

VICTORY FOR LABOR



United Steelworkers awarded close to \$10 million in back benefits after arbitrator decides that Philadelphia Energy Solutions (“PES”) suspended medical and pension benefits in violation of the parties’ union contract.

In an unprecedented win for local unions, Philadelphia arbitrator Thomas McConnell ordered Philadelphia Energy Solutions (“PES”), a subsidiary of the Carlisle Group, to repay nearly \$10 million in benefits to members of the United Steelworkers employed at the company’s South Philadelphia oil refinery.

In January 2017, PES unilaterally suspended pension benefits of the more than 650 union members and reduced its contributions to the employees’ health insurance premiums. The company’s actions left the workers with

no future retirement benefits and heftier insurance costs.

On June 22, after a lengthy arbitration, Arbitrator McConnell issued a 41-page decision ordering repayment of all monies. He ordered PES to reimburse the union members for all the losses they sustained from the company’s unilateral changes to the medical and pension plans.

Galfand Berger attorneys,

Debra Jensen, Michael McGurrin, and Farhan Ali won this important victory for the USW workers at the

PES refinery. Ms. Jensen, Managing Partner at Galfand Berger, noted, “PES attempted to shirk its duty to the employees who keep its South Philadelphia refinery operating. This decision

makes the workers whole and tells the company it cannot backtrack on an agreement reached in good faith by both parties. This is a victory for labor.” ■

“Galfand Berger attorneys won this important victory.”



Galfand Berger Attorneys Receive Super Lawyers Honor

Galfand Berger is proud to announce that Super Lawyers has selected attorneys Rick Jurewicz, Peter Patton, Arthur Bugay, and Norman Weinstein to the 2018 Super Lawyers list. In addition, Super Lawyers has named Bradley Smith as a 2018 Rising Star!

What are Super Lawyers and Rising Stars?

Both the Pennsylvania Super Lawyers and Rising Stars awardees undergo a vigorous selection process. Super Lawyers selects attorneys through peer recommendation, professional achievement, and third-party feedback. Each candidate is then further evaluated based on twelve indicators including verdicts and settlements, pro bono and community services, experience, special licenses, certifications, and more.

In fact, only 5% of all Pennsylvania attorneys receive this distinction. Moreover, only 2.5% of Pennsylvania attorneys, under the age of 40, receive the Rising Star award!

Galfand Berger's 2018 Super Lawyers Honorees



Richard Jurewicz represents people injured by malfunctioning and defective equipment, tools and machinery. He is responsible for some of Galfand Berger's largest verdicts and settlements, earning nearly \$200 million in recoveries. Rick is the author of several articles on products liability, product safety and construction litigation and frequently lectures on these topics. Rick is also co-founder of Kids' Chance of Pennsylvania, a non-profit that provides scholarships to children whose parents have been injured or killed in a work-related accident.



Norman Weinstein practices Workers' Compensation and Personal Injury law, and has a longstanding history of dedication to social services and community outreach. Not only is he on the Northeast Philadelphia's Health Center Planning Project steering committee, but also the past President of the Hebrew Immigrant Aid Society, or HIAS. Currently, Norm is developing the relationship between public interest law and public health areas.



Peter Patton handles Products Liability and Construction Accident cases. He has published articles in professional journals and texts. In addition, Peter's cases have been the subject of some twenty published judicial opinions. Peter has also achieved some of Galfand Berger's largest jury verdicts, and always prioritizes providing personal attention to his injured clients.



Brad Smith works in our Products Liability and Personal Injury departments, representing the rights of individuals who sustain injuries because of negligence. He is part of the team of lawyers who have secured multi-million dollar recoveries for our injured clients. Notably, Brad is also the recipient of numerous writing honors, which have resulted in his publication in many well-respected professional and academic journals.



Arthur Bugay works in the firm's Personal Injury department, practicing construction accident litigation, products liability, and motor vehicle and premises cases. Arthur serves on the Amicus Curiae Committee of the Pennsylvania Association for Justice and volunteers with the Legal Clinic for the Disabled (LCD) and other organizations that assist indigent individuals throughout the community.

If you have been injured and need legal help, call or write to speak with one of our Super Lawyers or Rising Star attorneys. With offices located in Philadelphia, Bethlehem, Lancaster and Reading, we serve clients throughout Pennsylvania and New Jersey. To schedule a consultation, call us at **800-222-8792** or complete our online contact form.





Important Changes to Workers' Compensation Law

As we wrote last summer, the Supreme Court of Pennsylvania issued a significant decision for injured workers. It ruled that the Impairment Rating Evaluation ("IRE") section of the Pennsylvania Workers' Compensation Act was unconstitutional.

500 Weeks or Ten Year Limit on Workers' Compensation is Unconstitutional

You may have heard of the "500 weeks" or "10 year" limit in Workers' Compensation cases. This limited Workers' Compensation payments to only 500 weeks if an evaluation deemed the injured worker only "partially" disabled.

Under this provision, insurance companies could send injured workers to an Impairment Rating Evaluation (IRE). If the IRE determined that the impairment was less than 50%, then insurance companies would deem the person to be on "partial" disability instead of total disability and could stop paying benefits after 500 weeks expired.

However, the Pennsylvania Supreme Court said no! This section of the Workers' Compensation law is unconstitutional and they struck it down.

What Does this Mean for Workers Already Affected by the Provision?

While the court's decision was a victory for injured workers, it did not address some significant issues:

- Did Claimants waive the right to request a reinstatement to total disability benefits if they did not appeal the IRE determination?
- Did the decision apply retroactively?
- What is next for injured workers?

Two recent cases have tried to make sense of the Supreme Court's decision.

In these decisions, lower courts said Claimants who failed to appeal an IRE ruling at the time it was made, can still seek reinstatement of total disability benefits. This is good! It means it is not too late for you to appeal an IRE determined a long time ago.

However, one court did place some limits on its decision. First, it places the burden on Claimants to prove that they remain disabled because of their work-related injury. The burden is relatively easy. Claimants only need to testify that they remain in pain and disabled because of the work injury. No medical testimony is necessary.

Second, but more troubling, is the court's ruling that the reinstatement only goes back to the date that the Claimant filed the reinstatement petition. It does not go back

to the date of the original IRE. In some cases, the difference in lost benefits can be significant.

We will continue to fight for our clients and argue that the benefits should go back to the initial IRE decision, especially since the Pennsylvania Supreme Court determined that provision unconstitutional.

What Do These Decisions Mean for You?

These decisions may have a significant effect on your Workers' Compensation benefits depending on the status of your case:

- If your benefits were modified to "partial disability" based on an IRE exam that determined you were less than 50% disabled, and you continue to receive partial disability benefits, you must file a reinstatement petition to change your status to "total" disability.

What Should You Do?

If you or someone you know is on "partial" disability because of the IRE or they were on partial disability because of IRE and their payments stopped, they should contact a Workers' Compensation attorney at Galfand Berger to learn more about their rights. Call us for a free consultation at **1-800-222-8792** or email us at mail@galfandberger.com.

Galfand Berger at your fingertips!

Add our website, galfandberger.com, to your favorites and our toll free phone number to your contacts: **1-800-222-8792.**

Remember to like our firm on Facebook and Instagram. And, follow us on Twitter ([@galfandberger](https://twitter.com/galfandberger)). We are constantly updating our social media with helpful tips and information



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Easy Summer Pasta

We love this recipe because it has some of summer's best flavors! And, it is so quick and easy, you won't spend much time in the kitchen. Instead, enjoy more of those long summer nights.

Ingredients

- 4 large tomatoes, diced
- 3 cloves garlic, minced
- ½ cup freshly chopped basil
- ¼ cup good, extra-virgin olive oil
- 1-pound angel hair pasta
- Salt and pepper to taste

How to Make

- Mix together basil, tomatoes, garlic and olive oil. Salt and pepper to taste.
- Let sit so the flavors marinate (*15 or so minutes*) while you cook the pasta (*according to package directions*).
- Drain pasta and return to pot.
- Stir in tomatoe mixture, toss and serve.

