

Legal *update*

A publication provided for the friends and clients of QR

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TWO PEOPLE TELL TWO PEOPLE, WHO TELL TWO MORE . . .

By Vincent J. Quatrini, Jr., Esq.



Have you heard this saying?

We are proud that word of mouth has built our reputation for doing good work for our clients. We do not advertise on TV. We do not plaster our name on billboards. If we do good work for you, you will tell two people, who will tell two more people to come to QuatriniRafferty. We have lived by this philosophy for 35 years.

We strive to always remember that your case is a very stressful event in your life. You have hired us to be your advocate. We need to listen when you talk. We need to do our homework. We need to be one step ahead of the other side if we are litigating a claim for you. We also need to be frank with you - which sometimes means we have to give you advice you do not want to hear.

Our staff is trained to listen to you and to answer many of your questions. The

staff also knows when your attorney must be the one to give you an answer. Please take advantage of the experience and knowledge of our secretaries and paralegals. They are ready and willing to guide you through the process and update you on your case.

We are problem solvers. We recognize that you may be going through a crisis in your life and that we are here to help you from beginning to end. We point you to the resources you need to start over or to help provide you with a more secure future.

At the end of the day, we want you to have peace of mind. We want you to leave our law firm and tell two people, who tell two more people, that your attorney knew the law, cared about you, and made a difference in your life.

Thank you for selecting our law firm. Most of all, we thank all our clients who have told two people. . .

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

Contact us at
news@qrlegal.com

Be sure to visit our website and blog often for the latest legal updates!

 www.qrlegal.com
 www.qrlegal.blogspot.com

UNEMPLOYMENT COMPENSATION BASICS

By James A. Horchak, Esq.

Attorney James A. Horchak represents people who have been denied unemployment compensation benefits. If you find yourself out of work, you may be eligible for unemployment compensation benefits. In order to receive benefits, you must apply either online at <https://www.paclaims.state.pa.us/UCEN/Welcome.asp> or call the Unemployment Compensation Service Center at 1-888-313-7284.



The unemployment compensation (UC) system is designed to provide a short-term "safety net" of benefits which provide income when you lose your job through no fault of your own. Generally speaking, to be eligible for UC benefits, you must be able and available to work. The determination of whether you are eligible for benefits is a three step process.

The first step is to determine whether you are financially eligible for benefits. This step generally involves two questions. The first question is whether you earned enough wages to qualify. Your earnings are reviewed using your "base year". The base year is generally the first four of the last five completed calendar quarters prior to the date you applied for benefits. The base year is different for individuals who separated from their employment due to a compensable work-related injury. The amount of benefits you are entitled to will be based on the highest of the four quarterly wages. The second question is whether you have 16 or more "credit weeks." Credit weeks are defined as weeks in your base year in which you earned \$50 or more. If you have less than 16 credit weeks, you are not eligible for benefits. The UC office will perform these calculations and issue a financial determination.

The second step is to determine whether you are eligible to receive benefits based on the circumstances of your job loss. There are primarily two reasons for losing a job: either you quit or you are fired. Some people have the misconception that if they quit their job they are not entitled to benefits. This is simply untrue. Under certain circumstances, you are able to quit your job and subsequently receive benefits. For example, you are eligible for benefits if you quit due to a health problem which affects your ability to perform your job, as long as you have given your employer an opportunity to offer you suitable work. This involves a discussion between you and your employer prior to quitting. If your employer has no accommodations or other suitable work, you may quit and be eligible for benefits.

On the other hand, if you were fired from your job, you still may be entitled to benefits. I have represented people who have been fired for many different reasons, such as violating an employment rule or policy, unsatisfactory work performance, or committing too many mistakes at work. Just because you were fired from your job doesn't mean that you are not entitled to benefits. In this type of situation, an employer has to prove that you committed "willful misconduct." This can only be determined on a case-by-case basis depending upon your circumstances. You may have particular reasons to justify your conduct. For example, if you are fired from your job as a delivery person for having too many vehicle accidents, you may still be entitled to benefits. You might be able to prove that the accidents were truly accidents, and not intentional nor deliberate.

The third step involves maintaining your eligibility for benefits after you begin to receive them. If you are both financially eligible and eligible based on the circumstances surrounding your loss of employment, you will begin to receive benefits one week after you apply for benefits. Upon receiving benefits, you must continue to be able and available to work. You are not entitled to benefits if you are not physically able to work at any job due to medical reasons. You must also be available to work and, for example, not be on vacation or in jail. In addition, you must report your current employment status to the UC office every other week.

If the UC office determines that you are not eligible for benefits, you have a limited time to appeal that decision. On appeal, a referee will hold a hearing to review the circumstances of your claim based upon testimony from both you and your employer. Each party has the right to be represented by an attorney. After the hearing, the referee will issue a new determination regarding your eligibility for benefits.

If you are contemplating quitting your employment, call me at 724-552-2745 before you quit to discuss your circumstances and how to preserve your right to benefits. If you have already been denied benefits, I can help you appeal your claim and represent you at your hearing.

QR IN THE LEGAL COMMUNITY



Michael Quatrini received the 2011 Outstanding Young Lawyer award during the Annual Meeting of the Westmoreland Bar Association. This is an award given to the young lawyer with outstanding leadership and distinguished service to the legal profession and the community.

Michael joins fellow QR attorney **James Horchak**, the recipient of the 2005 award.

Attorneys **Tereasa Rerko**, **Brian Bronson** and **Michael Quatrini** recently attended the annual spring conference presented by the National Organization of Social Security Claimants' Representatives (NOSSCR) in Baltimore, Maryland. This event is held for those who represent claimants in their SSD & SSI cases. It is a way for our attorneys to both learn of new developments and hone their legal skills in the field of Social Security Disability law, as well as network with other disability attorneys from around the country.

NOSSCR



In June, Attorney **Vince Quatrini** served as a faculty panelist in two separate sessions at the annual Governor's Conference on Workers' Compensation. The first panel reviewed the impact of Medicare Set-Asides on the settlement of workers' compensation claims. The second session addressed "mental/mental" injuries - emotional events in the workplace that cause an emotional reaction and injury. The conference was held in Hershey, Pennsylvania, and attended by over 1,400 attorneys, employers, insurance adjusters and vocational experts from around the state.

The Westmoreland County Bench/Bar Conference was recently held in Morgantown, West Virginia. This conference provides an opportunity for continuing legal education and interaction between Westmoreland County judges and attorneys. This year the following QR attorneys attended the conference: **Brian Bronson**, **David DeRose**, **Ronald Fonner**, **Peter Gough**, **James Horchak**, **Joyce Novotny-Prettiman**, **Michael Quatrini** and **Jessica Rafferty**.

At a recent luncheon meeting of the Latrobe Area AARP, Attorney **David DeRose** spoke on the necessity of having a current Will, Financial Power of Attorney and Medical Power of Attorney. He also spoke on these topics as part of a financial planning forum that addressed guests of the Community Foundation of Westmoreland County. Greensburg-based investment advisor Regina Beatty was also one of the speakers at that event.



 QR is a continuing participant in Pennsylvania's "Educational Improvement Tax Credit Program." This program utilizes funds contributed by businesses to further educational initiatives throughout the state. By specific request, QR's funds have been used to benefit a journalism program in the Greater Latrobe School District.

Quatrini Rafferty is pleased to announce that its workers' compensation fee agreement has been published by the Pennsylvania Bar Institute (PBI) as a model fee agreement for Pennsylvania attorneys. PBI is a non-profit organization that provides continuing education and informational resources to lawyers throughout the state.

HOT COFFEE



In our Spring 2006 newsletter, we talked about the details and true facts of the McDonald's hot coffee case. It is amazing to us how many clients continue to ask about it. The emotion that is evoked by the misunderstanding of the case still exists today. Everyone needs to see the film "HOT COFFEE." The producer of the film, Susan Saladoff, is a personal injury attorney who decided to take action and get the truth out about the McDonald's case. This film finally reports what really happened 19 years ago to Stella Liebeck of Albuquerque, New Mexico, and documents how that case prompted a trend that has impacted our civil justice system in the United States. The film shows people who have been significantly impacted by changes in our justice system due to the ripple effects of this case.

To find out more visit: www.hotcoffeethemovie.com

THE DOCTOR VISIT: TALK ABOUT YOUR MEDICAL CONDITION, NOT YOUR SOCIAL LIFE

By Vincent J. Quatrini, Jr., Esq.

Our client, Sam, went to the Headache and Pain Management Center for his regular appointment. Here is what was recorded in the office notes:

"Sam presents today for a follow-up visit. The pain is showing improvement with treatment. The patient rates their pain today as a 3.5/10 on the pain scale as compared to a 3.5/10 at the last visit. The location of their pain is described as right shoulder and left shoulder. The patient describes their pain as throbbing, aching and burning. There are no medication changes made at this visit. He is doing well with the combination of Vicoprofen, Voltaren gel and Lidoderm patches. He is able to manage his pain and is unchanged from his previous visits. He had undergone 3 surgical interventions on the shoulder but the area has continued to deteriorate.

Analgesia: The patient's degree of pain relief is not changed from previous visit and being managed with medication.

Activities of Daily Living: The patient does show improvement in ability to perform on a daily basis.

Sam stated that his moods have been ok and stable. He has been looking forward to fishing and he and friends are going on a fishing trip. Sam has been taking Citalopram 40 mg. daily for about one year. He stated that the medication has helped him control his depression and has even helped him with sleep problems. He stated that he keeps busy everyday by watching his two-year-old grandson while his parents work."

What is wrong with what Sam talked about with his doctor?

Sam is obviously in a lot of pain or he would not be going to the Headache and Pain Management Center in the first place. Sam would not be taking all of these medications if he was healthy enough to go to work. He wouldn't be taking medication for depression if the major changes in his life - caused by his work injury - were not overwhelming him.

Unfortunately, we can tell you from experience that when Sam appears in front of the Social Security Judge or the Workers' Compensation Judge, the severity of his difficulties may quickly be overshadowed by the innocent discussion about a fishing trip or being a stay-at-home grandpap.

You must remember that what you say can always be misinterpreted. Some judges recognize that going fishing is therapy and being able to help your children by babysitting your grandchildren reinforces your self worth. However, the lawyers and insurance companies opposing your claim will be looking for a way to call into question the believability of your complaints of severe pain and restricted lifestyle. They will distort these positive moments in your life and use them against you.

So next time you visit the doctor, remember Sam!

"OBAMA CARE": HELP FOR HIGH-RISK INDIVIDUALS



The PA Fair Care program, Pennsylvania's new "high-risk" insurance plan, provides coverage for uninsured Pennsylvania residents. To be eligible, an individual must be without health insurance for at least six months and must be unable to obtain coverage because of pre-existing medical conditions.

As part of the healthcare overhaul passed by Congress, and signed by President Obama, the federal government is making \$5 billion available to cover high-risk

individuals across the country. Pennsylvania is receiving \$160 million from this program to administer its version of the high-risk plan. This temporary coverage is scheduled to be in place until 2014 when new rules take effect under the Obama legislation. Those new rules forbid insurance companies from denying or terminating coverage based on a pre-existing health problem.

The monthly premium is \$283.00, plus co-pays and coinsurance. For more information or to apply, visit www.pafaircare.com.

QR IN THE COMMUNITY

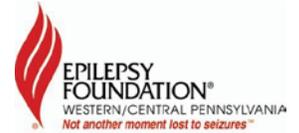


**FAITH
IN ACTION**

Laurel Area Faith in Action recently held a luncheon at the Rogers Center at St. Vincent College to celebrate the organization's 10th Anniversary. This community outreach assists senior residents of Latrobe, Ligonier and Derry with services to enable them to remain in their home, with assistance, for as long as possible. The services offered include transportation to shopping and doctor's appointments, social visits and caregiver respite. This celebration honored those who founded the organization. QR was one of the sponsors of the event and Attorney **Joyce Novotny-Prettiman** is a current board member for this organization. For more information on Faith in Action call 724-539-4357 or see www.laurelfia.org.

The Westmoreland County Mock Trial Program is run by the Westmoreland Bar Foundation. The program involves local attorneys who volunteer their time, in conjunction with local volunteer teachers, to coach high school mock trial teams which participate in a competition based on a simulated trial scenario. Nine local school districts competed for the right to move forward to regional, state and national competitions. The trial competitions that decide the team which will move on to regional competition are held in courtrooms located at the Westmoreland County Courthouse. Volunteer attorneys act as jurors during these mock trials. QR Attorneys **David DeRose**, **Joyce Novotny-Prettiman** and **Michael Quatrini** volunteered their time to act as jurors for this program.

The 16th Annual Westmoreland County Sports Dinner was held at Ferrante's Lakeview Restaurant earlier this year. Funds raised by this event benefit the Epilepsy Foundation of Western/Central Pennsylvania. The founder of the event, Dr. Louis Catalano, Jr., has spearheaded this event for many years in support of the Foundation. QR was proud to continue to support the event this year.



The Westmoreland Croquet Club sponsored its annual tournament which was recently held at the Greensburg Campus of the University of Pittsburgh. The funds raised at this event will be used to support The Community Foundation of Westmoreland County, affiliated with the Pittsburgh Foundation. QR supported this event by sponsoring a tent.

Brother's Brother, a Pittsburgh-based international charity, promotes health and education around the world through the distribution of donated goods. Quatrini Rafferty recently donated various items to this organization, which included pencils, pens, hats, binders, notepads, and canvas bags.



QR PERSONAL NOTES

After 7 years working for Johnson & Johnson Consumer Products, Elaine Tait will be attending the University of Chicago-Booth School of Business this fall to pursue her MBA in Marketing/Market Research. She is the daughter of legal secretary **Melaine Falbo**. Elaine will kick off her full-time academic curriculum with a class trip to Turkey this August.

Attorney **Jim Horchak** once again coached baseball in the South Greensburg Baseball Recreational League this summer. Two of his players were his children, Quinn and Max.

Robert Cirelli, an associate at J.C. Penney's, was voted Employee of the Month for January 2011, and was additionally voted Employee of the Fiscal Year for 2010. Matthew Cirelli, recently graduated cum laude from Saint Vincent College. Matthew majored in sociology and also minored in philosophy and criminal justice. He has been a cook at Hoss's Steak and Sea House during college. Rob and Matthew are the sons of file manager **Betsy Nicksich**.

Adam Quatrini, son of attorney **Vince Quatrini**, has been accepted to the Duquesne University School of Law. Adam attended Dickinson College and worked in Washington, D.C., after graduation. He will start law school this fall.

Patrick Grundy recently earned the rank of first class scout. He and sister Shelby continue to make the honor roll at their respective schools. Patrick and Shelby are the children of Attorney **Teresa Rerko**.



Attorney **Jessica Rafferty** participated in the Pittsburgh Marathon on May 15, 2011. Out of 4,287 finishers in the full marathon, Jessi placed 795th overall and 35th in her division with a finishing time of 3:45:44. In addition to the marathon, there was a half marathon with 8,997 finishers and a marathon relay with 549 teams. Jessi and her mom, Kathy Rafferty, are pictured at left.

QR COMMUNITY PARTNERS

We assist many clients in transitions in their life. These transitions are often not voluntary, but are necessary due to events that occurred over which they had no control. A work injury, an injury from an auto accident or a serious illness can drastically impact our clients in so many ways. The loss of one's ability to return to work at a pre-injury job can be devastating. There are resources that we provide to our clients so that they can meet the challenge of changing careers – they just need the right people to help them through this process. The Westmoreland County Community College (WCCC) is a key resource that can assist people in getting past a life-changing event and moving on with their life's "new" work. The first step for many clients is getting a GED so that they can move forward. The information below outlines general information about the GED process.



EARN YOUR GED

Many employers require a high school diploma or equivalent, such as a GED. Westmoreland County Community College has programs to help you earn your GED and thus, improve your employability.

GED Preparation Classes

WCCC frequently offers GED preparation classes that meet for two hours once a week for 10 weeks to help you prepare for the GED test. The same five subjects that appear on the GED exam are studied. The classes also cover operation of the calculator, Casio FX 260 Solar, which is allowed to be used during the test, and test taking techniques. You must be at least age 18 to attend the class.

The next class begins Thursday, September 22, and meets from 6 to 8 p.m. for 10 weeks. The cost is \$75 tuition plus a \$2 material fee. To register, call WCCC at 1-800-262-2103, extension 4204 and give the course code: SCHX 2635-01.

GED Test

The test is taken over two consecutive days for approximately three hours each day. Test dates are scheduled regularly. The cost to take the GED test is \$50.

Jump-Start Program

Westmoreland County residents are eligible for one free three-credit class if you successfully complete the test at WCCC.

For more information on these programs, contact Andrew Doherty in the WCCC Learning Support Services Center at 1-800-262-2103, extension 4133.

There are many organizations in our community that provide important services but their work is not always widely publicized. The above information was supplied by the Westmoreland County Community College, Sylvia Detar, Director of Continuing Education, and Andrew Doherty, Developmental Education Assistant/Chief Examiner.

QR WORKERS' COMPENSATION ALERT

PENNSYLVANIA FIREFIGHTERS WHO DEVELOP CANCER ARE COVERED BY NEW WORKERS' COMPENSATION LAW

Pennsylvania Governor Tom Corbett just signed into law a bill that can grant workers' compensation benefits to firefighters suffering from cancer caused by dangerous carcinogens released from fumes. The new law became effective July 7, 2011.

Under the new law, the term occupational disease has been amended to include "cancer suffered by a firefighter which is caused by exposure to a known carcinogen recognized as a Group 1 carcinogen by the International Agency for Research on Cancer." Group 1 carcinogens include asbestos, benzene, coal and other emissions from fumes.

In order to file a claim for benefits under the new law, a firefighter must have served 4 or more years in continuous firefighting duties, must prove direct exposure to the carcinogen, and must have successfully passed a physical examination prior to engaging in firefighting duties. That exam must not have revealed any evidence of the condition of cancer.

This major change in the workers' compensation law benefits both volunteer and paid firefighters. Of course, a firefighter must still prove that he or she was exposed to the carcinogen while fighting a fire. The presumption of occupational disease can be overturned by evidence that shows that the firefighter engaged in activities outside of firefighting duties that posed a substantial risk of causing the cancer, including the continuous use of tobacco products for 2 or more years.

If you serve as a firefighter, it is our recommendation that you undergo a baseline physical examination as soon as possible. In addition, if you or one of your friends or family are firefighters and are suffering from a cancer which you believe to be related to your firefighting duties, please give us a call so that we can review how this new, important law may apply to you.

MISCLASSIFICATION OF WORKERS AS INDEPENDENT CONTRACTORS: ILLEGAL IN PENNSYLVANIA CONSTRUCTION INDUSTRY

On February 10, 2011, the Construction Workplace Misclassification Act took effect in Pennsylvania. It is now illegal for any commercial or residential contractor in Pennsylvania to misclassify employees as independent contractors.

In order to make sure that employers do not coerce a worker into the category of independent contractor, the new law prohibits requiring or demanding that an individual enter into an agreement or sign a document which improperly classifies a worker as an independent contractor. Of equal importance, there is a provision in the new law that an employer may not retaliate against any person who exercises these rights, including the filing of a complaint or reporting an employer's noncompliance

with the Act. Finally, an employer may not intentionally contract with another employer knowing that the other employer intends to misclassify employees.

Each misclassification of an employee is a separate violation of the law and is subject to fines.

Additional important details of this new law can be found at <http://painjuredworkers.blogspot.com/>.

If you feel that you, or someone you know, is being misclassified as an independent contractor instead of an employee, please call our office at 888-288-9748. We will guide you in reporting the violation and inform you of possible remedies.



You can find these articles along with other posts on Vince Quatrini's new blog exclusively covering Workers' Compensation issues:
<http://painjuredworkers.blogspot.com/>



REALITY TOUR



Westmoreland County parents have access to a unique drug prevention program that they can attend with their child. The Reality Tour Drug Prevention Program is held the last Tuesday of the month at the Westmoreland County Courthouse at 6 p.m. The non-profit organization known as CANDLE, Inc. works with community volunteers to make the powerful dramatization of a 'teen on drugs' happen each month.

Quatrini Rafferty was one of the founding sponsors of the program in Westmoreland County. While the drama is what most people connect with, the program also spends time on the coping skills parents need as well as first person accounts from law enforcement and youth in recovery. The program is appropriate for parents to attend with their children ages 10-18.

Norma J. Norris, Reality Tour developer and the executive director of Candle, Inc., reports that many local school districts, including Derry, Greater Latrobe, Greensburg-Salem, Hempfield and Norwin, support and recommend this program to their students. According to surveys taken at each program, parents are rating the program as "priceless" and some youth have stated they gave up substance abuse after attending. The program has gained

recognition by the federal government's National Registry of Evidence-based Programs and Practices.

QR paralegal Kellie Taylor attended the Reality Tour in June with her husband and son. Kellie related: "It was unbelievable! When we arrived, each one of us were 'addicted' to some sort of drug and then given information about that drug and what it does. We went from watching a short movie with emergency room footage to witnessing an arrest while taken through the holding cells in the courthouse to a emergency room scene with a doctor and nurse trying to revive a teenager who overdosed on drugs. We watched the parents come in to see their son on the stretcher and then attend the funeral of their son. They had a detective speak to us about drugs in our area and three recovering addicts speak to us about their situation. It really was nicely done and my son learned a lot of eye-opening information."

While Reality Tour accepts registration from their school partners first, anyone can register for an upcoming presentation via the website www.RealityTour.org. Group requests can be made by calling 724-679-6612. Registration is only accepted with a parent attending and the fee is \$5 per person.

Address Service Requested

