

The RIDGE Review



James M. Ridge & Assoc., P.C.
www.ridgeassoc.com

Letter from the Editor

By James M. Ridge

In this issue of the Ridge Review, we will provide you with a summary of the many changes set forth in the Amendment to the Illinois Workers' Compensation Act. At the time of press, the 97th General Assembly passed the Amendment, and it is awaiting Governor Quinn's signature.

These changes come on the 100th Anniversary of the Act and take away many of the protections the Act has long offered to workers in Illinois. These changes remind us how easy it is to lose workers' rights. In a year that should celebrate Illinois' history of protecting injured workers, the legislature instead decided to limit those protections.

This newsletter highlights the important limitations on medical choice, weekly and permanent disability benefits, and other rights that were once provided to injured workers.

This newsletter also addresses the importance of having Uninsured and Underinsured Motorist Coverage. This protection can be crucial if you are involved in an accident with a driver who does not have insurance or who has insufficient insurance.

Finally, this newsletter will introduce you to one of our attorneys, John E. Mitchell, manager of our Peoria office, and update you about recent cases, community issues, and other important pending legislative action.

Remember, if you have a topic that you would like us to address, email: info@ridgeassoc.com and we will be happy to try to write about it in one of our next issues. Also, be sure to log on to our website so you can receive the Ridge Review and our monthly updates via email.



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100th Anniversary of the Act

2011 celebrates the 100th Anniversary of the enactment of the Illinois Workers' Compensation Act. The Act was passed, in part, in response to a mining accident at the Cherry Mines, 90 miles southwest of Chicago. On November 13, 1909, a fire was ignited by kerosene dripping from a torch into a load of hay. In what remains one of the worst industrial disasters to occur in the United States, 259 men and boys, along with 12 rescuers, were killed. The miners were burned, suffocated by a shroud of dense smoke called "black damp," or crushed to death. The youngest miner was ten years old.

The miners left behind 607 dependents, including widows, orphans and other family members. They were left destitute and hungry when the coal company only offered them \$1,800.00 in compensation for their loss. Private donations were made to a relief fund that paid the families another \$1,800.00.

This tragedy led to the first workers' compensation program in the United States. Following the disaster, the Illinois legislature created the Employers' Liability Commission to study the best way to compensate workers injured in industrial accidents. The Commission reviewed 5,000 accidents. Of the 506 fatal accidents, they found that 40% of the families received no compensation.

Wisconsin and Illinois both signed workers' compensation laws in 1911. The Illinois Workers' Compensation Act became effective May 1, 1912.

Each year, workers suffer approximately 250,000 work-related injuries in Illinois. Due to the sacrifices made by the victims of the Cherry Coalmine Disaster, workers and their families are awarded protection for their losses.

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Amendment to the Illinois Workers' Compensation Act

The Illinois Workers' Compensation Act was amended by the 97th General Assembly on May 31, 2011, to reduce the benefits provided to injured workers. At the time of press, Governor Quinn indicated he will sign this legislation. We have outlined the most important changes below.

Section 8.1a was added to the Act to allow employers to utilize **preferred provider programs** (hereinafter "PPPs") approved by the Illinois Department of Insurance.

| | |
|--|--|
| Employer does not have an approved PPP | Employee has the right to choose two treating providers and anyone they are referred to, as per the current law. |
| Employer notifies the employee in writing that they have an approved PPP | Employee can opt out of the PPP in writing after reporting an injury and choose one treating provider of their choice and anyone they are referred to. |
| | Employee can opt in to the PPP and chose two treating providers within the PPP and anyone they are referred to. |

This Section applies to injuries occurring **immediately** after the Amendment is signed into law. If an employee chooses not to treat within the PPP, they should make sure to seek referrals from their initial provider as necessary.

- Limits wage differential awards to when an employee turns 67 or 5 years, whichever is later;
- Presumes that intoxication was the cause of an injury, as well as establishes alcohol and drug testing requirements;
- Reduces temporary partial disability benefits by lowering the calculation to 2/3 of the difference between the gross earnings at the time of the accident and the gross earnings in a modified job.

The new Amendment also reduces the permanent partial disability awards for all injuries involving **carpal tunnel syndrome** due to repetitive or cumulative trauma. Prior to this Amendment, a worker with any hand injury was entitled to receive permanent partial disability benefits for a period of time no greater than 205 weeks. Arbitrators decide the amount of compensation by defining the percentage of permanent disability. For example, if the Arbitrator finds that an injured worker sustained 20% loss of use of the hand, then the injured worker is entitled to weekly compensation for 41 weeks.

Section 8(e)9 of the Act now states that for all carpal tunnel injuries, the Arbitrator can only award compensation for permanent disability for a period of 28.5 weeks. Even if the injured worker proves his loss by clear and convincing evidence and is severely injured, the greatest length of time an Arbitrator can award is 57 weeks of compensation.

This Amendment applies to all carpal tunnel injuries that occur **immediately** after the Amendment is signed into law. If you have a carpal tunnel case currently pending, it does not apply to you.

Section 8.1b has been added to the Act to require the use of the American Medical Association Guides to the Evaluation of Permanent Impairment (**AMA Guidelines**).

Currently in assessing the level of permanent impairment that an injured worker has suffered a number of factors are considered, including the subjective testimony of the injured worker regarding his/her ongoing injury.

For accidental injuries that occur on or after **September 1, 2011**, evidence regarding permanent partial disability is limited to the injured employee's age, occupation, future earning capacity, medical records, and a written report of a medical doctor, detailing the level of the injured workers permanent impairment based on the AMA Guidelines. The use of the AMA Guidelines will greatly reduce the award or settlements for permanent partial disability and the injured workers own subjective complaints will no longer be considered an important factor.

John was an owner and principal partner of John Mitchell & Associates for many years until he joined James M. Ridge & Associates in 2004. He established and now manages our Peoria office. John is a graduate of the University of Wisconsin-Stevens Point, where he received a Bachelor of Arts in 1969. He then graduated from The John Marshall Law School in 1974.

John has extensive experience in workers' compensation litigation and has handled numerous cases before the Illinois Workers' Compensation Commission, including appeals to the various Circuit Courts and the Workers' Compensation Division of the Appellate Court. In addition to working as a Special Assistant Attorney General in the Workers' Compensation Division, John has successfully argued a number of cases before the Illinois Supreme Court.

John also lectures to various groups, including local Bar Associations, Unions and continuing legal education groups primarily in central and western Illinois. He is a member of the Peoria County Bar Association, the American Bar Association, the Illinois State Bar Association, the Workers' Compensation Lawyers Association, and the Illinois Trial Lawyers Association.



John has been married to his wife Ginny for 39 years. Ginny also works out of our Peoria office as an Administrative Assistant. They have two adult daughters and enjoy spending time with their three granddaughters, Libby aged 7, Nora aged 4, and Sophia who is a year and a half. John is an avid fisherman and loves to spend as much of his free time as he can reeling in the elusive muskie.

UM/UI \bar{M} Coverage

We recommend buying UM/UI \bar{M} Motorist Coverage to protect you and your family from severe financial hardship in the event of an accident.

Uninsured Motorist Coverage: Illinois requires that all drivers carry a minimum of \$20,000 per person / \$40,000 per occurrence in terms of liability insurance. However, research estimates the number of uninsured drivers in Illinois can reach 25%. Uninsured motorist coverage protects you if you are involved in an accident with an at-fault driver who does not have insurance. For example, if a driver has bought uninsured motorist coverage with limits of \$250,000, then those funds can be recovered to compensate her for pain and suffering, medical expenses, and lost earnings. If she only has "basic" coverage, her recovery will be limited to \$20,000.

Underinsured Motorist Coverage: This insurance coverage pays for damages when a covered person is injured in an auto accident caused by another driver who has insufficient insurance. It works in a similar manner, increasing the amount that can be recovered if you are involved in an accident with a driver who might only have "basic" coverage (\$20,000/\$40,000). For instance, if a driver has \$1,000,000 in

underinsured coverage and is injured by a drunk driver who only has \$50,000 in liability coverage, then she will be able to recover for pain and suffering, medical expenses and lost earnings from her \$1,000,000 policy. If she only has "basic" coverage, her entire recovery will be limited to the drunk driver's \$50,000.00 policy.

Keep in mind that the cost in raising your coverage is minor compared to the protection that it affords. Make sure to ask your insurance agent about uninsured/underinsured motorist coverage soon.

"The Labor Movement was the principal force that transformed misery and despair into hope and progress." -- Martin Luther King, Jr.

Recent Cases

Attorney **James M. Ridge** recently tried an emergency hearing for a 45-year-old restaurant manager who slipped and fell on a wet floor, twisting his knee. Prior to his injury at work, Petitioner had extensive medical treatment to his right knee, including surgical intervention, and a diagnosis of arthritis. Soon after the time of his injury, his employer stopped paying him TTD and medical benefits, alleging all his problems were pre-existing. At trial, Mr. Ridge was able to prove through Petitioner's testimony, medical evidence, and the testimony of Petitioner's treating physician that Petitioner's fall at work hastened the need for his total knee replacement. As such, the Arbitrator awarded payment of a year of TTD benefits, medical bills and continuing medical care until Petitioner reaches a state of maximum medical improvement.

Petitioner's employer appealed this case and we are awaiting a hearing before the Illinois Workers' Compensation Commission.

Attorney **Karin K. Connelly** recently tried the case of an over-the-road truck driver who got his foot stuck in a tractor strap, causing him to fall and hit his face and mouth area off of the front of the cab. Petitioner had a bridge in place at the time, and the injury caused his bridge to break and further caused extensive damage to his underlying teeth. The roots of his natural teeth had to be removed as a result of the injury.

At Arbitration, the employer was ordered to pay for the cost of replacing Petitioner's four front teeth. The case was appealed by the Respondent, and at Commission level the Arbitrator's decision was affirmed, but the Commission went further and ordered that the employer not only pay for the cost of replacing Petitioner's bridge, but Petitioner's future dental care in the form of any and all treatment that may be required for Petitioner's existing adjacent teeth and structures, so as to enable Petitioner to effectively use a replacement device.

In the Community



In November, lawyers **Meghan O'Brien** and **Matthew Coleman** teamed up with members of the Illinois State Bar Association and volunteered in the "SkyRise Chicago" urban climb. Meghan and Matt provided water and support for more than 2,500 participants as they climbed the 103 stories to the top of Chicago's Willis Tower.

All proceeds from the event went to the Rehabilitation Institute of Chicago (RIC), an organization, "who strives for the fullest assimilation and acceptance of the physical disabled in the community." Last year's event raised more than \$1,000,000.00 to support RIC.

To learn more about this event, or to sign up for the November 2011 "SkyRise Chicago Tower Up!" log on to <http://ric.convio.net> or email a message to skyrisechicago@ric.org.



In May, **Amylee Hogan Simonovich** participated in the Wills for Heroes program. Wills for Heroes provides essential legal documents free of charge to first responders, including wills, living wills, and powers of attorney. By helping first responders plan now, they ensure their family's legal affairs are in order before a tragedy hits. A total of 81 wills were drafted for Chicago Police and Fire Department first responders.

We will be available for consultations at the following times and locations:

| June | | | |
|-----------|------------------------|---|--------------------|
| 1 | IAM Lodge 48 | IAM Lodge 1487, 50 W. Oakton Street, Des Plaines, IL | 7:00 p.m. |
| 2 | Teamsters Local 179 | 1000 N.E. Frontage Road, Joliet, IL | 1:30 – 4:00 p.m. |
| 6 | IAM Lodge 2125 | Hampton Inn & Suites, 1400 Milwaukee Avenue, Lincolnshire, IL | 7:00 p.m. |
| 8 | IAM Lodge 1557 | Holiday Inn, 495 Airport Road, Elgin, IL | 6:30 p.m. |
| 9 | Teamsters Local 371 | 7909 42 nd Street, Rock Island, IL | 8:30 – 11:30 a.m. |
| 15 | IBEW Local 176 | 1012 N. 5 th Avenue, Kankakee, IL | 1:00 – 3:30 p.m. |
| 19 | IAM Lodge 851 | 23157 S. Thomas Dillon Drive, Channahon, IL | 10:00 a.m. |
| 20 | Teamsters Local 627 | 7101 N. Allen Road, Peoria, IL | 10:30 – 12:00 p.m. |
| 20 | Galesburg Labor Temple | 2243 Grand Avenue, Galesburg, IL | 3:00 – 5:00 p.m. |
| July | | | |
| 5 | Laborers Local 231 | 2503 Broadway, Pekin, IL | 7:00 p.m. |
| 6 | IAM Lodge 48 | IAM Lodge 1487, 50 W. Oakton Street, Des Plaines, IL | 7:00 p.m. |
| 7 | Teamsters Local 179 | 1000 N.E. Frontage Road, Joliet, IL | 1:30 – 4:00 p.m. |
| 12 | IAM Lodge 49 | VFW Post 2255, 10537 S. Ridgeland, Chicago Ridge, IL | 7:00 p.m. |
| 18 | Teamsters Local 627 | 7101 N. Allen Road, Peoria, IL | 10:30 – 12:00 pm |
| 18 | Galesburg Labor Temple | 2243 Grand Avenue, Galesburg, IL | 3:00 – 5:00 p.m. |
| 20 | IBEW Local 176 | 1012 N. 5 th Avenue, Kankakee, IL | 1:00 – 3:30 p.m. |
| August | | | |
| 3 | IAM Lodge 48 | IAM Lodge 1487, 50 W. Oakton Street, Des Plaines, IL | 7:00 p.m. |
| 4 | Teamsters Local 179 | 1000 N.E. Frontage Road, Joliet, IL | 1:30 – 4:00 p.m. |
| 11 | Teamsters Local 371 | 7909 42 nd Street, Rock Island, IL | 8:30 – 11:30 a.m. |
| 15 | Teamsters Local 627 | 7101 N. Allen Road, Peoria, IL | 10:30 – 12:00 pm |
| 15 | Galesburg Labor Temple | 2243 Grand Avenue, Galesburg, IL | 3:00 – 5:00 p.m. |
| September | | | |
| 1 | Teamsters Local 179 | 1000 N.E. Frontage Road, Joliet, IL | 1:30 – 4:00 p.m. |
| 6 | Laborers Local 231 | 2503 Broadway, Pekin, IL | 7:00 p.m. |
| 7 | IAM Lodge 48 | IAM Lodge 1487, 50 W. Oakton Street, Des Plaines, IL | 7:00 p.m. |
| 8 | Teamsters Local 371 | 7909 42 nd Street, Rock Island, IL | 8:30 – 11:30 a.m. |
| 13 | IAM Lodge 49 | VFW Post 2255, 10537 S. Ridgeland, Chicago Ridge, IL | 7:00 p.m. |
| 14 | IAM Lodge 1557 | Holiday Inn, 495 Airport Road, Elgin, IL | 6:00 p.m. |
| 18 | IAM Lodge 851 | 23157 S. Thomas Dillon Drive, Channahon, IL | 10:00 a.m. |
| 19 | Teamsters Local 627 | 7101 N. Allen Road, Peoria, IL | 9:00 – 12:00 pm |
| 19 | Galesburg Labor Temple | 2243 Grand Avenue, Galesburg, IL | 3:00 – 5:00 p.m. |

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Labor & Politics

SB 512 was proposed this session to amend the Illinois Pension Code with a three-tier structure, whereby public employees could choose to stay in the current plan, but be forced to pay 50 percent more in contributions; go into a plan for new hires that puts retirement age at 67, lowers benefits and decimates annual Cost Of Living Adjustments (COLA); or, go into a 401k-style defined contribution plan that would freeze the current pension credits and rely on the volatile stock market.

SB 512 was not called for a vote before the Illinois House of Representatives adjourned on Tuesday night. Multiple labor leaders testified in strong opposition to this bill. Even though this bill was not called for a vote, we need to stay active in the fight against legislation that could be devastating to the futures of public employees that have spent their lives working hard for the people of our state.

Although public employees have faithfully paid into the pension system while serving our state, lawmakers in Springfield want to attack their hard-earned pensions and diminish benefits they were promised. To learn more about how you can fight back, visit <http://www.weareoneillinois.com>.

In an effort to be more environmentally friendly, we'd like to send you this newsletter and other updates by e-mail. Please send your e-mail address to info@ridgeassoc.com