

# WHEN THE DUST SETTLES

**Understanding Your Legal Options  
After a Disabling Accident**

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Printed in the United States of America.

ISBN: 978-1-59571-875-4  
*Designed and published by*

Word Association Publishers  
205 Fifth Avenue  
Tarentum, Pennsylvania 15084

[www.wordassociation.com](http://www.wordassociation.com)  
1.800.827.7903

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## About the Law Firm of Attorney Paul Giannetti

**N**ew York attorney Paul Giannetti was born and raised in Rotterdam Junction, N.Y., and attended Bishop Scully High School. He received a bachelor's degree *cum laude* in business management from St. Bonaventure University and a juris doctor from Albany Law School in 1992.

Admitted to the bar in the state of New York in 1993, Mr. Giannetti worked for a small, private law firm for five years and started his own practice in 1998. Since then he's represented hundreds of injury victims in many types of accident and injury cases—and he represents victims only.

Mr. Giannetti is a member of the **New York State Bar** and a member of the **Injured Workers Bar Association**, and he is admitted to practice in the **State of New York Appellate Division**.

Mr. Giannetti wrote this book to inform victims of personal injuries of their rights. More important, he wanted to offer them a potential path out of the pain,

expense, and upheaval such injuries can inflict not only on them but also on their families. He has seen firsthand how these injuries can have far-reaching and long-lasting financial, physical, and emotional ramifications. Making someone “whole” again might not be possible, but victims can have legitimate and honest claims for damages. These victims can have the opportunity to help make sure that such accidents don’t happen again and that employers think twice about skirting OSHA regulations or tolerating unsafe working conditions for their employees.

Victims of personal injuries can quickly discover that the cards are stacked against them by insurance companies that will do all they can to reduce if not totally reject legitimate claims because of the effect outgoing money has on their “bottom lines.” They also have incredible resources of time, money, and attorneys to come up with any excuse they can to deny claims.

The law offices of Paul Giannetti are used to this scenario; personal injury is a legal field in itself because of the complexity of such cases. We represent only victims of personal injury, so our clients know we are in their corner at all times.

When it comes to filing claims for **Workers Compensation, Social Security Disability, and Supplemental Security Income**, we want to stress that the rules and regulations involved can be a jungle in their complexity. On top of that, those handling your claims and the judges who handle appeals on these matters can end up making decisions not necessarily in accordance with the facts.

Anyone without an attorney can be at a disadvantage when it comes to plain old information: when, where, and how to file claims, what has to be submitted, and the format they have to be in.

And all of this can happen right when personal injury victims and those who become disabled are struggling to cope with their daily lives and feel that they are struggling uphill at all times. In this situation, they can find themselves simply sapped of the energy, optimism, and willingness to persevere in filling out forms, making umpteen phone calls, and other demands their situations make on them. This is right when professional advice and service can be the most beneficial not only for the present but also into the future.

## Caveat

This book is not intended to answer all your questions—each case and each victim is individual. This book is intended to give you an idea of the questions that need to be asked and answered, the information that needs to be gathered, and most important, the *rights* you deserve to have respected.

While the law may be the *same* throughout New York State, every case is *different*, every victim of personal injury is *different*, and the law offices of Paul Giannetti know this through experience.

This book is not legal advice; it simply cannot take the place of a professional attorney reviewing all the facts of your case, asking questions you may not have thought about, conducting research and investigations, and only then advising you on how best to proceed.

## Workers Compensation

The main thing to keep in mind about Workers Compensation (WC) claims is that they aren't settled by lawsuits, because no one is found "guilty" of anything. Workers Compensation is a type of "insurance" businesses take out for the sake of their employees and to exempt themselves from being sued and found to have been negligent or at fault. The whole idea is to smooth out the process of getting an injured worker compensation for lost wages and medical bills, but one *New York Times* article recently described the New York State Workers Compensation system as "befuddling" and called it "arguably the most adversarial of any state in the nation." It's for this reason that anyone considering filing a WC claim needs a lawyer to help navigate a way through the maze WC claims can be.

WC benefits do not cover pain and suffering; you can recover for pain and suffering in a personal injury suit, but employers, as mentioned, can't be sued by their employees. WC benefits cover lost wages and medical costs, but these awards can also take into consideration lost future wages and future medical costs.

To claim WC benefits, a worker must show four things:

- that he or she was employed at the time of the injury
- that the injury was a direct result of the work he or she was performing for the employer
- that the injured party gave prompt notice to his or her employer about the injury
- that the injury or disability was caused by the work-related accident

There is no need for the injured party to prove that the employer was negligent, and even if the injured party was negligent, he or she can file a WC claim. The important consideration is that an accident occurred, and it caused a disability.

Keep in mind that you can receive WC benefits for not only on-the-job accidents such as being burned or breaking a leg; WC also covers what are known as “occupational diseases,” conditions that arise over time, sometimes a long time, due to repetitive work activities. Carpal tunnel syndrome is perhaps the first one of these types of “diseases” that comes to mind, but workers could also be awarded payments for hearing loss or lung or skin problems that result from having been exposed

to certain chemicals and airborne pollutants—working conditions that take their toll not immediately but only as the years go on.

You could be entitled to compensation for vocational rehabilitation and other benefits beyond your lost wages and your medical bills, and if you end up taking a job that pays less than you were earning, you could be entitled to a percentage of the pay you’re missing out on, for years into the future.

But beware: it’s not uncommon for the insurance company carrying the Workers Compensation policies for your employer to try to reduce or even suspend your benefits for a variety of really creative reasons, and they will notify you of their intention with what’s referred to as a RFA-2 form. This may require you to attend a hearing, and for that you’ll definitely benefit from legal representation. Our law offices are familiar with such situations, and we’ll be able to secure statements from your doctor on the degree of your disability.

In addition, workers comp insurance companies could make you an offer of a flat sum to close your case forever. Their first offer will rarely be adequate to warrant full and final settlement.

You can move out of state, even out of the country, and not have that affect your New York worker's compensation claim, but you'll need a doctor who is familiar with New York State workers comp laws.

Workers Compensation insurance companies will be quick to jump on any preexisting condition you have and will try to "apportion" its liability, limiting it based on the preexisting condition. You can be sure they will attempt to attribute a greater importance to your preexisting condition than is really warranted in an attempt to reduce the amount they will pay you.

All this is to say that the world of Workers Compensation is complex. While there are rules and regulations meant to even the playing field for all concerned, those rules and regulations can be interpreted different ways in different cases by administrators and judges who allow subjective considerations to creep into their decisions and judgments. There's just no replacement for competent legal advice in these matters.

### **If You're Ever in a Workplace Accident**

- \$ Report injuries immediately to supervisor even if this causes embarrassment or worry, and even if you're not sure of the severity of the accident.

- \$ Document any accident as soon as possible because late claims can throw doubt on the seriousness of the accident or even if it ever actually happened. Such credibility issues can slow down the process if not derail it altogether. Such documentation includes, besides notifying your employer, writing down the names of witnesses, the working conditions, dates, times, and other details of the accident.
- \$ Even if your accident seems minor or the fallout from it is not that troublesome, document it immediately because you don't know what the long-term effects might be. You might end up with a slightly torn cartilage or a hairline fracture that you won't know about right away.
- \$ Don't worry about who's at fault—WC claims don't take "fault" or "negligence" into consideration, whether on the part of the employee or employer.
- \$ See your doctor, physical therapist, etc., as they will be the best medical witnesses, as will any specialists they refer you to. "Consulting" doctors pulled in to give testimony are sometimes viewed as less-credible witnesses.
- \$ Follow any medical instructions you get to a T, and this includes going in for X-rays, taking

antibiotics, seeing physical therapists, and so on. Any failure on your part to follow the medical advice you get could be used as evidence that your injury was not that bad.

§ Call the law offices of Paul Giannetti, because there are strict time limits and deadlines for WC claims, and you'll need legal representation at any WC hearing that comes up.

§ Even if your initial claim is turned down, we are very familiar with the process for appealing decisions, and we also have had experience in handling claims for injuries that result in disabilities even years down the road.

As mentioned earlier, you can't sue your employer for negligence, as WC regulations exempt them from lawsuits, but you need to get qualified legal advice on this, because your accident could be the fault of a third party, someone other than your employer, so don't rely on advice you get from your employer's legal or human resources departments. (See "**Accidents Caused by a Third Party**" on page XX of this book.)

Though employers are required to take out WC policies, some simply don't. Workers of such noninsured companies can still collect compensation from special

funds set aside to help workers whose employers don't have WC policies. Some uninsured employers claim that injured workers are not employees but "independent contractors" so they are not entitled to WC; in a case such as this, you'll need a lawyer.

One bit of good news: if you're collecting WC benefits and your employer goes bankrupt, there's no need for worry. The insurance company handling your employer's WC cases will still be liable for payments to you.

Remember that in spite of the "no liability" nature of WC claims, being drunk or using drugs—any kind of substance abuse on the part of an injured employee—could cause problems with any WC claims.

Even though WC is meant to protect workers and speed up the process of getting them compensation for their injuries and lost pay, it can get complex. You might have responsibilities to your employer to take on a light-duty job, and if your accident occurred during, say, a coffee break or when you were at lunch while outside your place of employment, these factors could play a role in your receiving or being denied WC benefits. WC cases can get very complex, with each case being considered on its own merits and the facts and circumstances surrounding it.



## Filing a Social Security Disability (SSD) Claim

If you are unable to work because of a disability caused by an accident or a chronic condition such as blindness and even depression or anxiety, you may qualify for Social Security Disability (SSD) benefits.

Social Security considers you disabled:

- if you cannot do the work you did prior to the accident or the onset of your medical condition
- ...
- if Social Security determines you cannot adjust to other work, and ...
- if your disability will keep you out of work for 12 months.

### Work History

You have to have worked and paid into Social Security for a certain amount of time to qualify for benefits. This is generally ten years, and you have to have worked a certain number of those years right before your disability. As you can imagine, this is a process with a lot of rules and regulations, and it can take time, but if you meet Social Security's requirements, you could be

entitled to payments from this "insurance," which, after all, you've already paid for!

### File Early

It's important that you file a claim as quickly as possible because the process can be slow. If it ever becomes apparent that your disability will last less than 12 months, don't worry about that; you can always withdraw the claim. And you can collect disability benefits even if you're working as long as you're earning less than \$1,000 per month, an amount that could change in the future.

Social Security also makes room for those with psychological restrictions caused by depression or anxiety. It may want a Global Assessment of Functioning (GAF) test that measures the degree of such psychological impairments, but those with such problems shouldn't hesitate to file a claim.

Some conditions are in the eyes of the Social Security Administration severe enough to warrant disability benefits because of their very debilitating nature.

These include:

- certain chronic infections
- blindness or very poor eyesight

- loss of speech
- deformities of the spine or legs
- certain mental disorders

### **Disability Payments**

If Social Security approves your disability claim, it will start paying you benefits five months *after* the date it determines you were disabled. So if it makes its decision to approve your claim, say, eight months after what they determine was your “disability” date, you will be entitled to three months of back payments, but there’s never any reason to delay starting the claims process (see **Filing Process** below).

### **Filing for Social Security Disability Online**

**A**s you can imagine, filing for Social Security Disability benefits can be a long process—it can take three to six months for you to get a decision on your initial claim. But surprisingly, it’s pretty simple for someone to file a claim *without* the advice of a lawyer, and our firm thinks that because the claim forms are easy to fill out, you can handle this step without legal assistance.

You can go to [www.ssa.gov/pgm/disability.htm](http://www.ssa.gov/pgm/disability.htm) and see for yourself that the initial process is straightforward. (In the back of this book is a copy of Social Security’s checklist containing the information it will be looking for in the initial claim, which you can fill out online at the same site.)

But even though the initial claims process is straightforward, our firm prefers to talk with potential clients *before* they file for benefits to explain the process and prepare them for the possibility that their claims will be rejected. Because up to an astounding 80 percent of claims are denied, there’s a good chance you’ll need to appeal the ruling, and it will go before a law judge.

That's when you'll need the legal advice and representation our firm can provide you in this area to help gather medical records and supporting evidence. You have only 60 days to appeal, and you have to complete and submit a good number of forms and documents in support of your claim. There are places where you could trip up that we can help you navigate.

Social Security may require you to be examined by a doctor or doctors it appoints, and we will tell you to be prepared—these exams generally go against the claimant—but we also know that judges in these cases generally give greater credence to medical reports and evaluations that come from your own doctors. This is where our firm can help get your physicians to fill out the required forms, such as the "Residual Functional Capacity" questionnaire that's sometimes required. We'll also know what other information and evidence about your physical and mental limitations and restrictions could be rounded up to substantiate your claim.

During the appeals hearing, a judge will ask you questions about your past employment and about your medical situation, but we will have walked you through the possible questions you'll be asked based on our experience in this area.

It's important to remember that honesty is the best policy here; the judges are pros, and they will be able to see right through exaggerated claims or vague, unsubstantiated claims of pain or suffering.

The Social Security Administration may ask vocational experts to testify to the extent of your disabilities, and we have had experience with questioning these experts and pointing out errors in their judgments and backing them up with evidence. This can be critical; the judges in the appeals process rely on "substantial evidence" to grant or deny claims, but that can be subjective and can be reversed if you're represented by an attorney who knows these particular "ropes."

Although it can take between nine and twelve months for your appeal hearing to come up, rulings generally come down in a month or so, depending on the caseload at the Social Security office handling your appeal. And even if your appeal is turned down, it's been our experience that in certain cases there are ways to continue the appeals process.

In spite of the time and effort Social Security Disability claims can take, the benefits could mean a lot to you and your dependents, and they could continue years into

the future, a particularly important consideration in the case of someone who is relatively young at the onset of such debilitating problems.

## Supplemental Security Income—SSI

**S**SI stands for Supplemental Security Income, one of Social Security’s programs in addition to Social Security Disability and Social Security Retirement benefits. This program gives monthly payments to those who have little or no income or assets and are:

- \$ elderly (over 65)
- \$ blind (or with very poor vision)
- \$ disabled (with a physical or mental condition expected to last at least one year or result in death)

SSI is in addition to regular Social Security Retirement or Social Security Disability benefits you already receive, but the amount of SSI you will qualify for will be affected by what you’re already receiving from Social Security and other sources. But those who are eligible for SSI will usually qualify for food stamps and Medicaid for hospital and doctor’s bills.

SSI benefits are based generally on need and not on the amount you have paid into Social Security. You may qualify for SSI if your resources, according to SSI, are no more than \$2,000 for one person or \$3,000 for a couple. Keep in mind that these figures can change, but as you

can see, SSI is a program to benefit those who have few assets.

When it comes to assets, Social Security does not count your home or some personal belongings and usually your car. It does count:

- cash
- checking and savings accounts
- stocks, U.S. Savings Bonds
- real estate (other than your primary residence)
- life insurance
- personal property (the rules are complex on this item)

SSI also takes into account your income, including:

- \$ earnings
- \$ Social Security Disability or Retirement payments
- \$ pensions
- \$ workers compensation payments
- \$ interest, dividends, etc.
- \$ unemployment compensation
- \$ gifts such as cash

Social Security will also count as “income” non-cash gifts or donations you receive such as food, clothing, and shelter.

But the fact remains that you can have some income and assets and still get SSI, and blind or disabled children can get SSI in addition to SSD.

You may continue to receive SSI payments if you go back to your previous work or find other employment, but the amount you receive in SSI will be affected by the amount you earn, and SSI will stop once your income goes above a certain level.

We can help you sort through this whole matter and give you advice based on our experience. We can advise you on your eligibility for SSI and how going back to work and other considerations could affect it. What you don't want to do is overlook or jeopardize your right to SSI benefits, particularly at a time when you and your loved ones are struggling and counting on the important income SSI can represent.

You can start the process by calling 1-800-772-1213 or going to [www.socialsecurity.gov](http://www.socialsecurity.gov). SSI says you don't have to have all this information in hand before you apply, but it will ultimately want to see:

- your Social Security card or a record of your Social Security number
- your birth certificate or other proof of age

- your mortgage information or rental agreement and your landlord's name
- tax return or W-2 forms, payroll slips, bank books, insurance policies, car registration, and other information about your income and your personal property
- If you are signing up for disability, the names, addresses, and telephone numbers of doctors, hospitals, and clinics you've been to if you're signing up for SSI based on disability or blindness
- proof of U.S. citizenship
- checking account number at your bank or credit union so your payments can be direct-deposited.

## Statutes of Limitations and Other Deadlines

**W**e've all heard about statutes of limitations, but what exactly are they? They are dates after which lawsuits cannot be filed, the thinking being that a lawsuit filed after a certain amount of time will put defendants at an unfair disadvantage because evidence may have been lost, witness's memories may have faded, and so on.

The statute of limitations for personal injury cases in New York, for instance, is generally three years after the date of accident, but it can be different in other states, and in cases involving minors, the statutes of limitations might be longer. The rule is never rely on information you receive from any source other than your attorney, who will always have your best interests at heart, and not from insurance adjustors or other sources, even if they are well intentioned.

Remember that the legal statute of limitations is just *one* of the deadlines you have to comply with. If your claim is against, for instance, a town, a municipality, or any other type of governmental organization such as a

state transportation agency, it will likely have its own “statute” of limitations when it comes to lawsuits and will have strict guidelines about how and when a suit can be filed against them.

Insurance companies can impose their own deadlines as well, dates by which you have to get into their hands letters and forms from doctors, physical therapists, and so on to substantiate your claim.

Deadlines also are a major concern when it comes to filing Social Security Disability and Supplemental Security Income appeals as well as the initial claims, and sometimes these deadlines can be very tight, 60 days after an initial claim is turned down.

Truth is, personal injury victims have too much on their minds; they need professional help in crossing these very important t’s and dotting those critical i’s. Those opposing you in your claim will not be forgiving about missed deadlines, and this could mean disaster for you and your family, particularly if your injury is one that will be debilitating for years to come.

## Accidents Caused by a Third Party

**W**hile the law states that workers cannot sue their employers, your accident may have been caused by a third party, for instance, an outside contractor who comes in to your place of employment, perhaps to do some electrical work, and you are injured as a result of that contractor’s negligence.

In such a case, you may have a claim against this “third party”; that means you would not be bound by Workers Compensation regulations and could therefore sue for pain and suffering as well as lost current and future wages and medical bills.

Uncovering the details of an accident like this and unraveling the relationships between the parties can be complex and time consuming, but the Law Offices of Paul Giannetti have experience in doing exactly this. We will be able to uncover details you may have overlooked or were not aware of that could have an impact on your case. We can get a thorough, professional, and *prompt* investigation underway, and this will include getting statements from witnesses, taking photographs, and nailing down other information that could “fade” or disappear over time.



## Accidents and Injuries: What You Should Do

**S**o you've been injured, but the critical care you've received has stabilized your condition. You're out of immediate danger, but what does the future hold? It's hard to contemplate all the potential news, good and bad, that will be coming your way, and you may wonder what your legal rights are in your situation and whether you are entitled to receive compensation for lost wages, medical bills, and the pain and suffering you are going through. Your total situation can seem overwhelming, but it can be much more manageable if you take it one step at a time:

- Contact us *before* responding to any requests for information from insurance adjustors, claim representatives, etc.
- Never sign any forms until we have had a chance to review them.
- Save all records, notes, letters, statements, from doctors, hospitals, ambulance, and so forth; we may need these, and you don't want to be in the position of relying on someone to resend a document to you by the time you need it. So

don't let these documents get out of your hands until you or we have made copies. Note: even if organization is not your strong suit, the ante here is upped, and this is a matter in which you can make a difference and help your attorney help you. It might be enough simply to get in the habit of putting all such documents into a big manila file folder or envelope—you'll know what to do with them as they come in, and you'll know where they all are when we need them. Keep a journal of your medical, physical, and psychological complications—dates, times, places, and other information about times your injury has kept you from going about the daily life you were accustomed to.

- Follow *all* the advice your doctors give you, and that includes getting the tests done that are recommended, keep all your medical appointments, including those with specialists and physical therapists, and take all the medications you have been prescribed. *If you fail to do so, this could be construed as evidence that your injuries aren't as serious as they really are.*
- If you need help in any of these matters, don't be shy or embarrassed—give us a call, because that's what we're here for.



## Mediation

As is easy to imagine, personal injury cases that go to trial can be very costly and can take, in some cases, years. “Mediation” can be a less-expensive and quicker alternative. If both parties agree to mediation, they go before court-approved lawyers or retired judges with experience in personal injury law and cases whose task it is to weigh all the evidence and come up with a settlement of the matter that they consider fair to all parties.

Both parties have to agree to mediation, however, and they can both agree ahead of time that the decision of the mediator will be binding. Alternatively, the parties can refuse to be bound by the decision and nonetheless go through the process to see if they can both agree, knowing they can reject any proposed settlement and go to court if not.

## Why the Law Firm of Paul Giannetti?

Finding an attorney on whom you can rely can initially seem a daunting task, particularly when you’re trying to deal with an injury or a disability that, rightfully so, can dominate your mental energy. Who can help me? Who will be on my side? Obvious and important questions.

In the area of personal injury and disability, you need well versed in this area of law, not a jack-of-all-trades. Your family and friends will have your best interests at heart when it comes to recommending a lawyer, but someone who’s more used to handling wills or real estate closings will not necessarily have the knowledge that personal injury and disability matters require.

You need legal representation of a firm that is confident, experienced, and knowledgeable. The law firm of Paul Giannetti fits this description to a T. With a huge firm, your lawyer might be overwhelmed with an equally huge caseload, and your important claim might end up in the hands of a paralegal. With the law firm of Paul Giannetti, you can be assured that you’ll receive the attention you need—the attention you *deserve*.

## Paying for Legal Representation

The law offices of Paul Giannetti take pride in responding to requests from potential clients as soon as possible, and frequently that happens the same day they call. While our firm does not accept every case, you can count on receiving, free of charge, a very objective and frank analysis of the merits of your case. We never request up-front fees. With personal injury cases, we will work on a contingency basis, that is, a percentage of a settlement or a court's award.

In cases involving workers compensation, our fees come directly from the court and are deducted from the benefits you receive. For the Social Security Disability and the Supplemental Security Income cases we accept, our fee will be 25 percent of only the past-due benefits you are awarded. This amount does not affect your ongoing benefits, and it cannot exceed \$6,000.

We will spell all this out completely during our initial consultation with you, and we'll provide it in writing. We do not take every case, but we are more than willing to sit down and talk with you about your case and the likelihood of your getting an award or settlement.

## Steps the Law Firm of Paul Giannetti Will Take in Handling Your Personal Injury Case

The complexity of a suit can understandably overwhelm someone not well versed in the law; there can be a lot of steps in a personal injury case, but we will take your case one step at a time in a professional, thorough manner and keep you informed along the way. Among the many steps we will take on your behalf are:

- contacting doctors, collecting all relevant medical information, records, bills
- investigating the accident scene and the equipment involved in the accident
- reviewing the products or tools involved in accident
- interviewing witnesses (there's a lot that may have slipped you by that others may have seen)
- informing you of your options, possible options in the future, and how you should handle requests for information, interviews, and so on
- filing motions
- handling depositions
- weighing settlement offers, offers of mediation

(see “**Mediation**” above), and the possibility of arbitrating your claim in light of your and your family’s current and future needs

- handling the discovery process
- preparing you, witnesses, and evidence for trial
- going to trial well prepared and confident

## **Social Security’s Disability Application Checklist**

If you decide to apply online for Social Security Disability payments, Social Security will want certain information:

### **Basic Information:**

- Dates of marriages and divorces.
- Names and dates of birth of your minor children and your spouse.
- Military Service discharge information for all periods of active duty.
- W-2 forms (or your IRS 1040 and Schedules C and SE if self-employed) from the previous year.
- Checking or savings account number if you want your benefit checks deposited directly into your account.

### **Disability Information:**

- The name, address and phone number of someone knowledgeable about your medical conditions and can help with your claim so Social Security can contact him or her.
- The names, addresses, phone numbers, patient ID numbers, and dates of your treatments for

all the doctors, hospitals, and clinics that have treated you. (This is why it's important to save all the medical records, bills, statements, etc., that come your way).

- The names of medicines you are taking and who prescribed them. The best way to do this, Social Security suggests, is to have the medicine bottles lined up next to you when you fill out the online form.
- The types and dates of medical tests you have had and who prescribed them for you.
- A list of the employment (up to five jobs) that you had in the 15 years before your disability.
- The insurance or workers compensation claims you filed, including claim numbers, and the names, addresses, and phone numbers of the insurance companies.

### *Did You Know?*

#### **Paul Giannetti's Areas of Practice:**

- Social Security Disability (SSD) Claims
- Supplemental Security Income (SSI) Claims
- Workers Compensation Claims
- Personal Injury Claims

### *Did You Know?*

#### **Your Personal Social Security Statements Available Online!**

Many Americans have gotten used to receiving those green-and-white statements from Social Security around their birthdays every year, but Social Security stopped mailing them out recently in an effort to save money.

You can, however, go to [www.socialsecurity.gov/mystatement](http://www.socialsecurity.gov/mystatement) and create your personal account with a user name and password and security questions on a secure, encrypted site. Once you go through the sign-up routine, you'll receive instant information about the Social Security payments you will receive at early retirement (age 62), full retirement (age 66), and later retirement (age 70).

And, incidentally, you can request that Social Security start mailing hard copies of your yearly statements if you are 60 or older and have not started receiving any benefits from Social Security.

One major benefit to going online with Social Security is that you are able to review your past earnings history and correct any errors—better now than right when you need the payments!

*Did You Know?*

**Family Social Security Benefits**

Keep in mind that if you receive Social Security Retirement or Disability payments, your spouse and children may qualify for benefits as well. Contact the law offices of Paul Giannetti.

*Did You Know?*

**Social Security Disability and Taxes**

At this point, someone receiving Social Security Disability payments will be taxed on those payments if his or her total income exceeds \$25,000 or if a joint return exceeds \$32,000. Take into consideration that these amounts could change and that you should get professional advice on this matter.

*Did You Know?*

**Social Security Has Backlog of Cases**

The Social Security Administration has been experiencing a backlog of claims and appeals for disability and supplemental income due to the downturn in the economy we've all experienced over the last few years. Judges are being urged by the Social Security Administration to make some quick decisions on cases to reduce the backlog, and this pressure could cause your legitimate claim to be turned down. Starting

the process with good advice could keep your claim from being one of those turned down.

*Did You Know?*

**Social Security Disability "Checklist" Online**

You can go online to [www.ssa.gov/pgm/disability.htm](http://www.ssa.gov/pgm/disability.htm) for more information on Social Security Disability benefits. The site also offers a checklist of information you'll need to complete the initial claim, including dates of treatment with doctors, hospitals, and clinics, medical tests you've taken, medications you're taking, and so on. Information in hand, you can fill out the initial claim form in (according to the site) 10 to 30 minutes.

*Did You Know?*

**"Minimum Injury" Requirements**

Insurance law in New York State insists that those injured in automobile accidents have injuries that are "serious," that is, they have to meet a certain level of injury. You can expect broken bones and internal injuries to be above that level, but minor bumps and bruises, particularly if they don't disrupt a victim's life, will be below that threshold. Cases involving injuries that do not qualify as "serious" are most likely to be tossed out of court.

*Did You Know?*

**Job Retraining**

In certain Workers Compensation cases, injured parties can be reimbursed for the expenses of vocational rehabilitation in addition to lost current and future wages and current and future medical bills.

*Did You Know?*

**Workers Compensation and Social Security Disability Payments**

Very frequently, people receiving Workers Compensation (WC) can also collect Social Security Disability (SSD) benefits. Someone who is receiving WC benefits may get reduced SSD benefits, but getting one does not preclude also receiving the other. Our law firm always recommends that those who were injured on the job should apply for both.

*Did You Know?*

**Underinsured Drivers' Insurance**

You can purchase underinsured driver automobile insurance, which can help you greatly if you're ever hit by someone with little or no liability insurance. Call your insurance agent and ask about getting this coverage.

*Did You Know?*

**Attorney Paul Giannetti's Law Blog**

Go to [www.albanyaccidentinjurylaw.com](http://www.albanyaccidentinjurylaw.com) to sign up for the blog hosted by the Law Offices of Attorney Paul Giannetti, which contains information about new rulings, laws, and other matters that can affect the victims of personal injuries and those filing for Social Security Disability benefits.

*Did You Know?*

**Over 55? Your Social Security Disability Claim More Likely to Be Approved**

Social Security considers those 55 and older who file disability claims to be less likely to find the work they've been doing or be able to retrain for another line of work, so their claims are more likely to be stamped "approved."

***A Case in Point: Carpal Tunnel Diagnosis***

Charlie, a 45-year-old plumber in Chatham, NY, noticed a tingling in his wrists and hands. He'd been working for 15 years as a union plumber, earning a pretty good wage, and wasn't someone who wanted to rock that boat. But it got bad enough that he finally went to his doctor about it, got referred to an orthopedic doctor, and learned he had carpal tunnel syndrome caused by work.

Some fellow plumbers told Charlie that the statute of limitations for a workers comp claim was two years, and he worried about the fact that he'd had these symptoms for five years.

After he talked with a workers comp attorney, however, he learned he had actually two years from the time he saw a doctor about his symptoms, regardless of when they had started. He also—very importantly—learned he had to give his employer written notice he was making a workers comp claim and then file the claim itself, two different steps he had to take.

*—All sorts of inaccurate legal information can float around your place of work, so the only way to learn your legal rights and responsibilities is to consult with an attorney who practices in this area of law.*

### ***A Case in Point: Ask a Lawyer***

Michelle worked as a receptionist in a medical practice in Saratoga Springs, NY, typing, writing, and answering phones. She'd noticed numbness in her wrists and hands and had gone to a doctor about a year earlier about it. She learned it was probably work-related carpal tunnel syndrome and might require surgery. Although Michelle didn't know it, she was in a danger

zone with regard to her workers comp claim because she hadn't told her employer about it within 30 days of her doctor's diagnosis.

Workers Compensation Law requires claimants to give notice to their employers within 30 days of an accident or 30 days after they learn a medical condition might be related to their work. It also requires them to file a formal workers comp claim within two years of the date of injury or the time when they find out their condition might be work related.

*—When a work injury or condition develops, get advice from a lawyer experienced in these matters so you don't miss any critical deadlines; otherwise, your perfectly legitimate claim could be denied.*

### ***A Case in Point—Social Security Five-Month Waiting Period***

Henry had been seriously injured in a car wreck on January 1, 2008. His first Social Security Disability claim had been turned down, but he appealed, and the judge ruled on January 1, 2010 that he qualified for benefits and that his "onset" date, the date his disability started, was the date of the wreck, January 1, 2008. This ruling meant that his benefits should have started June 1, 2008,



five months after his onset date, so Henry received a retroactive payment covering June 1, 2008, to the present, and then the SSD benefits would continue.

*—This is a good example of the concept of “onset date,” the date Social Security Disability determines you actually became disabled, and its rule that benefits start five full months after that date. A claimant can get retroactive payments to bring him or her up to date.*

### ***A Case in Point—New York State Workers Compensation: If You Have More Than One Job***

Don, who was injured at work, had been holding down two jobs, working for WalMart for \$500 a week and pulling in \$200 on weekends, driving car parts to shops. Workers Compensation calculated his pay, therefore, at \$700 a week and paid him benefits of two-thirds, or \$466.67 a week. If, however, that second job of his had been “off the books” or “under the table,” it wouldn’t have counted toward his total.

*—If you’ve been injured at work and are having a tough time difficulties navigating the complex Workers Compensation system, feel free to contact us for a free consultation.*

### ***A Case in Point—Jim from Johnstown, NY***

Jim, who worked for a gas station in Johnstown, NY, injured his back while stacking cases of beer and filed a Workers Compensation claim. He started receiving payments for lost wages and seeing his doctor for therapy. Everything seemed to be going okay until he got a form from his insurance company he was supposed to fill out so his benefits would continue. One of the questions was whether he had returned to work, which Jim of course answered “no.”

Two weeks later, the insurance company told Jim it had requested a hearing with the workers comp board because they thought Jim had committed fraud. He, of course, had no idea what they were talking about.

At the hearing, the insurance carrier told Jim that it had evidence he’d been working from home. Jim remembered selling some items on eBay and babysitting for his neighbors a bit in the last few months, but he certainly hadn’t thought those activities constituted “returning to work.” In fact, it was possible that a law judge might think otherwise and that Jim could lose his workers comp lost-wage benefit forever.

*—Consult with an attorney before a problem arises! We advise*



*our clients to send us any forms they get from insurance companies for our review. We've long since learned that even minor, innocent activities such as babysitting or selling things on eBay could be considered work under the Workers Compensation Law. If you think you may have a workers compensation case and would like a free consultation, contact our office immediately!*

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