



# ▶ What You Should Know About Your Workers Compensation Rights

REGARDING OCCUPATIONAL DISEASES,  
INCLUDING EXPOSURE TO ASBESTOS  
AND OTHER TOXIC SUBSTANCES

A construction worker wearing a green hard hat, a tan safety vest over a dark shirt, and blue jeans is walking up a metal staircase. The worker is seen from the side, moving away from the camera. The background is a bright, clear sky. The staircase has a metal railing on the right side.

# Kelley & Ferraro

The attorneys at  
Kelley & Ferraro  
have built a national  
practice in asbestos  
and toxic substances  
claims. We combine  
that worker-focused  
experience and  
dedication  
to address your  
Workers  
Compensation  
claims.

# ro Serves You

The Ohio Workers Compensation law is complex. So is the way it provides benefits to injured workers. In fact, new laws and court decisions — not to mention dramatic media reports about those changes — make it more confusing than ever to understand, obtain, and even keep Workers Compensation benefits.

Kelley & Ferraro Workers Compensation lawyers work to cut government red tape to help you — the men and women who have been injured on the job — to get fair and honest compensation.

We strive to help you get back some of the money, which was paid into the Workers Compensation system on your behalf in case of workplace injury or disease.

This brochure will assist you to get answers to your specific questions about your own circumstances and rights.

- ▶ What Should I Know About Workers Compensation?
- ▶ Benefits for Work-Related Injuries?  
What Should I Know About Benefits for Work-Related Occupational Diseases?

You should know everything you can to help get your rightful award.

A worker who has been hurt on the job or exposed to asbestos and other toxic substances cannot afford to be unaware of his or her rights and obligations under Ohio Workers Compensation laws.



## ► How Have Ohio's Workers Compensation Laws Changed?

During the last several years, there have been countless media reports about changes surrounding the system — some only proposed and some fewer enacted.



The bottom line: the requirements put on the injured worker to prove an injury can still be a burden.

These same hardships weigh down men and women who suffer from a workplace-caused occupational disease.

Therefore, retaining the services of an attorney competent in Workers Compensation and Occupational Diseases can help you to protect your worker's rights.

Employers have legal counsel in Workers Compensation case, and you should have the same legal protection as they do.

## ► How Does the Workers Compensation Law Actually Work?

The law provides three stages of approval or challenge for your claim:

**First:** By the Bureau of Workers Compensation or

Self-insured  
Employer.

**Second:** By  
Industrial  
Commission  
district, staff, and  
full Commission  
hearings and  
decisions.

**Third:** By appeal  
to your local  
county Common  
Pleas Court.

The law still  
makes it possible to

settle a claim in a lump-sum payment, thus bringing a conclusion to your claim at any point in the process.



The law still protects employees who file claims for employer termination. It punishes employers for violations of specific safety requirements.

Most significantly, the Ohio Supreme Court has removed the automatic barrier to benefits that retirement formerly presented. Now, workers who get sick years after injurious exposures to asbestos or other toxic substances may still qualify for Permanent Total Disability Benefits, even though they did not get sick until after retirement.

Despite all the changes, prompt action on your part to preserve your rights is still critical.

► What Can A Person Do When Latent Diseases from Workplace Exposure to Asbestos or Other Toxic Substances Threaten His or Her Workplace Health, Retirement Health, or Workers Compensation Benefits?

Getting advice from lawyers familiar with Workers Compensation law and knowledgeable about asbestos and other toxic substances is indispensable. Ignorance of the law is not a defense, and failure to know the law can ultimately cost you your benefits.

## ► What Should I do if I Believe I Was Exposed to Asbestos or Other Toxic Substances at Work?

If you were exposed to asbestos or other toxic substances on the job, you should:

**1. Make a summary of your employment history and the types of any asbestos-containing products or other toxic products.** Include the dates when you were exposed to them.

If you suffer serious disability as a result of such an occupational disease, your claim must ordinarily be brought within two years of the disability.

**2. Seek medical treatment as soon as you realize your injury or disabling disease.** It is important that any injury or disease be medically documented.

**3. If you are still working and the injury or exposure occurred at your current employer's workplace, notify your employer.** Then proceed with the medical care management system designated by the Ohio Bureau of Workers Compensation.

**4. If you are not working, are retired, or your disease is from a prior job, promptly inform your physician and health care provider. Make sure they document everything in writing.** In many cases, the sooner you seek medical attention, the better your chances of successful treatment. For workplace-related latent diseases, there can be a very long time period — often exceeding ten years — between exposure and actually getting sick.

**5. Remember: We cannot stress strongly enough that you should document everything in writing — dates, times, doctors, medicines, appointments, and any witnesses to your exposure or treatment.** You may need this for later testimony. Even if you do everything you are supposed to do, your employer or the Bureau of Workers Compensation may still deny and challenge the claim.

If such a denial occurs, consider seeking help from an attorney competent in Workers Compensation laws. Under Ohio law, you do not need a lawyer to bring a claim, but you have the right to have a lawyer assist you at every stage of your claim process.

## ▶ What Benefits Are Available For An Asbestos-Related Occupational Disease?

**1. Compensation for Current Wage Loss:** If you are currently working and get sick - then ultimately are declared totally disabled — you are entitled to two-thirds of your weekly wages, up to a maximum amount. (The present maximum: \$567 per week). Minimum benefits are established at half the maximum benefits.

**2. Medical Benefits:** Your employer or the Bureau of Workers Compensation must pay for all medical treatment for a work-related disease. Nonetheless, you still may be required to seek treatment from the Managed Care Organization assigned by or selected for your employer.

Do not ignore notices from your own health insurance carrier that it will NOT pay your bills. If that happens, contact a qualified Workers Compensation attorney about your rights.

**3. Retirement Benefits:** The Ohio Supreme Court has ordered that permanent total disability benefits must be available to retirees even though they do not

get sick until after voluntary retirement. This is because of the long latency periods for the appearance of diseases related to exposure of asbestos and other toxic substances.

The lowest minimum benefit for a qualifying retiree normally would be one-half the statewide average weekly wage when last employed, an amount likely to be between \$150 and \$270 per week. In most cases, these extra benefits are in addition to your full, continuing social security and pension benefits.

**4. Death Benefits:** There are tragic situations when an employee dies as a result of a disease caused by asbestos or other toxic-substance exposure. The employee's widowed dependent survivors may qualify for their own benefits if they file within two years of the worker's death. These are based upon one-half the statewide average weekly wage.

Even though the direct cause of death may appear unrelated to lung conditions, only a physician can properly determine if a death was precipitated by exposure to asbestos or other toxic substances.

▶ What does PERMANENT TOTAL DISABILITY (PTD) Mean, Particularly if I Am Already Retired?

Under Ohio Workers Compensation law, a Permanent Total Disability (often called PTD) renders the worker unfit or incapable of continuing to work. The Bureau of Workers Compensation and the Ohio Industrial Commission are required to consider the worker's age, education, and employment record, as well as physical, psychological, and sociological factors.

In other words, if the worker is too old, too sick, or by training and background unable to return to work, then the disease has rendered him or her Permanently Totally Disabled. Retirees have special considerations for PTD.

For such retirees, Kelley & Ferraro will argue that any significant impairment of health during retirement arising from asbestos exposure during the worker's employment makes him or her a PTD worker. This situation should entitle the retiree to at least minimum benefits for the remainder of his or her life.

A doctor must relate a medical condition to employment. Therefore, it is crucial that if you believe you are sick, you must seek medical attention for difficulties caused by asbestos exposure. This includes shortness of breath or chest and/or lung pains.

▶ What Are the Limitations to My Benefits?

By law, Workers Compensation benefits for Permanent Total Disability must continue until the worker's death. Any dependents, including a spouse, may submit a claim for their own lifetime benefits if they can show that the worker's death is related to the occupational disease that caused the Permanent Total Disability.



## ▶ When Do I Need a Lawyer?

Ohio law allows workers to bring their own claims for Workers Compensation. But Ohio law also protects your right to have a lawyer to help ensure that you are getting everything that you are entitled to receive.

And in cases involving Permanent Total Disability and exposure to asbestos or other toxic substances, you should seriously consider the assistance of counsel, because you could be faced with the following situations:

- a) **Your employer could deny responsibility for your exposure.** The employer might even deny that you worked at the company when such exposure was possible.
- b) **Your employer could offer you a lump-sum settlement without your knowing how to evaluate that amount or whether you are giving up valuable rights.**
- c) **Your doctor may not know about such work-related diseases or specialists who can review your medical condition and your history of exposure.**



▶ What is the background of Kelley & Ferraro with Workers Compensation Cases?

The experienced lawyers of Kelley & Ferraro have fought hard for thousands of workers exposed to asbestos and other work-related toxic substances.

We aggressively and actively pursue our clients' interests at governmental agencies and, if necessary, in courtroom trials and to the appellate courts.

▶ How Does Kelley & Ferraro Manage its Workers Compensation Cases?

Kelley & Ferraro believes every client and case is distinctive. We strive to provide as much time and understanding to each case and to offer as much personal counseling and attention as needed.

▶ How Does Kelley & Ferraro Charge?

We are compensated on a contingent fee basis. We do NOT charge by the hour. Our fee is a percentage of what we obtain for you. You can be confident that we will do our best to ensure that you receive all the benefits you deserve. We strive to achieve justice for you and are always available to answer your questions.



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