

Legal Report

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Settlements for Personal Injury Cases Relieve Financial Stress

Jeffrey Freedman Attorneys at Law recently settled two personal injury cases, obtaining \$265,000 for one client and \$180,000 for another.

In the first case, a 23-year-old client riding a motorcycle home from work was cut off by the driver of a car who suddenly turned left directly in front of him. To avoid T-boning the car our client laid his motorcycle down, sliding into the other vehicle. He fractured his lower leg, requiring surgery, and broke several ribs. After four days in the hospital he returned to his home, walking with the use of a walker and unable to put any weight on his fractured leg.

It was five long months before the young man could return to work. He went through many weeks of painful and difficult physical therapy and was unable to do most of the normal activities he enjoyed. Fortunately,

ly, he is now able to work again at his normal capacity and is returning to all of his activities. He has been left with a slight limp, although has been told that will disappear in time.

The physical stress of this injury was significant, but the injury would have been more devastating if the client had not received financial support for the time he could not work. Our firm worked to ensure all of his medical bills were paid and that he received disability income while he was off work. Eight months after the accident Jeffrey Freedman Attorneys at Law obtained a settlement of \$265,000 for the pain and suffering this young man endured because of the carelessness of another driver.

In the second case, a 76-year-old woman was on her way home from Evening Mass on New Year's Eve 2008 in a car driven by her husband. On the way, a tractor-trailer making a delivery began to back across the two-lane highway they were following. Blinded by the headlights of the truck, the husband hit the side of the trailer, crushing the passenger side of the couple's car. The damage was so extreme our client had to be cut out of the car by the fire department.

An orthopedic surgeon at the hospital determined the women had suffered a displaced fracture to her right hip and a closed head injury. Several days later she was operated on and the hip was repaired with pins. Unable to return home, the client went to a rehabilitation facility for physical therapy for several weeks, followed by in-home care and outside physical therapy. It was two years before she recovered from this injury.

While the client was recovering, Jeffrey Freedman Attorneys at Law handled the no-fault insurance claim to ensure all of her medical bills were paid. We then negotiated a settlement with the trucking company and the husband's insurer, ultimately securing \$180,000 for her pain and suffering.



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Senate Takes Steps to Protect Consumers From Debt Settlement Firms

Debt settlement firms, which take exorbitant upfront fees from customers promising they can reduce credit card debts to pennies on the dollar, have been under investigation for advising clients to stop paying bills and overstating their abilities to reduce debts.

Many of these firms were also using the government bailout of troubled banks to lend themselves credibility. At a recent Senate commerce committee meeting, the Government Accountability Office (GAO) introduced audio recordings of debt settlement firm representatives telling clients their companies were “government approved” and linked to the bailout.

The industry defends itself through two associations, the U.S. Organizations for Bankruptcy Alternatives (USOBA) and the Association of Settlement Companies (TASC). These groups claim their members fully disclose the terms of their contracts and are prohibited from telling clients to stop paying bills. The GAO, however, found this is not the case.

Debt settlement firms also routinely claim they are successful in get-

ting credit card companies to accept low settlements in 85 to 100 percent of cases, when the actual success rate is less than 10 percent.

Senator Charles E. Schumer, (D-NY) recently introduced the Debt Settlement Consumer Protection Act to protect debtors from these practices, which can be financially injurious to consumers, putting them deeper in debt and affecting their credit scores. Schumer’s bill ensures debt settlement firms use written contracts disclosing services to be provided, listing the consumer’s debts, all fees and compensation due to the firm, a good faith estimate of the total amount to be paid by the consumer, and cancellation and refund policies.

Paul C. Atkinson, president and CEO of Consumer Credit Counseling Service of Buffalo, Inc, says: “We have seen first hand the horrendous injustices Debt Settlement Companies have created for consumers through their deceptive and dishonest practices.

“Consumers deserve the right to know what they will receive, what they will pay . . . and the expected

outcome. Debt Settlement Companies have never delivered on these points . . . now they will be required to conform to sound business practices and standard regulatory supervision.”

The bill also mandates fees cannot be collected until the consumer receives proof the debt has been settled, and limits the fees to be “reasonable and commensurate to services provided.” It will be enforced by the Federal Trade Commission and state Attorneys General, plus it leaves the door open for States to provide additional protection through their own legislation.

Senator Schumer is to be commended for drafting a bill that will put a stop to the deceptive debt settlement advertising currently bombarding debtors.

The current recession has put many responsible people into debt who would normally pay their bills. The first step for anyone feeling overwhelmed by debt or being harassed by creditors should be to contact Consumer Credit Counseling Services, or a reputable law firm.



Brian Knauth Appears on AM Buffalo

The attorneys of Jeffrey Freedman Attorneys at Law frequently make appearances on local television and radio programs regarding our areas of expertise. Attorney Brian D. Knauth of Jeffrey Freedman Attorneys appeared on WKBW-Channel 7’s AM/Buffalo television program on March 30, 2010. Mr. Knauth was interviewed by Linda Pellegrino, AM/ Buffalo’s long-time host, regarding Personal Injury law and litigation, and important information everyone should know regarding their rights as an injured person. Jeffrey Freedman Attorneys takes pride in these types of appearances, and feels privileged to be able to share our expertise with our community. If your group would like to schedule a speaker, please email your request to info@jeffreymfreedman.com.

Initiating a Social Security Disability Claim.

Deciding whether or not to pursue Social Security disability benefits is not an easy decision. Beginning the process can be overwhelming, and often our clients have many questions at the outset. Clients often have questions regarding what it means to be disabled, what types of benefits exist, eligibility, and the initial application or claim process.

Q. Am I disabled? How does Social Security define “disability”?

A. Under the Social Security Act, “disability” means “inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.”

Q. What are Social Security disability benefits?

A. The two most frequently utilized types of Social Security disability benefits are Disability Insurance Benefits, and Supplemental Security Income. Disability Insurance Benefits will go to individuals who have worked in recent years and who are now disabled. These benefits are based upon an individual’s earnings record. In an individual does not have an earnings record, or last worked several years ago, that individual may qualify for Supplemental Security Income (SSI) benefits. These are benefits paid to individuals who are poor and who are disabled. It does not matter for SSI whether an individual has worked in the past or not, as the benefits are based upon need.

Q. How long must I wait after becoming disabled before I can file for Social Security disability benefits?

A. You can file your claim immediately. In fact, you are able to file for Social Security disability benefits on the very same day that you become disabled. Many of our clients assume that they must wait months or even years after becoming disabled before filing a Social Security disability claim. If you are suffering with a serious illness or injury and you expect to be out of work for one year or more, do not delay in filing your claim for Social Security disability benefits.

Q. I am 75% disabled. Do I get 75% of my Social Security disability benefits?

A. No. For purposes of Social Security disability benefits, you either are disabled or you are not. There are no percentages of disability, nor any percentages of disability benefits.

Q. I have several health problems, but no one single one disables me. It is the combination of my health problems which make me disabled. Can I get Social Security disability benefits?

A. Social Security should consider a combination of impairments that an individual suffers from in determining disability. Many, if not most claimants for Social Security disability benefits have more than one health problem and the combined effects of all of the health problems must be considered.

Q. I was hurt at work, and I am now receiving worker’s compensation. Should I file my claim for Social Security disability benefits now or wait until the worker’s compensation ends?

A. There is no need to wait until the worker’s compensation ends and you should not wait that long. An individual can file a claim for Social Security disability benefits while receiving worker’s compensation benefits. We advise our clients to file the Social Security disability claim as soon as possible to avoid any gap between the time the worker’s compensation ends and the Social Security disability benefits begin.

Q. Can I get both worker’s compensation and Social Security disability benefits?

A. Yes. There is an offset, which can reduce Social Security disability benefits because of worker’s compensation benefits paid, but in most cases, there will still be some Social Security disability benefits to be paid.



Personal Injury Law Protects Rights of Injured

Personal injury law, also known as tort law, provides justice to those who have been injured due to the fault of someone else. The goal of a personal injury lawyer is to obtain fair compensation for the injured party. While no amount of money could undo physical injuries and their emotional consequences, the legal system affords a victim an opportunity to recoup some quality of life.

"The most common type of personal injury claims are **negligence cases**," according to Christopher C. Kerr, head of the Personal Injury Department at Jeffrey Freedman Attorneys at Law.

Automobile accidents provide a good example of how negligence law works, he says. Drivers are required by law to exercise reasonable care any time they are on the road. When you are seriously injured by a driver who has neglected that responsibility, such as by driving while intoxicated, being overtired or disobeying the rules of the road, you are entitled to receive compensation for your pain and suffering and other damages.

Likewise, property owners and businesses can be held accountable through personal injury litigation for negligently causing injuries.

Another legal basis for bringing a personal injury law suit is called "**product liability**." Product liability holds designers, manufacturers and retailers responsible for injuries caused by defective products. Such products could include machines, drugs or even food.

"In a case that involves product liability, the injured party does not need to show the manufacturer negligently made the product," Kerr says. "You could instead prove the product was designed or made so that it was dangerous or defective when used as intended."

"**Strict liability**" standards are applied for many construction worker and railroad employee injury cases. Despite the name, strict liability law actually makes it easier for employees engaged in certain high risk jobs to sue for damages. For example, workers injured during demolition, excavation and construction have to be protected from falling or

having objects fall on them. Violations of these sections of the New York State labor law result in strict liability against contractors and commercial property owners. Also, if strict liability is found to apply, then a defendant cannot blame the accident on the injured worker's actions. Strict liability (and negligence) law suits against non-employers are possible even though the injured worker receives Workers Compensation benefits.

Dog bite cases can be based on strict liability or negligence. If the offending animal has known vicious tendencies, the dog owner is automatically liable. However, an owner can also be liable for bites when he negligently allows his dog to run loose in violation of leash laws in force in many communities.

"The main issues in all personal injury cases are: Is the offending party liable, and what are the damages suffered by the plaintiff," Kerr says. "If you can prove both, our legal system says you have a right to be compensated for your losses."

Your First Consultation is Always Free

You should not have to travel far to receive expert legal service. That's why we have 13 offices conveniently located throughout Western New York. You can make an appointment with one of our attorneys at the office nearest to you.

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Jeffrey Freedman in the News

- Attorneys Kevin J. Bambury, Paul M. Pocheban and Regina A. Walker were featured panelists at the 7th Annual Western New York Bankruptcy Conference, held on May 14, 2010 in Batavia, New York. They discussed practice pointers for bankruptcy attorneys in Chapter 7 and Chapter 13, as well as recent case law developments.

