

## I CAN'T RETURN TO MY JOB . . . WHAT NOW?

*By Ronald J. Fonner, Esq.*

It is an unfortunate fact that many injured workers are unable to return to the job they were performing at the time they were injured at work. The thought of never being able to return to the work you have done for most of your life can be frightening and depressing. However, there is a federally funded program that is designed to help individuals find work within their work-related restrictions.

The Office of Vocational Rehabilitation (OVR) was designed specifically to aid disabled individuals who cannot return to their jobs. Its objective is to find occupations for disabled individuals through counseling and training. The goal is to match injured workers with jobs they can perform both physically and vocationally.

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## ANNUAL GIRL SCOUT DINNER TO HONOR QRG

We at QuatriniRaffertyGalloway are pleased to announce that the Girl Scout Council of Westmoreland, Inc. has named our firm as the 2005 Corporation of Distinction. The Girl Scout Council will hold its 14th Annual Dinner this year, featuring the Woman of Distinction and Corporation of Distinction awards. Elizabeth W. Cassell will be honored as the 2005 Woman of Distinction and QuatriniRaffertyGalloway will be honored as the 2005 Corporation of Distinction. This special event will take place on March 3, 2005, at Greensburg Garden and Civic Center, beginning at 5:30 p.m. with a dinner featuring cuisine by Chef Dato.

The goal of the Girl Scout Council of Westmoreland, Inc. is to provide local girls with quality programs designed to enhance their leadership abilities. Currently the Council serves more than 3,000 girls.

Attorney Tereasa Rerko of our firm has been involved with the Girl Scout Council for more than 17 years, serving most recently as President and Chair of the Board of Directors. Following her lead, QuatriniRaffertyGalloway has done its best to support the efforts of the Girl Scouts, recognizing the extremely valuable function they provide in today's society.

Tickets for the event can be obtained from Jamie Houseman, Girl Scout Public Relations Specialist, at 724-834-9450, extension 22.

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*The LEGAL UPDATE is prepared by the staff of QRG for its friends and clients. The UPDATE sets forth general principles and should not be acted upon without specific advice.*

# HOW WORKERS' COMPENSATION BENEFITS ARE CALCULATED

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*By Peter J. Gough, Esq.*

If you are injured at work, two benefits are available to you under the Pennsylvania Workers' Compensation Act – a weekly disability check and payment of medical bills. The amount of your weekly disability check is generally based on your earnings for the 12 months immediately preceding your injury. Your employer sends your pay stubs to its insurance company, and the insurance company (or other company hired by your employer) does the calculations. Surprisingly, they make many errors in the calculation of your gross weekly wage, known as the Average Weekly Wage (AWW).

Why is this important? Well, in short, the higher the calculation of your AWW, the higher your weekly disability check will be. Even if the computation is only off by \$10.00 per week, it could mean hundreds or thousands of dollars of lost disability income while you are off work.

The AWW figure must include all of the following amounts received during the 12 months before you were hurt. If the insurance company misses any of these or puts them in the wrong quarter, it will throw off your AWW:

- Wages
- Overtime
- Bonuses
- Vacation Pay
- Holiday Pay
- Incentive Pay
- Tips
- Profit Sharing
- Sickness and Accident Benefits

The AWW can also be miscalculated if the insurance company misses one or more of the following factors, if they occurred during the 12 months before your injury. Can you answer "yes" to any of these questions?

- a. Were you working for two or more employers at the same time?
- b. Were you working for your time-of-injury employer less than 13 weeks before you were hurt?
- c. Were you laid off?
- d. Were you on sickness and accident benefits?
- e. Were you injured and on workers' compensation for another injury?

You can see that the computation of your AWW is not simply an hourly rate multiplied by 40 hours a week.

The workers' compensation attorneys at QRG know which figures need to be included and how and where to include them, and which formula fits your case. At QRG, our goal is always to get you the highest possible weekly benefit that reflects an accurate and realistic measure of your earning capacity at the time you were hurt. If you answered yes to any of the above questions and would like us to recheck your AWW to make sure you are getting your maximum benefit, please call us.

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When you contact OVR, you will be assigned a counselor. After consultation and any necessary evaluations, your counselor will begin the rehabilitation process. The rehabilitation process may involve trying to find an open position that matches your current abilities, determining what training or schooling you need to obtain a job that is within your abilities, or even assisting you in starting your own business.

Those of you who are currently clients of QRG know that our goal is to turn the misfortune of your work injury into a new lease on life. One of our best tools is the OVR program. OVR does not charge a fee for providing these rehabilitation services. If you are not currently enrolled in OVR, contact our office so that we can send you information to enable you to get in touch with your local OVR office. You have nothing to lose, and possibly a new life to gain.

## "MY NEIGHBOR"



## QRG PERSONAL NOTES ———

**Kathy Rafferty**, wife of QRG lawyer Dennis Rafferty, is shown above holding her painting, "My Neighbor". Kathy's painting was recently selected for inclusion in the collection of the Greater Latrobe Area High School. Also shown in the photograph is Elizabeth Hazlett, whose painting, "The Beach", was also selected for inclusion.

The Greater Latrobe School District's unique art collection is the only one in the United States entirely student-selected and student-purchased. In 1936, the students began to vote for their favorite paintings and purchased two. The tradition has continued from that time through the present. Today the corridors of the senior high school are lined with nearly 200 paintings from the finest 20th-century southwestern Pennsylvania artists.

Kathy, who began studying art three years ago, has progressed to the point that a number of her paintings have been sold and she has been commissioned to do others. "My Neighbor" will be permanently on display at Latrobe Area's Center for Student Creativity. At QRG, we are justly proud of our artist and hope our clients will take the opportunity to view Kathy's work if they're in Latrobe.

We are also quite proud of **Joshua Ross**, son of Terri Ross, our receptionist, who received the opportunity to march with the Hempfield Area High School Band in the Tournament of Roses Parade in Pasadena, California, on New Year's Day 2005. Josh is a junior, and plays trumpet in the band.

## WHAT'S THE VERDICT?

By Richard H. Galloway, Esq.



**A**t the Ajax Steel Company Mill, Lola was the one who caught the eye of many a male co-worker. In fact, she had captured the attention and affection of both Mike and Fred, who worked in the same department. This, as it turned out, was unfortunate. On Tuesday, following the weekend in which Lola had spent Friday evening with Fred and Saturday evening with Mike, it all came to a violent confrontation. Mike told Fred he better stay away from his girl and Fred said likewise, and before you knew it, punches were thrown and the two were rolling around on the ground, wrestling with each other and trying to gain the upper hand. Otto (a more practical member of the crew) recognized that with Mike and Fred fighting, the whole production line was grinding to a halt and production was going to be off for the day, hurting both the company and more importantly, the members of the crew who drew incentive pay for a good day's run. Otto stepped into the fray, attempting to break it up and to talk some sense, but before he knew what was happening, the wrestling match had gone from two to three participants and now included him. After another ten minutes of tussling, it was finally broken up by some supervisors and all three participants had to go to the hospital for significant injuries.

Mike, Fred and Otto all were off work for several weeks and all three filed for workers' compensation benefits, both medical and wage loss. Are they entitled to receive such benefits?

*Answer on Page 6*

# HEARING LOSS MAY BE A WORK INJURY

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*By Ronald J. Fonner, Esq.*

**M**any people may not realize that a hearing loss may be a compensable work injury. The Workers' Compensation Act provides for benefits for loss of hearing related to exposure to noise while at work.

The Act is specific regarding hearing loss cases. In order to be entitled to benefits for a work-related hearing loss, you must have a binaural (both ears) hearing loss of at least ten percent. You must be evaluated by a physician who specializes in hearing problems to determine the percentage of your hearing loss. Often, people with such a loss will report that they are unable to hear the television, or voices on the telephone, or even the voice of a family member.

To be entitled to benefits for hearing loss, you must show you have been exposed to hazardous noise while working. The Act also sets forth the requirements for "hazardous noise". It can be difficult to determine on your own whether the noise level at your place of employment is great enough to be considered hazardous under the Act.

Even if you have a hearing loss of ten percent or greater, and you were exposed to hazardous noise at work, you still need a physician to render an opinion that your hearing loss is related to your exposure to noise while at work. Without such a medical opinion, you cannot win a claim for hearing loss benefits.

If you feel you have a work-related hearing loss, please be sure to discuss your condition with us before the end of the three-year limit for filing a claim for hearing loss benefits. All too often, a client comes to our office to discuss a hearing loss claim only to discover that it is too late to file the claim. The three-year statute of limitations for filing a claim begins to run on the last day you were exposed to hazardous noise at work. This may or may not be the last day that you worked for your employer. If you changed jobs during your employment from a noisy job to a quiet job, or the job you are performing became quieter, the beginning date for the three years is the last day you worked at the noisy job, and you must file your claim within three years of that date.

If your claim is successful, you may be entitled to up to 260 weeks of workers' compensation benefits. These benefits are based on your workers' compensation rate, which is determined by your earnings for the year prior to the last day you were exposed to hazardous noise. Depending on the degree of your hearing loss, and your earnings, this amount could be substantial. (Note: for a detailed explanation of the calculation of benefits, please see page 2.)

If you feel you may have a work-related hearing loss, it is important to make an appointment with us immediately. Remember that if you do not act promptly, you could lose valuable legal rights and benefits under the Workers' Compensation Act.

**ALERT \*\*\* ALERT \*\*\* ALERT \*\*\* ALERT \*\*\* ALERT \*\*\* ALERT**

**A**s you may have read or heard, on September 30, 2004, the pharmaceutical company Merck announced that it was taking its arthritis drug, **Vioxx**, off the market because of the potential risk of heart attack, stroke, or a severe cardiac event. This information is particularly important to so many of our clients who are required to take medications as a result of illness or injury. As part of our continuing effort to advise our clients and friends of important health issues, we think that you should be aware of this exceptional situation. We are partnering with another law firm which specializes in dealing with these types of legal questions. If you or a family member or friend has used Vioxx and has had heart complications, and you would like to know more about whether these complications are related to the use of Vioxx, please call our office and speak with Betty at 724-552-2710 to find out how you can get more information.

From time to time, we will be featuring articles from people and organizations in our community about subjects which we feel may enrich your life. Over the years, we have formed relationships with many community leaders, businesses and organizations. We thought we would share some of their wisdom, ideas, and experiences. In this issue, we are featuring **Darla Main**, a Certified Financial Planner and President of **Main Advisory, Inc.** Darla has provided financial services to QRG and many of its clients. Darla can be reached at 412-854-0653.

## TAKING CONTROL OF YOUR FINANCIAL FUTURE

*By Darla Main*



**R**egardless of age, nearly everyone possesses a vision of the "perfect retirement." For some, retirement is an opportunity to travel to places written about in magazines or novels; for others, it may mean a second home near the beach where you wake to waves splashing against the shore. For many, retirement is simply the freedom to pursue hobbies that wouldn't fit into the busy pre-retirement years. Unfortunately, many retirement aspirations remain as dreams because of failure to accumulate retirement savings to turn them into reality.

As thousands of baby boomers begin retiring in this decade, the drain on the Social Security system will become an ever-increasing problem. When Social Security was created in 1935, there were 16 workers for every beneficiary. Today, there are 3.3 workers for every person receiving benefits, and in 20 years, there are projected to be just 2.3 workers per retiree. Relying upon Social Security benefits to meet retirement needs may be likened to taking a voyage on the Titanic.

There are several ways to take control of your financial future today. First, begin saving through your employer's retirement plan. Most often, employers offer a matching contribution to the employee contribution, typically 3%-6% of compensation. You may also save through an Individual Retirement Account (IRA).

There are several strategies for saving money. One is to put away what you can and hope you have enough when retirement comes. This is the least successful way of planning for the future. The best way to ensure success is to determine how much you will need on a monthly basis in retirement and create a plan of action to meet that goal. Several studies suggest that a "safe" withdrawal rate from retirement savings on an annual basis is between 4% and 6%. This means that if your annual income need is \$60,000, you must have savings of at least \$1,000,000.

If the savings goal is \$1,000,000, then how much must be saved on a monthly basis? Let us assume a 40-year old individual, with a retirement age of 66, and annual return on investments of 8%. An important factor that must not be overlooked is inflation. Inflation eats away at the purchasing power of income each year. In this illustration, let's assume 2% inflation. Under these circumstances, savings should be \$900-\$1,000 per month.

Contributions made to qualified retirement plans, such as an IRA or an employer sponsored 401(k), are done so on a tax-deferred basis. The money you contribute is not taxed for federal purposes prior to being deposited into the plan, and the investments grow without the penalty of income tax if they remain inside the plan. This is a powerful income tax savings strategy. Upon retirement, withdrawals will be subject to federal income tax. For an individual in a 25% income tax bracket, a \$1,000 contribution to a retirement account saves \$250 in income tax now. Uncle Sam actually provides incentives to save! Since the tax filing deadline is approaching, strong consideration should be given to making such a contribution now.

If the prospects of saving \$1,000 per month are overwhelming, don't fret—it is more important to start a systematic savings plan and increase the annual savings over time than to do nothing. Begin by paying yourself first. Allow careful consideration before yielding to the desire to spend. Lastly, work with a qualified financial advisor who will partner alongside you to turn your retirement dreams into reality.

## QRG SEMINAR SERIES

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Attorneys at QRG are often called upon to participate in seminars that educate colleagues and the public in law-related issues. In the fall of 2004, we participated in the following seminars and programs:

Attorney **David DeRose** recently spoke at an educational program which was open to the public. This seminar focused on the legal aspects and the medical implications of Living Wills. It was presented through the combined efforts of Westmoreland Regional Hospital and Latrobe Area Hospital, together with the Westmoreland Bar Association. The purpose of this event was to afford the persons in attendance the opportunity to complete a Living Will with the help of one of the attorneys in attendance. More importantly, the audience gained an understanding of how the provisions of a Living Will relate to end of life care and how treatment options are implemented by the attending physicians and/or other medical personnel.

On October 22, 2004, attorneys **Vince Quatrini** and **Barbara Artuso** participated in a continuing education series sponsored by the St. Vincent Small Business Development Center. They presented a seminar on "Strategies for Managing Disability in the Workplace" to a group of accountants, attorneys and business owners to assist them in recognizing disabled workers as an issue in the workplace, and to help their employees deal with illness-related limitations.

Also in October, attorney **Barbara Artuso** spoke to the Fibromyalgia Support group sponsored by the Arthritis Foundation about the process of obtaining Social Security disability benefits in the event members were or became unable to work.

*If you belong to a group that would like someone from our office to speak about a law-related topic, please contact our office.*

## QRG IN THE COMMUNITY

*At QRG, we are committed to volunteering our time in the community. Here are some recent examples of the diverse ways in which QRG employees are involved:*

**Polo for the Cure** is an annual event which benefits The Leukemia & Lymphoma Society. The mission of The Society is to cure blood-related cancers and improve the quality of life for patients and their families. QRG is proud to be one of the sponsors that support this event which raises funds for local patient aid and research programs. **Joyce Novotny-Prettiman**, one of the attorneys at the firm, is a member of the steering committee for this event.

This year **Barbara Artuso** was a judge for the **6th Annual Champions of Art Festival**, an art contest sponsored by the Westmoreland Intermediate Unit to celebrate the talents of artists with special needs. Almost 400 pieces of art were submitted. The art was displayed and the winners honored at a dinner held on December 9, 2004, at the Four Points Hotel in Greensburg.

## WHAT'S THE VERDICT?



**ANSWER:** Under Pennsylvania law, where an altercation arises out of personal animosity, the claim is excluded from the course of employment by Section 301(c)(1) of the Workers' Compensation Act. Generally speaking, an altercation between two co-employees at work that is caused by one employee's dislike of the other, over matters not related to work, is for personal reasons and not in the course of employment. Thus, when Fred and Mike had their dispute over the affection of Lola, neither of the men could recover under the Workers' Compensation Act. However, Otto was not involved in the fight because of personal reasons (he couldn't have cared less about Lola and was known by all to be devoted to his lovely wife, Sophie) but rather for concern about the loss of production. Since Otto's involvement was related to work, Otto is entitled to be compensated for his medical expenses and his lost time. Incidentally, when last seen, Lola had left the mill and was living the high life with Fast Eddie, a local pool hustler!

It is a good idea to assemble all the information you are going to need before beginning preparation of your 2004 personal income tax return. Here's a checklist to help you:

## Personal Information:

- All Social Security numbers for your family
- Childcare costs: cancelled checks, invoices, childcare provider's name, address and tax i.d.
- Receipts for post-high school education costs, including tuition

## Income Information:

- W-2 forms for all employers for whom you and your spouse worked
- All 1099 forms for income, including:
  - a) interest and dividends
  - b) proceeds from sale of investments (make sure to ascertain the original cost of all investments)
  - c) state and local tax refunds
  - d) state unemployment compensation payments
  - e) Social Security benefits
  - f) IRA and pension distributions
  - g) miscellaneous income
- Schedule K-1's for all partnerships, corporations and trusts
- Records showing all alimony received
- Accounting records of income and expenses for any business you operate and/or rental property you own (if you use your home for business, you will need information such as square footage, property taxes, mortgage and other specific information)
- Gambling and lottery winnings (offset by any losses you can document)
- Documentation of any other income

## Itemized Deductions:

- Form 1098 for mortgage interest and/or points paid
- Receipts or cancelled checks for all charitable donations made
- Invoices or cancelled checks for all job-related expenses paid
- Invoices or cancelled checks for all medical and dental expenses paid
- Last year's state and local income tax returns and estimated tax payments
- Invoices or cancelled checks for all real estate taxes paid
- Other miscellaneous deductions, such as safe deposit box rental fees or tax return preparation fees

## Adjustments:

- Documentation for any IRA contributions
- Form 1098-E showing all student loan interest paid
- Invoices and cancelled checks for any moving expenses
- Statements for self-employment health insurance premiums
- Cancelled checks for alimony paid
- Cancelled checks for any classroom supplies, if you are a teacher

## Federal Tax Payments:

- Cancelled checks proving the date and amount of quarterly estimated tax payments to the IRS

*Jim Horchak, an attorney at our office, is also a CPA. Jim is available to help with the preparation of your tax return or with any tax questions you may have as tax time draws near.*

## MEET THE STAFF

### A. TEREASA RERKO, ESQ. & KELLIE J. TAYLOR, LEGAL ASSISTANT

**T**ereasa is a partner at the firm and concentrates her practice in the areas of workers' compensation and Social Security disability, exclusively representing injured workers and disabled claimants. As a volunteer, Tereasa has been actively involved with the Girl Scout Council of Westmoreland, Inc. for more than 17 years, including serving two terms as Chair and President of the Board of Directors. She has also served several terms on the Board of Directors of ParentWise, is a past member of the Zonta Club of Westmoreland County and is a past member of the Executive Women of Westmoreland. In her leisure time, Tereasa enjoys reading, skiing and listening to local singer-songwriter Bill Deasy.

Tereasa lives in Bullskin Township with her husband, Thomas (with whom she took a motorcycle trip from Alaska to Pennsylvania for their honeymoon), their daughter, Shelby, 10, and their son, Patrick, 6.

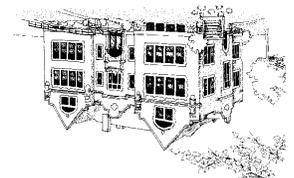
**K**ellie graduated from Derry Area High School, where she played varsity basketball and coached youth basketball. While a student at Westmoreland County Community College, she served as an intern for our firm, following which she graduated from the Community College with an Associate Degree in Legal Assisting. She joined our firm in February of 1995, and works with both Attorney Artuso and Attorney Rerko on Social Security disability cases.

Kellie lives with her husband, Dean, and their two children, Zachary and Jacob. She enjoys camping, attending craft shows and spending time with her family.

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