GAROFALO
SCHREIBER
HART
STORM

LAW UPDATE

SPRING 2012

From the desk of Joe Garofalo…

Dear Friends,

We are fast approaching the one year anniversary of Governor Quinn signing into law the amendments to the Workers' Compensation Act on June 28, 2011. Most of the amendments became effective that day or on September 1, 2011. Accordingly, all of the amendments have already been in effect for some time. While we were hopeful that these amendments would change the normal way of doing business before the Commission and provide some relief to employers who have been burdened over the years with ever increasing workers' compensation costs, so far we have seen little evidence of any meaningful relief.

The Department of Insurance finally proposed Rules governing the new PPP provisions on April 27, 2012 which are summarized by Jim Clune and included as an attachment to this Newsletter. We were surprised that it took ten months to make this proposal when we thought the relief offered to employers by the legislature was intended to take effect much sooner. Regardless, we were pleased to see some flesh put on these legislative bones and that the employer community is one step closer to implementing these changes to better control the medical treatment of their injured employees.

To our knowledge The Department of Labor also has not selected the two unions for the two year experiment with ADR. With only a year left, why bother?

We are also still waiting for the Illinois Workers' Compensation Commission to promulgate Rules governing how alcohol and drug testing should be performed pursuant to the recent amendments providing employers with a more meaningful intoxication defense. We understand that the Rules Committee has been meeting and hopefully will act soon as cases are ready for trial where the new intoxication defense will be raised. Since it's been almost a year since the new law was passed, it's time for the Commission to get going and issue Rules to implement these important changes.

Several new Arbitrators have been appointed as is discussed in the article by Liliana Escorcia. So far, based on our experience they all seem to be quite earnest and well intended although several lack experience with the workers' compensation practice. We have noticed that approval of settlements have become delayed due to increased scrutiny given to settlement contracts pursuant to a Memorandum to the Arbitrators from the Chairman. It appears the Chairman has identified several terms which he considers to be suspect (particularly "any and all claims" language and indemnification language regarding a claimant's Medicare status, among others) despite the fact that the settlement terms were negotiated by attorneys representing the parties. This has caused many settlement contracts to be questioned and altered at the request of the Arbitrators who seem intent on protecting the claimants from their attorneys. We find this increased scrutiny to be quite unusual since settlements which are far more complicated and for far higher values in the Circuit Court receive almost no scrutiny at all when the parties are represented by counsel.

The 90 day status cycle began on January 1, 2012 as did the reconfiguration of "downstate status calls". Since eight of the previous status calls were eliminated and consolidated into existing or newly created venues, everyone is still getting accustomed to traveling to different venues to have their cases heard. The handling of downstate Petitions for Immediate Hearing and other emergency matters has become particularly inconvenient since such matters now must be heard by the Arbitrator to whom the case is assigned regardless where that Arbitrator will be sitting during any particular month. Accordingly, we've been traveling to different venues to handle these cases when they are motioned up during months they do not appear on the formal status call.

The new medical fee schedule with the 30% reduction in place for treatment rendered on or after 9/1/11 is in effect as are the new provisions governing the use of Utilization Reviews. While we initially heard some rumblings that the constitutionality of these changes would be challenged by the medical community, to our knowledge neither provision has been formally challenged. Time will tell what savings will result from these changes although NCCI predicted they will reduce overall comp costs by only 7.4%. While Utilization Reviews are expected to result in some unquantifiable savings, since a claimant still retains the right to choose his own physician, NCCI expects little savings to result from the new PPP provisions. We certainly hope that experience proves them wrong. Now that we finally have the PPP Rules promulgated at least we'll get a chance to find out if there are any savings to be had as a result of this change.

We anxiously await the first trials and appeals of permanency cases. It will be interesting to see if the plaintiff's bar will proceed with trials withut offering into evidence AMA impairment ratings for permanency. While some of the more prudent petitioner's attorneys plan to do so, ITLA has taken the position that it is unnecessary for a claimant to introduce an AMA impairment rating into evidence to obtain an award for permanency. We were very surprised to learn that the Commission formally endorsed ITLA's position by giving "guidance" to Arbitrators and Commissioners that such ratings are unnecessary for approval of settlements or awards of permanency. This is the first time we ever can recall the Commission providing an "advisory opinion" to Arbitrators and Commissioners. We discussed this matter with Chairman Weisz and advised him of our position that any claimant who proceeds to trial on an issue of permanency who does not introduce an AMA impairment rating will fail to make a prima facie case and their claim for permanency should be denied based on their failure of proof. Should the Courts ultimately adopt our position, any petitioner's attorney who proceeds without such evidence could be subject to a claim for legal malpractice. It will be interesting to see how the Courts resolve this important issue. Since the liberal judiciary may adopt the position espoused by the Commission in it's advisory opinion we certainly hope the legislature will take notice of this subversion of their intent when drafting the AMA ratings provisions.

Besides the recent amendments, we know that the battle for further workers' compensation reform will be joined again in 2012 and the years ahead. We expect many bills to be filed in future legislative sessions. While the legislature may have "workers' compensation fatigue" from the storm which characterized the session last year when these amendments were passed and may be reluctant to deal with such issues again, especially in an election year, the issues are not going away. Business continues to demand a change to the causation standard such that claimants be required to prove that their work be either the primary or principal cause of their medical condition. As things stand right now, the requirement for a claimant to prove that work "could or might have been a causative factor" in causing the condition of ill being is obviously too low and makes virtually all but the most extreme cases compensable. The status quo regarding this issue has been maintained for far too long and for the sake of fairness needs to be changed.

With every best wish for a summer season filled with good health and happiness we thank you for the opportunity to be of continued service to you.

We look forward to working with you in the future.

Sincerely Yours,

Joe Garofalo

Estate of Fleming v. City of Chicago, No. 99 WC 49177, 2011 WL 5014319, 11 I.W.C.C 965

Petitioner was awarded 250 weeks of permanency for 50% loss the use of a man as a whole under Section 8(d)2 of the Act in February of 2009. Subsequently Petitioner died from causes unrelated to the work injury in August 2010. Respondent continued making payments under an assumption that Petitioner had a surviving spouse, but ceased making payments in March of 2011 after learning that Petitioner left no surviving spouse or dependents.

An estate was opened naming Petitioner's adult son as the administrator. The son did not present any evidence that he was a dependent of Petitioner. The estate filed a petition for penalties with the Commission. Under precedent decisions the Commission found that the award abated on Petitioner's death as Petitioner did not leave a surviving spouse or dependents.

Practical Applicability: In cases where a petitioner dies from a cause wholly unrelated to the work accident, the petitioner's estate has no right to collect benefits that did not accrue prior to death. An estate can collect benefits such as TTD, medical expenses, and PPD that accrued prior to a petitioner's death.

However, in cases where a petitioner dies from causes unrelated to work accident, and leaves a surviving spouse, or any other lineal heir that was dependent on the petitioner's earnings for more than 50% of their total dependency, benefits that have not accrued are still payable under Section 8(h) to any surviving dependents in a the order specified in Section 7(g) of the Act.

In effect, benefits that have not accrued at the time of death are only payable outside of a petitioner's estate to dependents as specified under Section 8(h) and in the order set-forth in Section 7(g) of the Act. In cases with facts similar to Fleming, where a petitioner leaves no dependents under Section 8(h), no additional benefits are due after a non-accident related death.

In sum, benefits that have accrued before Petitioner's death are payable to a petitioner's estate in the majority of cases. Benefits that have not accrued are only payable, outside of an estate, to those parties that fit within the parameters of Section 8(h). Please note that this article only applies to PPD awards payable in installments. Wage loss awards, death benefits awards, PTD awards, and specific loss awards may require additional analysis.

For more information, contact Andrew M. Burdick at 312-670-2000 or aburdick@gshslaw.com.

IL Auditor General Report Identifies Problems with Worker's Compensation System in Illinois

Some of our readers may have heard of the series of articles published by the Belleview News Democrat identifying the high number of repetitive trauma claims filed by state employees working at Menard Correctional Center, and the Attorney General's office's efforts (or lack thereof) defending what appeared to be spurious claims. As part of the fallout from this investigation, House Resolution #131 was adopted on March 10, 2011 and charged the office of the Illinois Auditor General to audit the state's workers' compensation system as it applies to state employees. The Auditor General's report was issued in April of 2012, and in accordance with HR131, it does primarily focus on changes needed to the state agencies charged with administering workers' compensation claims for state employees. Beyond that the Auditor General's report found issues with the Illinois Workers' Compensation Commission, and made recommendations to change the Commission in ways that would affect all future claims.

The Auditor General's report identified several issues with the Commission and its administration of claims, such as: that the Commission did not maintain complete, accurate or consistent data with respect to claims; that it did not conduct annual reviews to evaluate Arbitrator performance; that it did not issue guidelines to Arbitrators regarding consistency in awards for similar types of injuries; and that it did not have a formal policy or specific procedures in place to identify fraudulent claims.

The Auditor General made ten recommendations for changes with the Commission in its processing and handling of workers' compensation claims. The Commission was afforded an opportunity to respond to the recommendations made in the Auditor General's report. A lot of the recommendations involve changes to the way the Commission initiates workers' compensation claims and handles the data generated with administering those claims. There were also several recommendations for institutional change, beyond mere data processing. These included: having the Commission conduct annual evaluations of Arbitrators and include them in their personnel files; having the Commission revise and clarify its conflict of interest policies and to incorporate provisions from the Judicial Code of Conduct in order to set forth a formal recusal process for Arbitrators and Commissioners; having the Commission establish policies and procedures regarding referrals for fraud investigations; and having the Commission develop written guidelines to ensure consistency of Arbitrator awards for certain types of injuries. The guidelines should also discuss how prior awards and settlements for the same type of injury should be taken into account determining percentage loss for injuries.

The Commission agreed with almost all of the Auditor General's recommendations. Since most would be considered common sense, this does not come as a surprise. The Commission only partially agreed with the recommendation for guidelines for arbitrators in determining permanency awards, as the Commission referred to its prior case law as a guideline. We believe this last recommendation should essentially be a moot point, considering the recent amendments to the Workers' Compensation Act now allow for consideration of AMA impairment ratings in evaluating permanency awards. We believe that AMA impairment ratings should be a guiding force for evaluating permanent partial disability benefits for scheduled injuries.

While we applaud the Auditor General's report and his recommendations to reform the troubled workers' compensation system in Illinois, we believe more change is necessary in order to achieve a fair and balanced approach to administering worker's compensation claims in this state. For example, we continue to advocate a change in the causation standard to require that a work accident be the "primary cause" or "prevailing cause" of an employee's subsequent medical condition after a work accident. Other changes we have previously suggested include: a credit system for both "man as a whole" awards or settlements under Section 8(d)(2) of the Act, and for wage differential awards or settlements under Section 8(d)1; rolling back the scheduled body part amounts provided under Section 8(e) to their pre-2006 levels; updating Section 10 of the Act to implement a common sense approach to calculating average weekly wage that better reflects a claimants earnings in the fifty-two weeks preceding his alleged date of accident; and ending an employer's liability for TTD benefits when a claimant is terminated for cause while light duty is readily available and is being accommodated.

For more information or questions, contact Matt J. Novak at 312-670-2000 or mnovak@gshslaw.com.

Will County Forest Preserve v. IWCC 2012 IL App (3d) 110077WC

On February 17, 2012 the Appellate Court for the third district rendered an opinion that shoulder injuries are to be apportioned as "Man as a Whole" injuries under Section 8(d)2 of the Act. Previously, shoulder injuries were considered part of the arm under Section 8(e)10. Without delving into the legal analysis for the basis of the decision, the Court reasoned that the definition of an arm does not include the shoulder. In effect, the Court reversed over 75 years of prior case law and decisions of the Commission.

The main effect of this decision is that shoulder injuries may no longer be considered specific loss injuries under Section 8(e), therefore, employers are unable to claim credits for prior and subsequent injuries to a claimants shoulder.

Currently this case is on rehearing in the Appellate Court, and therefore, it is not a final decision. In the meantime, certain arbitrators have indicated that they will only approve settlement contracts for shoulder injuries that are written as a percentage of man as a whole.

Please note that the actual amount of awards should not be increased. A 30% loss the use of the Arm (253 weeks times .30 = 75.9 weeks) should simply be converted to a percentage of man as a whole (75.9/500 = 15.18% MAW).

Republican Illinois House member Dwight Kay has introduced a bill concerning this specific issue. The bill is currently in the House Rules Committee and bears the number HB 6145. The bill states that shoulder and hip injuries are to be apportioned as injuries to the arm or leg, not to a person as a whole. The bill states that this is the existing law, meaning the Will County Decision is incorrect. More importantly, the bill currently includes language that would extend credits for prior settlements/awards to person as a whole injuries compensated under Section 8(d)2. In the past, credits were not available under this section of the Act.

This bill likely will not pass with its current language, but it could represent the legislature's response to the recent Will County Forest Preserve Decision.

What This Means:

Since the above case and bill are pending, injuries to the shoulder should still be apportioned to loss of use of the arm, not to man as a whole. This may present issues with settlements before some arbitrators, however, we recommend having settlement contracts rejected and we will present them to a commissioner for approval. Alternatively, we have developed settlement contract language that deals with both outcomes of the Will County Case in order to allow our client's to take a credit in the event the case is overturned. Once the Will County Case is finalized through rehearing the decision in that case should be followed until a change in the statute is made.

We will keep you updated on any developments concerning the Will County Case and/or House Bill 6145.

For more information, contact Andrew M. Burdick at 312-670-2000 or aburdick@gshslaw.com.

Preferred Provider Programs

On April 27, 2012 the Department of Insurance published proposed rules to address the addition of preferred provider programs (PPP) to the Illinois Workers' Compensation Act. The registration and regulation of preferred provider programs falls under the jurisdiction of the Department of Insurance, and as such, they have drafted over a 150-page document outlining their Proposed Amendments. Below are a few key additions promulgated by the Proposed Amendments.

First, and most importantly, the rules provide that the types of businesses and municipalities affected are: all employers offering workers' compensation insurance and that the purpose of these regulations is to provide for the regulation of PPP's that provide insureds and beneficiaries access to discounted healthcare provider fees.

The over 150-page document goes on to provide extensive rules and regulations for PPP administration, including Workers' Compensation PPP Agreements. Proposed regulations include specific requirements for physicians to be included in a PPP, notification procedures for contract terminations, insurance requirements, and even a provision that ensures providers may charge covered employees for services deemed to be not compensable under the Workers' Compensation Act.

The Proposed Amendments also cover PPP filing requirements which include details of a PPP's marketing plan, descriptions of how the health care services will be made accessible and available, geographical maps identifying providers within certain radius of an employee's residence, as well as requirements for services including how soon a request for an appointment must be followed by treatment.

In sum, the Proposed Amendments provide detailed suggestions for the administration and regulation of PPP's. Persons wishing to make comment on the proposed rulemaking are directed to submit comments no later than 45 days after the publication of the notice to the Department of Insurance.

Attached is a summary prepared by James Clune that provides a quick overview of the 150-page document and highlights important sections.

For more information regarding the Proposed Amendments and for updates on their progress, contact James Clune at 312-670-2000 or jclune@gshslaw.com.

Changes in the Commission

A lot of changes have taken place at the Illinois Worker's Compensation Commission in the past few months. While confusion over the new AMA guideline requirements for any date of loss on or after September 1, 2011 has been the prevalent topic of conversation, the changes in Arbitrators and Commissioners have also shocked many.

On October 14, 2011, Governor Quinn announced the appointment of 29 Arbitrators as part of a package of reforms to the workers' compensation system in Illinois. As part of that package, he signed a law requiring all newly-appointed Arbitrators to be attorneys. However, this new law was not retroactive and five sitting Arbitrators who are not attorneys were reappointed. Today, twenty-four of the twenty-nine Arbitrators in Illinois are attorneys.

More surprisingly, Governor Quinn did not reappoint nine sitting arbitrators namely: John Dibble, Gilberto Galicia, James Giordano, Kathleen Hagan, Robert Lammie, Andrew Nalefski, Richard Peterson and Joseph Prieto. Former Arbitrator Charles DrVriendt, who has had experience in both defense and plaintiff work, was appointed to the Commission as an employee representative although he has some defense experience.

With the new open slots, Governor Quinn took the opportunity to appoint five new Arbitrators namely: (1) Gerald Granada who worked as a defense attorney at Ancel, Glink, Diamond, Bush, DiCianni & Rolek, was assigned to a 1-year term, (2) Svetlana Kelmanson who served as a staff attorney at the IWCC and worked as an attorney at Sachnoff & Weaver, was assigned to a 3-year term, (3) Joshua Luskin who was a partner at Nyhan, Bambrick, Kinzie & Lowry, concentrating in worker's compensation defense, was assigned to a 2-year term, (4) Deborah Simpson who served as an attorney at the State's Attorney Offices for Kane, Vermilion and Cook Counties, was assigned to a 2-year term, and (5) Lynette Thompson-Smith, who served as an Assistant Attorney General for the Illinois Industrial Commission Bureau since 1989, was assigned to a 3-year term.

NEW COMMISSIONER LINEUP

Commissioners by panel:	Panel A	Panel B	Panel C
Employee representatives:	Thomas Tyrrell	Charles DrVriendt	David Gore
Public representatives:	Daniel Donohoo	Yolaine Dauphin Michael	Paul Latz
Employer representatives:	Kevin Lamborn	Nancy Lindsay	Mario Basurto

If you would like more detailed information regarding any of these new arbitrators, don't hesitate to contact Ms. Liliana Escorcia at lescorcia@gshslaw.com. Stay tuned for our next newsletter for more updates!

Have you seen the new benefits rates released by the IWCC?

MINIMUM TTD AND PPD RATES

No. Children And/or Spouse	1/15/10 to 7/14/10	7/15/10 to 1/14/10	1/15/11 to 7/14/11	7/15/11 to 1/14/12	1/15/12 to 7/14/12
0	$213.33	$220.00	$220.00	$220.00	$220.00
1	$245.33	$253.00	$253.00	$253.00	$253.00
2	$277.33	$286.00	$286.00	$286.00	$286.00
3	$309.33	$319.00	$319.00	$319.00	$319.00
4+	$320.00	$330.00	$330.00	$330.00	$330.00

State AWW, Max TTD (Amp. or Enc.) and Min. PTD and Death Rates

	State Average Weekly Wage	Max. TTD Amputation Enucleation	Min. PTD and Death
1/15/10 to 7/14/10	$922.45	$1,243.00	$466.13
7/15/10 to 1/14/11	$925.08	$1,243.00	$466.13
1/15/11 to 7/14/11	$930.39	$1,243.00	$466.13
7/15/11 to 1/14/12	$946.06	$1,261.41	$473.03
1/15/12 to 7/14/12	$966.72	$1,288.96	$483.36

MAXIMUM PPD

7/1/04 to 6/30/05	$567.87
7/1/05 to 6/30/06	$591.77
7/1/06 to 6/30/07	$619.97
7/1/07 to 6/30/08	$636.15
7/1/08 to 6/30/09	$664.72
7/1/09 to 6/30/10	$664.72
7/1/10 to 6/30/11	$669.64
7/1/11 to 6/30/12	$695.78

For a full IWCC Rate Chart, visit www.gshslaw.com.

Jacobo vs. Illinois Workers' Compensation Commission, 2011 Ill.App.3d 100807WC

The Arbitrator filed an award in which the employee received TTD, PTD, and medical expense benefits. He also awarded penalties and attorney's fees finding the employer unreasonably delayed paying TTD benefits and medical treatment benefits. The employer appealed. The Commission affirmed the TTD and PTD awards but reversed the penalties and attorney's fees award based on the employer's reasonable reliance on an IME. The employee appealed the denial of penalties and attorneys fees (Petition 1).

A year after the Commission's Decision, the employer still had not paid the TTD or PTD awards, so the employee filed a second petition for penalties and attorney's fees for the non-payment of this award (Petition 2). Petition 2 went up to the Appellate Court, which remanded the case to the Commission to enter an award for penalties under Section 19(l), 19(k), and Section 16.

Practice Point: When a case is being appealed, or some aspect of the case is still pending, one should be conscious of all awards that are not disputed as failure to pay undisputed amounts may open the door to penalties and attorney's fees.

The Court held that any portion of the claimant's benefits, which are undisputed, must be promptly paid or the employer will be subject to penalties and attorney's fees under the Act. The Court reasoned it would be against the manifest weight of the evidence and an abuse of discretion to refuse to award penalties and fees in this case because the employer's delay served no purpose but to delay compensation to an injured worker. In other words, when the employer first appealed the initial Commission Decision, the only issue brought on appeal was the payment of penalties and attorney's fees, not TTD, PTD, and medical expense benefits. Therefore, the employer had no legitimate reason to withhold payment of undisputed awards. The court also noted a lack of finality on all disputed issues is not a reasonable justification for an employer's delay in payment.

For more information or questions, contact Ms. Molly H. Nartonis at 312-670-2000 or mnartonis@gshslaw.com.

AMA Ratings – *Where did this come from? Will it help? Is it mandatory?*

As all are now aware, P.A. 97-18 was enacted on June 28, 2011 when it was signed by Governor Quinn. One of the many changes to the administration of the IWCA was the determination of permanency assessments in Illinois. For years the insurance industry argued that the liberal and inconsistent awards of permanency throughout the State made predictability impossible. This made it difficult to properly set reserves and price insurance policies which resulted in WC insurance being a loss leader for the carriers. As part of P.A. 97-18 the Legislature attempted to bring some predictability and reduced values to the permanency of claims at the same. But did they succeed?

It is clear from reading the transcript of the Floor Debate that the Legislators intended AMA Ratings to be mandatory in the determination of permanency values. In fact, a plain reading of the new Section 8.1(b) would also lead one to that conclusion. Section 8.1(b) sets forth the 5 factors the Commission must consider to determine the permanency in any claim. That Section requires the Arbitrators/Commissioners to provide a written explanation for their award when it is based on factors other than the AMA Rating. The Section reads: "In determining the level of disability, the relevance and weight of any factors used in addition to the level of impairment as reported by the physician must be explained in a written order." (820 ILCS 305/8.1(b) emphasis added). It seems very clear that while no single factor is determinative, an award beyond the AMA Rating will require a written explanation as to why the claimant's condition justifies an award beyond that level.

Based on the above information it seems obvious that the Rating is mandatory to obtain a PPD award. However, despite the clear intention for the AMA Rating to be used, the Petitioners' Bar is arguing that it is not necessary. Furthermore, the Chairman of the Commission has issued an advisory memorandum in which his administration opines that a PPD assessment can be awarded at trial without the submission or consideration of an AMA Rating!

Will the inclusion of the AMA Rating in the determination of PPD result in lower awards and greater predictability? We do not know. Clearly it should result in a reduction of the PPD assessments. Furthermore, by enumerating the other four factors to be considered, the "unknown" factors have been greatly excised from the determination. Gone are the days when the permanency is inflated because at trial the claimant complains about symptoms in their current daily life that are not documented in the treating records.

It is our opinion that PPD awards will decrease as a result of P.A. 97-18. How much? That depends on the administration of the Act by the Commission. Time and experience will determine how much is saved and how much predictability is gained by these changes. While the AMA Ratings are not the sole factor to determine PPD, the inclusion of the ratings in the calculation is a positive step toward making Illinois a more friendly place to do business.

For more information or questions, contact Marc J. Cairo at 312-670-2000 or mcairo@gshslaw.com.

Attorney Spotlight – *Christopher P. Carr*

Undergrad: University of Michigan, BA, Communications, 1992 • Law School: DePaul University, JD, 1998

Before joining our firm in September, 2003, I worked on the other side of the litigation aisle for my first five years of practice as a Plaintiff's trial attorney. I had an opportunity to sit first and second chair on auto negligence, premises liability, and medical malpractice cases. From that experience, I was able to get a keen appreciation for how plaintiffs' attorneys evaluate the risk for their clients when formulating and executing case strategy, and engaging in settlement negotiations. That experience has been extremely beneficial to our clients during my time here at Garofalo, Schreiber, Hart & Storm.

My practice area is unique and wide-ranging for the industry. I am required to understand and ultimately limit clients' exposures under both the Illinois Workers Compensation Act and at common law, in particular, the Illinois Contribution Act. Cases range from straight liability defense of automobile and premises liability matters to defense of employers on third-party complaints for contribution, which can involve analyzing contractual and insurance coverage issues.

Additionally, I handle cases under the Longshore and Harbor Workers Compensation Act, which is administered and adjudicated through the United States Department of Labor. In addition to longshoremen, this workers compensation scheme is extended to cover individuals employed by a company pursuant to a contract or subordinate contract with the United States government outside of the continental United States. This extension is codified as the Defense Base Act. It is a developing area of the law as there has been a significant influx of claims involving individuals who were injured while serving in Afghanistan and Iraq either as Arab language interpreters embedded with combat units or trade workers brought over to rebuild the infrastructure after the military operations. This practice is a blend of civil and administrative procedures, as unlike the Illinois Workers Compensation Act, it allows for discovery, including depositions of the Claimant, prior to formal hearing.

Finally, I am able to put on my past-life plaintiff's hat in handling lien recovery matters under Section 5(b) of the Illinois Workers Compensation Act. Sometimes, there are just cases where the injured worker decides not to pursue a third-party action. The Illinois Act allows the employer in the name of the employee to sue any potentially responsible third-party tortfeasors. Ultimately, negligence and liability have to be proved, as the injured worker would as plaintiff. In one case, I was able to get a $100,000 recovery for an employer against the cleaning service who created a hazardous condition on the employer's premises. It was a good, satisfying outcome as it made the employer whole for the loss it had previously incurred on the workers compensation claim.

I have been married for nearly 12 years. I am the father of boy-girl twins, who will turn 7 at the end of April. Before going to law school, I was a sports writer, covering college and pro football and basketball, for the Football News and Basketball Weekly magazines.

Chris P. Carr can be reached at 312-670-2000 or ccarr@gshslaw.com.

Watch for our new photo in *Leading Lawyers* Magazine.

Garofalo, Schreiber, Hart & Storm, Chartered
55 West Wacker Drive Tenth Floor • Chicago, Illinois 60601
P: (312) 670-2000 • F: (312) 419-1336 • www.gshslaw.com