

NWPA ALF

SEPTEMBER EDITION



Labor Day was declared a national holiday in 1894 and is observed on the **first Monday in September**. The roots of Labor Day grew out of violent clashes between labor and police during the Haymarket Riot in 1886, when thousands of workers in Chicago took to the streets to demand an eight-hour workday.



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BICYCLE ACCIDENTS

By Signe O'Brien Rudberg, Esquire
Edgar Snyder & Associates, LLC

In the current times of rising gasoline prices, more and more people are opting to commute to work on bicycles. When added to the already large contingent of recreational cyclists, there are thousands of people in our region who are forced to share the road with motorists. Defined bike lanes on roads in the area are a rarity, thus narrowing the space between car and bicyclist even further.

Bicycle Accident Injuries

Injuries suffered due to bicycle accidents are often severe because of minimal body protection, awkward falls, and the speeds involved. Some of the potential injuries include severe head and skull fractures, a myriad of broken limbs, and life-threatening spinal cord injuries stemming from trauma to the neck and back. The risk of serious injury is increased for bicycle accidents because many victims of cycling accidents are children.

Bicycle vs. Automobile or Truck

The majority of bicycle accidents involve a cyclist and a motor vehicle. Some bicyclists assume that if they were not actually hit by a car then they have no claim; this is incorrect. Cyclists can recover for any accident that was caused by the negligence of a driver. This includes scenarios such as crashing due to taking evasive action to avoid a vehicle or being run off of the road by a driver who is not paying attention to his or her surroundings.

When you are involved in a bicycle accident caused by a car or truck, it is generally treated as a motor vehicle accident. Regardless of the fact that you were on a bicycle, the accident will be handled through the driver's and your own car insurance policies. In these situations it is important to note what coverage you have chosen on your car insurance policy:

- Uninsured Motorist Coverage
- Underinsured Motorist Coverage
- Full Tort
- Limited Tort

Uninsured Motorist Coverage (UM)

If you chose this option it is extremely beneficial when the at-fault driver has no car insurance to pay for your injuries. In Pennsylvania, drivers are required to have car insurance, but many cannot afford it, so your car insurance policy will act in place of the at-fault driver's, and pay out to you for your injuries.

Underinsured Motorist Coverage (UIM)

If you chose this option it assists you in recovering the full amount needed for your injuries. In Pennsylvania, drivers are required to have car insurance, so this leads many to simply purchase the cheapest, legal policy available. Most of these only pay \$15,000.00 towards injuries to another. In this situation, where the at-fault driver is under-insured, your car insurance policy will make up the monetary difference between what the at-fault driver's policy paid and what was actually needed for your injuries.

Full Tort / Limited Tort Liability

This option makes a world of difference in a motor vehicle accident as far as determining damages for which you can sue. However, in a vehicle/bicycle accident where you are the victim, this option is moot. All bicycle claims are allowed to be full tort, regardless of what your car insurance might reflect. This means that you can sue for all damages including medical bills, wage loss, pain and suffering, loss of future earnings, emotional distress and disfigurement, to name a few. If you were stuck with limited tort liability then you could only sue for medical bills and wage loss. The full tort status for bicycle claims allows for greater settlement potential.

Insurance Claims

These insurance claims can become extremely complicated and it is in your best interest to contact an attorney as soon as possible after your accident so that we may assist you. In the situation where the driver has no insurance and you do not have car insurance, there are resources in Pennsylvania designed to assist you in paying for your medical bills. Please contact our firm so that we can help you get these important benefits.

Bicycle Laws

Simply being in a bicycle accident does not absolve you from all responsibility. Just as a driver has a duty of reasonable care to all bicyclists and pedestrians, bicyclists also have a duty to follow the Pennsylvania bicycle laws (<http://www.dot.state.pa.us/bike/web/bikelaws.htm>). It is important that you adhere to the laws when you are riding, as failure to do so may hurt your potential claim.

Bicycle vs. Ground or Unsafe Condition

Bicyclists could also sue for any other negligence that caused them to crash, resulting in injuries. The poor design or deteriorating condition of roadways, parking lots, or sidewalks, which caused your accident, would be prime examples of other potential negligence claims.

Statute of Limitation

If you or a family member is a victim of a bicycle accident due to a vehicle or an unsafe condition, please call Rudberg Law Offices, LLC for a free consultation.

Please remember that adults only have two (2) years from the date of the accident in which to file a claim and children have two (2) years from their 18th birthday to file a lawsuit for their injuries. It is always best to pursue a claim as soon as possible, as it can become difficult as time passes. It always helps to gather as much information as possible about the accident, including insurance information, the description of the vehicle, license plate number, and pictures of the scene.

Additional Information

For additional information, you may find the following links useful:

National Highway Traffic Safety Administration:
www.nhtsa.dot.gov – click on Traffic Safety

Pennsylvania Department of Transportation, Bicycle Safety: <http://www.dot.state.pa.us/bike/web/safety.htm>

If you need assistance with this or any Work Comp or any injury issue, please feel free to contact Signe O'Brien Rudberg at Edgar Snyder & Associates toll free at 1-866-306-2667 or email srudberg@edgarsnyder.com.



US Steel Tower 10th Floor, 600 Grant St, Pittsburgh PA 15219
1.866.306.2667 – 412.488.6000
www.edgarsnyder.com

Know Your Rights

Protect Your Rights!

This article is for informational purposes and is not a substitute for the legal advice of a qualified attorney.



ERIE-CRAWFORD CLC CRAWFORD COUNTY FAIR AUGUST 2023



A SPECIAL THANK YOU TO SHANE CLARK AND ANGEL NEGRON FOR STAFFING THE BOOTH A LOT DURING FAIR WEEK!

CELEBRATING LABOR DAY
MERCER COUNTY CLC
HERMITAGE, PA
THIS IS HOW IT STARTED . . .





CELEBRATING LABOR DAY MERCER COUNTY CLC HERMITAGE, PA



**THANK YOU TO ALL
WHO PARTICIPATED!**

CELEBRATING LABOR DAY ERIE CRAWFORD CLC ERIE, PA





CELEBRATING LABOR DAY ERIE CRAWFORD CLC ERIE, PA



CELEBRATING LABOR DAY GREATER WESTMORELAND COUNTY





CELEBRATING LABOR DAY

**IF YOU HAVE ANY PICTURES YOU
WOULD LIKE TO POST IN THE NEXT
EDITION OF THE NEWSLETTER
(OCTOBER), PLEASE SUBMIT BY
SEPTEMBER 25TH**

**WE HOPE YOU ENJOYED THE LABOR
DAY WEEKEND!**

Can I Receive Worker's Compensation for a Heart Attack?

By Thomas G. Smith, Caroselli, Beachler & Coleman LLC

Under the Pennsylvania Worker's Compensation Act, an individual may recover benefits for a heart attack suffered at work or soon thereafter.

Section 301 of the Act generally provides that an employer is liable for compensating personal injury or death to each employee if the injury occurs in the course of his or her employment. Pre-existing diseases of the heart that are aggravated by exertion while at work are compensable if an actual heart attack occurs or the employee suffers other disabling symptoms due to an underlying heart disease. This is because the definition of "injury" in the Act means any injury to the employee regardless of his or her physical condition.

However, heart attacks do not necessarily have to occur on work premises to be compensable—they may even occur on the way home from work. There are a few important considerations when an employee suffers a heart attack, such as:

- Working extended hours for days at a time;
- Hot and humid working conditions;
- Heavy, strenuous work activities.

The facts surrounding the situation are vital to prove that a heart attack is related to an employee's work. Employers often argue that the employee was smoker, had poor diet, was overweight, or had pre-existing conditions. However, the Pennsylvania Worker's Compensation Act also provides benefits for aggravations of pre-existing conditions, and a physician may be necessary to testify about the relationship between aggravation of a pre-existing condition and work activities on or around the time of the heart attack.

Most importantly, if you or a co-worker have a heart attack at work or soon after work, it should be evaluated as potentially compensable under the Act and entitling you to payment of compensation and medical expenses. If you have suffered a heart attack that you believe may be related to your employment, call Caroselli Beachler and Coleman, LLC. With over 50 years representing injured workers, our attorneys at Caroselli Beachler & Coleman can quickly identify a work-related heart attack and take steps to preserve your rights, and consultations are free. We can be reached toll-free at 1-800-222-8816 and would be happy to sit down with you, your family member or friend to review your case.

CAROSELLI BEACHLER & COLEMAN, LLC
REPRESENTING INJURED PERSON AND THEIR FAMILIES THROUGHOUT
WESTERN PA SINCE 1972.

NO FEES UNLESS DAMAGES ARE RECOVERED.



NOTICE REVISITED

Earlier this year, we had an article reminding about NOTICE, its importance under the Workers' Compensation Act, and the steps to provide notice. A recent Commonwealth Court case has reiterated that a worker must give more specific notice than some might think, so a discussion of that case is important.

Shawn Woodhouse, an employee of The Hershey Company, was a diabetic, with a history of diabetic neuropathy, who started work for this employer in May 2017. Because of the requirements of his work footwear and of his job duties, he developed a diabetic foot ulcer and was off work for a time. When he was released to return to work in September 2017, his doctor asked that he be able to wear regular shoes to work, which was accommodated.

On November 6th, Mr. Woodhouse passed out at work, was taken from work in an ambulance, and was admitted to the hospital, where he underwent emergency foot surgery. On January 2, 2018, he advised the employer that he had undergone this surgery, and was awaiting a release to return to work. He did return in March 2018, but a month later he underwent a below the knee amputation. He never returned to work thereafter.

Mr. Woodhouse filed a workers' compensation claim in December 2019, alleging that he suffered the aggravation of his pre-existing diabetic neuropathy/diabetic foot ulcer as of November 6, 2017, resulting in the ultimate amputation. The employer denied the allegations in the Claim Petition, and as an affirmative defense alleged that its first NOTICE of the claim was when the Claim Petition was filed, over two years after the injury. The Judge awarded benefits, but not for the entirety of the employee's loss—rather, the Judge found that the employer had notice that the foot surgery in November 2017—taking the remainder of Mr. Woodhouse's toes on his right foot—was related to his work, but that the further amputation was not compensable. Both parties appealed to the Workers' Compensation Appeal Board, and the Board reversed the Judge's denial of compensation for the below the knee amputation; the Board found that the employer was responsible for the entirety of the amputation. The Board reviewed the WCJ's determination that notice was timely—which the Judge had indicated was “a close case”—affirming the Judge's determination that the employer had CONprior reports of his diabetic foot ulcer, the work restriction/requirement that he wear alternative footwear as well as “access to employee's medical records.” Based on this determination, the Board found that the entirety of this injury was compensable, and awarded benefits. The Hershey Company appealed to the Commonwealth Court.

The first thing the Court does in its discussion of the case is remind that notice must be given within 120 days of the injury; that is contained in Section 311 of the Act. The Court then notes that, in Section 312 of the Act,

“The notice . . . shall inform the employer that a certain employe received an injury, described in ordinary language, in the course of his employment on or about a specified time, at or near a place specified.”

At hearing, Mr. Woodhouse testified that he believed his foot condition—initially the amputation of his toes in November 2017—was aggravated by and related to his work injury when he went off work and was hospitalized in November 2017. He agreed that he did not say anything to the employer about the relationship at that time. Mr. Woodhouse said it was “because they never asked.” The Court then stated—notably, the employee wasn't aware that his toe amputations were work-related until after discussion with his doctor—but expected his employer to be aware that they were work-related.

Specifically with respect to what he reported to his employer, Mr. Woodhouse was questioned on cross-examination about his understanding from the time of his orientation that he was to immediately notify the employer about any work-related or suspected work-related injuries. When he notified the employer in January 2018, the information provided was as follows:

“My name is Shawn Woodhouse and in November I was taken from work to Hershey Med[ical Center]. I had emergency surgery on my foot. I am healing nicely and I am awaiting the approval to be in a normal shoe and return to work. I will be sure to give you all notes and releases before doing so.”

The Commonwealth Court did not believe that this notification performed the function required by Section 312 of the Act, quoted above, and did NOT notify the employer that he considered the surgery to be related to his work, or that he considered his underlying pre-existing condition to have been aggravated by his work duties. Mr. Woodhouse argued—appropriately—that an individual can give notice in a “series” of communications to the employer, based on a holding in a prior Commonwealth Court case. However, in his case, the Court reminded, that permission for a “series of communications” is in a case where an individual does not necessarily know that the condition is work-related, and learns as he/she is exploring the medical condition with providers. In this case, Mr. Woodhouse testified that he knew when his toes were amputated in November 2017 that work had aggravated that condition, but did not notify the employer.

Please understand that, had his January 2018 report included a sentence that his doctors had told him that this was work-related, or he BELIEVED IT TO BE work-related, that would have been sufficient, because his January 2018 communication with the employer was within 120 days. Similarly, if he had said in that communication that he and his providers were “exploring” or “evaluating” whether the condition was work-related, the Court would likely have upheld the award of benefits made by the Appeal Board. Here, the last communication in the series of communications was the filing of the Claim Petition in December 2019, well after 120 days, and the Court held that this was the first time that the employer was notified that Mr. Woodhouse considered the amputation to be related to his work duties.

While the Act is to be liberally construed, this case is a harsh reminder that if a worker knows or SUSPECTS that some condition/ diagnosis is related to work, it is better to advise the employer right away, and clearly within the 120 day notice period (sooner the better). If later testing/treatment/medical opinion dispels the work-related diagnosis, then nothing has been lost—but the failure to give NOTICE of a condition suspected to be work-related can mean that the claim is denied on what many might see as a “technicality.” The Commonwealth Court reminded us in Mr. Woodhouse’s case that NOTICE is not a “technicality” in some cases.

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412-391-0775
1-800-343-9384
bsh@bshlaw.net



NWPA ALF Blended Meeting

Meeting 7:00 PM on Wednesday, 9/27/23

EBoard 6:00 PM

In person: AFSCME DC 8 Hall

1276 Liberty St Franklin, Pa 16323 or via Zoom

Special Speakers—TBD

RSVP 814-450-6520 or director.nwpa.alf@gmail.com

BEAVER-LAWRENCE CLC:

MEETING 7:00 PM

MONDAY, 9/18/23

IBEW 712 HALL
217 SASSAFRAS LANE
BEAVER, PA 15009

FOR MORE INFORMATION CALL
724-971-7473

ERIE-CRAWFORD CLC

MEETING 6:00 P M

WEDNESDAY 9/6/23/23

ADMIRAL ROOM-BLASCO
LIBRARY 160 W. FRONT ST
ERIE ,PA 16507

FOR MORE INFORMATION CALL
814-823-9940.

MERCER COUNTY CLC:

MEETING 7:30 PM

THURSDAY 9/21/23

USW 1660 HALL
1028 ROEMER BLVD
FARRELL, PA16121
FOR MORE INFORMATION CALL 724-
854-0605.

BUTLER COUNTY CLC:

MEETING 7:30 PM ON WEDNES-
DAY, 9/6/23

UAW 3303 HALL
112 HOLLYWOOD RD., BUTLER,
PA 16003

FOR MORE INFORMATION CALL
724-285-4883 EXT. 233

**GREATER WESTMORELAND
CLC:**

MEETING 7:00 PM ON MONDAY,
9/18/23

HEMFIELD VFD
421 THORNTON RD., GREENS-
BURG 15601

FOR MORE INFORMATION CALL
724-600-6266.

VENANGO-CLARION CHAPTER:

BLENDED MEETING 6:00 PM
THURSDAY, 9/14/23

IAM 1842 HALL
24 FRONT ST
FRANKLIN 16323

FOR MORE INFORMATION CALL 814-
671-4420.

**CLEARFIELD-ELK-CAMERON-
JEFFERSON (POTTER) CLC**

BLENDED MEETING 7:30 PM

THURSDAY, 9/7/23

IBEW LU5
1400 LEONARD ROAD
CLEARFIELD, PA16830

FOR MORE INFORMATION CALL
814-937-2208.

INDIANA-ARMSTRONG CLC:

BLENDED MEETING 7:30 PM
THURSDAY 9/28/23

UMWA 1412
51 ELEVENTH ST
LUCERNEMINES, PA 15754

FOR MORE INFORMATION CALL
724-479-0923.

WARREN-FOREST (McKEAN) CLC:

BLENDED MEETING 6:00 PM THURS-
DAY, 9/7/23

IUOE 95 HALL
116 DOBSON AVE
WARREN 16365

FOR MORE INFORMATION CALL 814-
730-7558



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Vice-Chair Richard Galiano
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Director NWPA ALF

Amy Alcorn

**NWPA AREA LABOR FEDERATION,
AFL-CIO'S**

CODE OF CONDUCT

*THE NWPA AREA LABOR FEDERATION, AFL-CIO IS
COMMITTED TO PROVIDING AN ENVIRONMENT FREE*

*FROM DISCRIMINATION AND HARASSMENT, REGARD-
LESS OF AN INDIVIDUAL'S RACE, ETHNICITY, RELIGION,
COLOR*

*SEX, AGE, NATIONAL ORIGIN, SEXUAL ORIENTATION, DIS-
ABILITY, GENDER IDENTITY OR EXPRESSION, ANCESTRY,
PREGNANCY, OR ANY OTHER CHARACTERISTIC PROHIB-
ITED BY LAW.*

*AS, THE AFL-CIO WILL NOT TOLERATE DISCRIMINATO-
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CODE O CONDUCT AND EXPECTS EVERYONE IN THE
WORKPLACE—AND THOSE WHO PARTICIPATE IN ANY OF
ITS ACTIVITIES, EVENTS OR MEETINGS — ABIDE BY IT.*