

Legal Report

www.jeffreyfreedman.com

Freedman Firm Obtains \$1.5 Million for Injured Client

When our client Joe Smith, a construction worker, fell through a weak spot on the top of an old building, his employer chose to deny the accident had happened. Joe was off work for several months following the accident, which severely injured his back. Wanting to work, he tried light duty for a short time before returning to his regular job for almost a year but found he could not continue to work through the excruciating pain.

"At the time he called us he had not been receiving Workers' Compensation and had been turned away by others," said Edward Murphy, attorney, Jeffrey Freedman Attorneys at Law. "He eventually began to collect Workers' Comp benefits while we worked on the accident case and the Labor Law violations that had occurred."

Joe had already gone through a long period without income, so the firm also helped him ob-

tain Social Security Disability benefits while it was doing the extensive research required to build the personal injury case



and charge of unsafe working conditions. During that time, he went through more pain and suffering, requiring surgery.

"In this case the client was only 51-years-old and had at least 15 years of work in front of him," said Jeffrey Freedman. "This injury prohibited him from working and supporting his family as he had been doing for the past 25 or 30 years. He deserved a better option."

Murphy was preparing for jury selection when the insurance

company for the defendants agreed to settle the claim, agreeing to pay Joe \$1.2 million.

"We felt it was a strong case, and, ultimately, the other side agreed," Murphy said. "It was a lengthy process; however, all of Joe's medical bills will be taken care of, and he will get a generous lump sum with the remainder of the settlement paid out over the coming years."

Another attorney from the Freedman firm, Regina Walker, represented the client in a hearing for Social Security Disability benefits. The Administrative Law Judge found our client disabled and eligible for SSD benefits that will total approximately \$300,000 in future benefit payments.

His total award, including monthly income related to his personal injury settlement and his Social Security Disability benefits will help Joe and his family continue life much as it was before the accident. However, no amount of money can make up for the pain and suffering he has been through and will continue to experience.

"It's gratifying to be able to help, particularly when the odds seemed stacked against the individual, and he was beginning to lose hope for his future," Freedman said.

Inside

September 2010

Veteran Receives Fully Favorable
Decision Awarding Him Social
Security Disability Benefits.....2

The Facts About 'Tort Reform'3

Jeffrey Freedman Attorneys at
Law Obtains SSD Benefits for
17 Clients in One Day4

Veteran Receives Fully Favorable Decision Awarding Him Social Security Disability Benefits

After nearly three years, 33-year-old Iraq War veteran and Buffalo resident, Ramon Suarez, Jr., received a favorable decision on his Social Security Disability claim with the help of attorney Paul M. Pocheban. When the Social Security Administration denied Mr. Suarez's initial claim in May 2008, he contacted Jeffrey Freedman Attorneys. Citing the claimant's age and the nature of his disability, Mr. Pocheban recognized the challenges involved in the case and chose to go ahead with the appeal that summer.

"He's had his share of hardship," Mr. Pocheban explained.

Already seeking treatment for PTSD and depression brought on by combat experiences in Iraq from 2002-2004, Mr. Suarez sustained painful injuries from an automobile accident in May 2007. The accident resulted in cervical spine disc herniations causing spinal cord impingement, lumbar spine disc herniation, and a diagnosis of myofascial pain

syndrome, a chronic form of muscle pain. Mr. Pocheban observed that the automobile accident "triggered a lot of emotional problems based on some of the things he was exposed to in Iraq." In the months after the accident, Mr. Suarez battled panic attacks and nightmares from his years in the military and decided to apply for SSD benefits in November 2007.

"I had nowhere to go," he reflected. "There was nothing else I could do."

The combination of Mr. Suarez's physical and mental impairments proved sufficient grounds for awarding benefits. The adjudicator stated that the claimant could not sustain a job full time, and the hearing in March 2010 resulted in a fully favorable decision. Mr. Suarez, his wife, and two children are now also beneficiaries of his successful SSD claim.

Every favorable decision from the SSA comes with the possibility of a periodic review of the claim, which may not occur for years.



"There is a higher likelihood the SSA will review his claim," Mr. Pocheban stated. "They have a tendency to check up on younger people to see if there has been any medical improvement."

For the moment, however, Mr. Suarez looks forward to a brighter future. "Winning my case felt like a big weight was off my chest. Now, I'm just trying to catch up on bills and stay out of debt."

Nationally, Bankruptcy Filings Approach Five Year High

The Administrative Office of the U.S. Courts reports there were 422,061 bankruptcy filings across the United States between April and June. This is an increase of 9% over the previous three months and an 11% increase from the previous year. For the fiscal year ended June 30th, bankruptcies rose 20% from the previous year (1.57 million compared to 1.31 million). With our slow economy and unemployment nearing double digits, bankruptcy filings reaching a five year high is really no surprise.

The primary reasons people end up filing are the result of one or more of the following:

- Job loss
- Underemployment – jobs that do exist are lower paying. Even though those who lose their job may find another one, it's often at wages too low to make ends meet
- High medical bills
- Divorce
- Falling home prices

For many who were laid off at the start of the recession, some are just now filing for bankruptcy after being unable to find a job. Typically, before filing, our clients have used their savings and retirement funds while they looked for work. In many cases, they also ran up credit card debt to pay their bills. Bankruptcy is the last resort for many seeking relief from debt, unemployment and the economic downturn.

Keep up to date with the latest Bankruptcy, Social Security Disability and Personal Injury information by visiting www.jeffreyfreedman.com

The Facts About 'Tort Reform'

In the United States there is a perception we are a "litigious" society and our courts are overflowing with "frivolous" lawsuits. This perception is behind a movement for tort reform: changes in the court system that would limit the awards for personal injury and medical malpractice lawsuits.

The reality is that tort cases (lawsuits against a company or person who has caused another person harm either on purpose or due to negligence), make up only 6 percent of the entire civil court caseload.

"Advocates of tort reform say that lawyers have a financial incentive to file frivolous cases, because they receive approximately 1/3 of the amount awarded in each case," said Christopher C. Kerr, the firm's senior partner handling Personal Injury cases. However the opposite is probably true: since lawyers are only paid a percentage if the case is successful, lawyers are very selective in the cases they accept. Additionally, this contingency fee system provides middle class and poor people equal access to the best attorneys by not requiring them to pay attorney's fees up front.

Reform advocates and the media have also perpetuated the myth that there are too many lawsuits by sensationalizing certain cases.

"Most people remember the case where the 79-year-old woman sued McDonald's when she spilled hot

coffee on herself and she was initially awarded \$2.7 million in punitive damages. This award was meant to



punish McDonald's for callous and willful misconduct," Kerr said. "The trial judge later reduced the amount to less than one-fifth of the original jury award. Later, when the woman accepted an even smaller amount in a confidential settlement, the media barely reported it."

The truth in this case, Kerr said, was that McDonald's had continued to serve coffee at 180 to 190 degrees even though it had seen warnings published by the Shriner's Burn Institute in Cincinnati stating that hot beverages should be no more than 130 degrees. They were also using cheaper cups than recommended, and had already had complaints from 700 individuals (including in-

fants) who were burned by their hot beverages. Despite these warnings, McDonald's made no changes. Sub-

sequently, the plaintiff in the case was injured, with third degree burns over 16 percent of her body. She was hospitalized for eight days, and endured skin grafts, scarring and disability for more than two years after the incident.

Though sensationalized, this was not a frivolous case.

According to the Rand Institute for Civil Justice, each year one in six Americans sustains an injury serious enough to cause some economic loss. Only 10 percent of those injured file any type of claim including informal demands and insurance claims, and in the end only two percent actually ever file a lawsuit.

Without lawsuits we would not have the standard workplace safety requirements and the limitations on corporate behavior that are now in place. McDonald's would still be serving coffee at 180 degrees in cups that were designed to hold a hot beverage at 130 degrees.

"Tort reform caps ignore how much merit a case has, the severity of the victim's injuries, and the extent of the defendant's misconduct. Those who will be hurt the most by tort reform are those who suffer the most catastrophic injuries," Kerr said. "Our jury system should be allowed to continue to provide fair trials for victims in civil cases."

Career Opportunities

Due to growth in our three practice areas: Social Security Disability, Bankruptcy and Personal Injury, we have openings for paralegals and general office help. Full and part time positions are available. We

are looking for candidates that have a college degree or are currently in college, are well organized and like working with people. Submit resumes to : info@jeffreymfreedman.com attention HR Department

Jeffrey Freedman Attorneys at Law Obtains SSD Benefits for 17 Clients in One Day

In a record-breaking day for the firm, seventeen clients of Jeffrey Freedman Attorneys at Law received favorable decisions on Friday August 6, 2010. Either independently or with the help of the firm, each client filed an initial claim, which the Social Security Administration later denied. The majority of these seventeen clients were required to have hearings before an Administrative Law Judge. Following the hearing, each of the seventeen clients was awarded benefits.

When a lawyer at Jeffrey Freedman Attorneys takes on an SSD case, thirty years of experience back the claim. We know the intricacies of obtaining benefits and can guide clients through the laborious process of applying and then appealing initial decisions since most cases are won at the hearing stage. We develop a strategy to win the claim from start to finish. Informative staff complete and file applications, obtain medi-

cal records from doctors' offices, and maintain frequent contact with the SSA to ensure the claim moves



efficiently, always with the clients' interests in mind.

The seventeen claims covered a wide range of disabilities, which include depression, anxiety, PTSD, diabetes, asthma, fibromyalgia, and congestive heart failure, as well as back, neck, and spinal injuries.

The SSA developed stringent criteria for claimants to receive benefits,

and most claimants must go through the process of an appeal. In many cases it takes between two and three years to obtain a favorable decision, and the stress of waiting adds to the difficulties our clients already face. After they win their claim and begin collecting benefits, many clients experience feelings of relief.

The combined amount these seventeen clients stand to collect is estimated to exceed \$4 million. With an average claimant age of 44 years, however, it is likely that the SSA will review the claims every three to five years to see if any of the disabled clients' conditions have improved.

Regardless of the increased possibility of review, these favorable decisions give our clients hope in the midst of otherwise devastating life experiences. We congratulate each of these seventeen people on their successful claims and take great pride in having helped them obtain the benefits they deserve.

Your First Consultation is Always Free

You should not have to travel far to receive expert legal service. That's why we have 15 offices conveniently located throughout New York and Pennsylvania.

You can make an appointment with one of our attorneys at the office nearest to you.

Batavia • Buffalo • Canandaigua • Cheektowaga
Dunkirk • Erie, PA • Greece • Hamburg
Henrietta • Jamestown • Lockport
Niagara Falls • Olean • Syracuse • Tonawanda

Call us today!
1-800-343-8537 Toll Free
www.jeffreyfreedman.com

Jeffrey Freedman Attorneys in the News

- Christopher Kerr, Esq. is celebrating his 24th anniversary with Jeffrey Freedman Attorneys at Law, as managing partner of the Personal Injury Department.

