only recommend investments that are suitable given the customer’s financial profile. Stock brokers also have a duty to disclose important information concerning the recommended investments, including the level of risk associated with the investment. They are not allowed to recommend unsuitable investments, solely because they stand to make a large commission. Brokerage firms can be held liable for unsuitable investment recommendations. If you have suffered excessive losses due to stock broker misconduct, contact us for a free consultation.

Hit It Out of the Park!

If you can say “The sixth sick sheik’s sixth sheep’s sick,” the toughest tongue twister in the English language ten times, you might just win a pair of Cleveland Indians tickets. But if you can’t, then share one of the most amazing facts you know. We’ll pick the ones that dazzle us and send the winners two tickets to an Indians game.

Below are some useless but amazing facts.

- One quarter of the bones in your body are in your feet
- It takes about 20 seconds for a red blood cell to circle the whole body
- On average, Americans spend about 6 months of their lives waiting at red traffic lights

- The microwave was invented after a researcher walked by a radar tube and a chocolate bar melted in his pocket
- Penguins are not found in the North Pole
- The Sea of Tranquility is found on the moon.

Now it is your turn! Send your entries to contest@garson.com



The Coolidge Decision and You

By Stuart Garson and Dennis Seaman

In our last edition of *Legal Action* we told you about a recently decided Ohio Supreme Court case titled *Coolidge vs. Riverdale Local School District*. This remarkable decision makes it illegal to terminate injured workers while they are collecting temporary total disability. The Supreme Court's opinion found that to allow such conduct by an employer violates the spirit of Ohio's Workers' Compensation laws and is against the public policy of the state. That policy insured that injured workers are allowed the appropriate time to recover from their injuries without fear of job termination.

At the time of this decision we had indicated that the employer had filed a motion for reconsideration with the Supreme Court. Because of the political climate in Ohio, we were concerned that the Court might reverse itself. We are happy to report that the Court refused to reconsider and its decision stands.

WHAT YOU NEED TO DO!!!

Due to the hostile anti-worker climate at your work places, many of you have been hesitant to pursue your workers' compensation claims for fear of losing your jobs. Now to protect your employment, you must file your worker's compensation claim as soon as possible after the injury.

This is most essential if you are off work because of your job-related injury. Lawyers cannot protect your employment rights under the Coolidge decision if you do not have a workers' compensation claim at the time of your termination.

For example, Betty injures her lower back on the job. She does not make an incident report because she knows that the employer hates workers' compensation claims and treats everyone who files a claim like a fraud. She has witnessed first-hand how other co-workers

have been terminated when they do make a claim.

Betty does not file a claim or report the incident. Two weeks later she can barely walk and has called off work for several days. She finally goes to the doctor who does an MRI and finds a herniated disc. Betty needs surgery and before she can file her claim her employer fires her.

Now Betty faces a nightmare. She has lost her job and the employer is going to fight her claim for the next two years contending that the injury did not occur on the job. Remember Betty did not report the incident because she did not want to alienate her employer.

Under Coolidge here's what Betty should have done. Betty hurts her back and reports it immediately to the employer and makes an incident report. If possible she even gets a copy of it. Betty goes to the local hospital emergency room or sees a physician within a day to document her injury. She calls her lawyer and a claim is filed. Over the next several days as her back gets worse her doctor gives her a medical excuse to miss work. Betty's claim eventually gets approved and she collects temporary total disability while she is recovering from her treatment, surgery, etc.

The employer attempts to terminate Betty but cannot because of the Coolidge decision. Most importantly, Betty's claim with the help of her attorney and physician, is well documented.

The Coolidge decision is the best tool that injured workers have been provided since we have started practicing law. David Meyerson and Angelique Hartzel are our Coolidge champions in the office. But you must do your part in documenting and filing your claim before we can help you. Use the Coolidge decision wisely or you will have no one to blame but yourself.

Legislators Attack Workers' Compensation Benefits – Vote NO on House Bill 72!

By Stuart Garson and Dennis Seaman

Our Ohio legislators have done it again. With the introduction of House Bill 72 they are attempting to make massive cuts and changes with your workers' compensation benefits. Never mind that in 1997 the Ohio voters banded together with the successful Vote No on Issue 2 campaign to protect workers' compensation benefits.

Here is what the passage of House Bill 72 would mean to you and your families:

1. It would reduce the amount of time an injured person can receive benefits to only 4 years from the current 10 years.
2. If an injured worker has a pre-existing condition, such as arthritis, his claim will be denied even if the worker did not know he had the condition when he was hurt or had no problems with this condition before he was hurt.
3. Hearing officers will not consider any other factors than the injury and the age of the injured worker when determining if the worker is permanently or totally disabled. Right now the hearing officers consider the job market and an injured worker's ability to be retrained in another field.
4. Eligibility for non-working wage loss will be slashed from 200 weeks to just 26 weeks, which will drastically reduce the amount of compensation injured workers would receive.
5. It would reduce the statute of limitations on claims. This means that more claims will die before injured workers have a chance to access their benefits.

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