

Personal Injury Law Podcast

by Rosenfeld Injury Lawyers

Work Injuries

Jonathan Rosenfeld:

Hello. I am Jonathan Rosenfeld. And thank you for joining me today with the Personal Injury podcast. and I am joined today by Gerald Bekkerman, a partner at Taxman, Pollock, Murray & Bekkerman in Chicago, and Jerry's got a laundry list of accomplishments in the legal world. But I think one of the things that stands out most is really his track record of success. Jerry and his law firm have recovered over \$400 million for people who have suffered injuries, and Jerry is really seasoned in what we're going to talk about today, which is third-party liability in work-related cases. And to give you an idea about this, just to give you a little bit of a lay of the land, if you will, if you are injured while working in Illinois or pretty much any state, you will be covered by workers' compensation. And workers' compensation, while it is great and it serves a very essential role, it does not necessarily cover you fully for your injuries.

Jonathan Rosenfeld:

And so today I am going to talk with Jerry about what a third-party case is, what situations may give rise to a third-party case. And then we're going to go through some, some sample third-party cases, if you will. And this is a really important topic. If you are any person who is injured while working or has a family member who is injured while working, a lot of times, these happen on construction sites or other situations where there may be multiple parties involved. So this is really important information. But first off, I just want to introduce Jerry and I want to really thank him for a taking the time out of his extremely busy schedule to join me today. So thank you, Jerry,

Gerald Bekkerman:

Of course, John, happy to help. I appreciate you having me on the podcast. One of my favorite topics, third-party claims and work injuries, kind of the bread and butter of our firm and something that a lot of people probably not a lot of knowledge on and miss out on opportunities for more recovery financially. So it's a really good topic. I'm happy to answer any questions.

Jonathan Rosenfeld:

Thank you. Well, I guess to begin with, if you are injured on the job in the state of Illinois, you are covered under workers' compensation and-

Gerald Bekkerman:

Correct.

Jonathan Rosenfeld:

We can have a whole podcast, I guess at one point about workers' compensation, but you're essentially entitled to three things with workers' comp in Illinois. You're entitled to basically your temporary total disability while you're unable to work, you're entitled to your medical bills, medical expenses related to

your injuries, and then you're entitled to a lump sum payment, which is essentially a scheduled payment based on the type of injury that you sustained and the amount of money that you were making at the time that you were injured. What this does not cover though, is it does not cover pain and suffering. It does not cover past or future wage loss. It does not cover disability.

Jonathan Rosenfeld:

It does not cover a lot of what we sort of refer to as non-economic damages or even economic damages. It's really basically intended to keep people from falling into a situation where they're destitute and completely reliant on the social support system of the state and the federal government if they're involved in a work injury. So while workers' comp does serve a vital role, today I want to talk with Jerry about a situation where there may be an entity or a party involved who's responsible for your injury who may not be or is not necessarily your direct employer. So Jerry, I think the best way to sort of get into this for those of us who haven't gone to law school is to really just maybe give a couple examples of what a third-party case may be because I think that may be a lot more illustrative than trying to explain the intricacies of this and the complexity of the law to someone. So can you just sort of give maybe a couple examples of a third-party claim?

Gerald Bekkerman:

Sure, sure. Of course. So the work comp you described, great. I mean, that's a no-fault. If you get hurt on the job in the state of Illinois, you're going to be entitled to two-thirds of your weekly wages up to a certain limit, your medical bills to be paid, and in the end, there's a formula that's statutory that gives you some amount of money. It's not going to be significant. There's no compensation for pain and suffering or non-economic damages or scarring or any of these things. But third-party cases is when you get hurt on the job, you can't sue your employer, but somebody else that's also on your job site that's not your employer, you don't work for them, contributes to or causes exclusively your injury.

Gerald Bekkerman:

So if you're a delivery driver and you pull up to a loading dock, and you're unloading your freight. And at the warehouse you're delivering to, some guy operating a forklift runs you over because they don't know how to operate a forklift. You can sue the warehouse for their employee's negligence and running you over with the forklift.

Gerald Bekkerman:

If you're delivering a beer to a bar, when you have to carry the beer downstairs into the coolers and there's no handrails, or the handrail broke, or there's slippery stairs and nobody put out a wet floor sign, and you slip and you fall down all those stairs and break a bunch of bones, yes, that happened on the job. But if it wasn't for the bar's negligence and making sure those stairs are safe, not slippery and up to code, you wouldn't have gotten hurt. You have a case against the owner of the bar, the manager, whoever.

Gerald Bekkerman:

If you're on a construction site... a lot of cases like these in our office... and you fall off a scaffold while you're a mason like brick, but the scaffold was set up by the general contractor on the site, but it was set up poorly. Scaffolding was loose, whatever, and the thing collapses, you go down, you fall, you break your wrist. You can't do masonry work for maybe forever or just for a year or two. You have a third-

party claim against the general contractor, the one that's overseeing the project, the one that put up the scaffold.

Gerald Bekkerman:

In those three scenarios... and there could be tons of those kinds of similar situations... you can Sue the insurance of the property owner, the construction manager, the forklift operator, the warehouse, whoever for causing an injury to you while you were in the course of your employment.

Gerald Bekkerman:

In those situations, you get pain and suffering. You get lost wages without any statutory factors about what you can and can't make. Your full wages can be recoverable. You get scarring. If you're scarred, you get loss of enjoyment of life. If you used to be a marathon runner, because of a knee injury caused by the scaffolding collapse, you can never run again, you're entitled to those non-economic damages plus your medical bills. So it really opens you up to something that's no different than the damages you'd recover in a car or a truck accident against the third-party insurance company.

Jonathan Rosenfeld:

I mean, I think one of the things that people who suffer a work-related injury may not fully grasp is that the benefits you are entitled to under work comp are generally very limited. A lot of times people are very... They sort of have sticker shock when they're like, "What? My finger was broken in four spots. I can't grasp a pen anymore. I can't type anymore. I can't sleep because of my finger," very legitimate complaints for a significant injury. But at the end of the day, they're very much capped out on what they can recover under work comp.

Jonathan Rosenfeld:

And so in a situation where another entity may have caused or contributed to their injury, you as their lawyer can go after that party and pursue them for the full amount of their damages. And as opposed to for example, auto case where there may be limits on the amount of liability coverage out there based on the policy, in a third-party case where you have a company involved, companies typically have much more significant assets. They have more significant insurance coverage. You can go after that company and recover the full value of their case, correct?

Gerald Bekkerman:

Correct. You can have concurrent work comp and third-party personal injury actions. And the work comp really is limited. I mean, in the work comp world... one of my partners here has been doing it for almost 30 years... the high settlements on some of these large construction cases or work injuries, 3, 400,000 is high-end. 5, 600 is almost unheard of. Those are kind of the worst of the worst, life-altering, career-ending injuries. You're never going to be able to do your job and you're relatively young. That's as high as it gets, as opposed to some of the results we've attained in the third-party action against the forklift operator's company, the warehouse, owner of the bar, all of the scenarios I gave. I mean, we're talking 8, 9, 10, \$15 million, which encompasses a lifetime of lost earnings without any caps, right? A lifetime of pain and suffering without any caps or ceiling, a lifetime of future medical treatment and past medical treatment, if that's what your damages are.

Gerald Bekkerman:

We had a case where a manhole wasn't covered by one of the contractors on a construction site. No warning was given. It was dark. It was muddy. Our client walked and fell into the hole. Okay? It wasn't his fault. He had no way to see it. He was badly injured, couldn't ever return and do job again. Young guy. Under the comp statutory limits, he made too much money. So he's at the higher end of what the work comp laws and state allow for compensation for hourly wages. And they gave him what he was statutorily entitled to, but it was several hundred thousand dollars, not what we were able to recover, which I think was almost \$8 million.

Gerald Bekkerman:

You encompass a lifetime of medical treatment, lost earnings, different jobs. I mean, if you're in the trades, you make a pretty good living, encompassing your benefits, your retirement, all those things get put into the third-party case against an asphalt business owner, an at-fault construction company, an at-fault anybody.

Gerald Bekkerman:

And the spectrum is really broad. I mean, you can slip and fall at a warehouse while making deliveries. An Amazon employee could be injured at a third-party premises while making a delivery. There's just a lot of variance as to how you can get hurt. And so the best thing is to really explore with an attorney other avenues of recovery outside of the workers' comp spectrum, if that makes sense.

Jonathan Rosenfeld:

It does. I mean, a couple of things. I think one of the interesting things about these cases is a lot of times people may not necessarily know or be aware of the fact that they may have a potential third-party case. And a lot of times people are like, "Poor me. It sucks, but it is what it is. I was injured on the job. I guess this is what I'm entitled to." And I think that's why it's really important for someone who is injured at work to really have a lawyer, their own personal lawyer, who's really their advocate and has really has their interests first and foremost, as opposed to sort of relying on the benefits that are fed to them by the company or the work comp insurance, because there are many situations where people are injured on a job site, maybe on an active construction site. They may be walking and trip and fall over a board or something.

Jonathan Rosenfeld:

And it may seem like a real basic thing. They say, "I slipped and fell. I broke my arm." Well, you know what? The board probably shouldn't have been there in the first place. And if the other entities involved aside from their employer were doing their job, that board wouldn't be there, they wouldn't have fallen, and they wouldn't have to necessarily endure all the physical and financial hardship that they may be experiencing. So again, I mean, this sounds a little bit self-serving, but having an attorney who's looking out for your interest can really help in a situation like this. I know you've done a lot of investigation in situations like this, where you've gone out and you've hired an investigator. Can you just talk a little bit about what you guys do in that situation?

Gerald Bekkerman:

Yeah, absolutely. So the example you gave, we've had a case just like that. A toolbelt that was left by another contractor that was difficult to see because it blended in with the flooring, our client worked for a different subcontractor on a big project, tripped over a toolbelt. It seems silly, but that resulted in two knee surgeries and fractured legs. And guess what? He's not going back to work. So the comp case was

obvious. "Yeah. I tripped at work" But when we started talking to him and asking him questions, well, "What'd you trip over? Wasn't your belt? Whose was it? Oh, interesting. Well, why is the other entities on the job site just leaving debris and junk around where for you to fall on to no fault of your own?" That opened us up to, "Let's get our investigator. Let's start pulling permits. Who else was on the job site?"

Gerald Bekkerman:

Because you as the worker on a construction setting, there might be four or five different companies on the same job site, and you may not know who's who. So what we do, firms like ours, we have professional investigators. They go, they pull permits, they collect statements, they go take photographs, they investigate and determine who's in charge of the worksite, who was present on the work site, who holds responsibility for the injuries that our client sustained. And sometimes, it doesn't go anywhere, and sometimes there are no other culpable parties. It's just you and your employer. But a lot of times, we find that there's other entities involved, and there are certain duties that are owed within the construction setting specifically by general contractors to their subcontractors. But those have to be just in the construction setting.

Gerald Bekkerman:

We've had cases where people lost their hand because of a malfunctioning machine, a press of some sort on a industrial job site. Well, that press, yeah, it took off our client's hand. And now he has no hand and he's an amputee, and he's never going to be able to work again, but there should've been a stop switch that was not repaired or fixed appropriately at the facility. And it wasn't his employer. His employer contracted with a company whose sole job was to go and inspect these machines and make sure that certain safety protocols are properly working and certain parts are there to protect people from being injured. So in that case, we learned that this outside company that didn't provide the service they promised they would and didn't catch the [inaudible 00:17:33] that they were supposed to catch that resulted in our client losing his hand in the press. Well, guess what? Now we have a whole different case against the manufacturer potentially, against the company that failed to safely inspect it fixed. They owe a duty under the law.

Gerald Bekkerman:

Our investigator, they determined who these companies are. Sometimes they're foreign entities. We've got to sue them in all sorts of fun jurisdictions. And skip all the legalese aside, that the main crux is you got to look a little deeper, search a little deeper than just work comp, and lawyers like ourselves, not to be self-serving, but that's what we specialize in. And it's a big injury, and it's going to be something that work comp's never going to be able to make you whole. You have to, have to, have to look a little bit further and see if there's a viable third-party case.

Jonathan Rosenfeld:

I think that's really excellent, excellent advice. And I would encourage anyone who themselves is injured at work and has a significant injury to reach out to an attorney who has experience both with work comp and third-party liability claims so every avenue can be investigated to the fullest degree. And unfortunately, hey, look. It may be a situation where, you know what? You're going to be limited in terms of a recovery by work comp, but it also may be a situation where you may have a potential third-party claim. So the only way to really make that determination is to have an experienced attorney do the digging for you, really make sure every possible avenue of recovery is explored to the fullest degree,

and can sort of make sure that every base is covered. So this is great advice. And I really hope that if someone listening to this is teetering on whether or not to investigate a third-party claim, we sort of inspire them to move forward. So thank you for joining me today and [crosstalk 00:19:52].

Gerald Bekkerman:

Thank you, John, happy to help. It's very important. It's one of those things where there's nothing worse than finding out after the fact that you had a viable third-party case. So you were entitled to the loss, if you could prove it, that significant compensation. Your lawyer didn't do it. You didn't look into it. You didn't raise the issue and sadly lost out on a potential opportunity of money that you may have needed for you and your family. So very, very important. And it's so broad. I mean, I can give probably 50 more examples, but anytime you're hurt on the job, number one thing, get an attorney and look at whether anybody else outside of your employer is at fault, and potentially a lot of avenues can open up for you.

Jonathan Rosenfeld:

Thank you.