



## KNOW YOUR RIGHTS

### A Guidebook for those Injured at Work

We all know how maintaining employment is particularly precious in this economic environment. Unfortunately, on-the-job injuries are a common occurrence that can interrupt a person's ability to work. That's why it's important for individuals to be aware of the different ways they can pursue appropriate compensation if injured while working, says attorney **Matthew S. McNicholas**.

McNicholas is a partner at **McNicholas & McNicholas** in Los Angeles, one of the premier catastrophic personal injury firms in the country. McNicholas has earned many multimillion dollar verdicts and settlements on behalf of injured and abused plaintiffs.

McNicholas tells us that the first avenue for an injured employee is a workers' compensation claim

required workers' compensation insurance, the injured employee can actually sue the employer for negligence. This is the type of lawsuit that allows a jury to award damages for medical bills, lost earnings, and pain and suffering. This also requires the injured employee to prove fault – that the employer did something wrong to cause the injury. In accordance with this approach, the recovery is not guaranteed, and a jury ultimately determines the amount of any recovery. In my experience, this situation is fairly rare.

Another way an injured employee can seek recovery for injuries sustained on the job is through a "third party" civil lawsuit. "Third party" is the law's way of saying "someone other than you and your employer." Generally speaking, third parties can include other companies that had employees at



**Matthew McNicholas has won millions in judgments for plaintiffs by pairing courtroom persuasion with practical advice, like his tips to employees injured on the job.**

made directly with the employer. Every employer in California is required to have workers' compensation insurance. That insurance provides recovery to the injured employee so long as he or she was injured while on the job.

With a workers' compensation claim, the injured worker does not have to prove fault, meaning that she does not have to prove that the employer did something wrong to cause the injury. Rather, it is a no-fault system that provides a guaranteed recovery.

However, the amount of the recovery is determined by factors like the type of injury, the part of the body injured, and the amount of residual disability as determined by medical doctors. Thus, while the fact of recovery is certain, the amount recovered is generally limited. There is no right to a jury trial under the workers' compensation program. That is the trade-off for the guaranteed recovery.

In situations where the employer does not carry

your job location and that caused your injuries, or the maker of a defective product that caused your injuries.

For example, you may be a carpenter employed by the We Build Right Construction Company, which has been hired to construct a five-story apartment building. While working for We Build Right on a scaffold erected by the ABC Scaffold Company, the scaffold breaks and you fall, suffering injuries. This may give you a claim against the ABC Scaffold Company for negligently installing and maintaining the scaffold that broke. You may also have a claim against the company that made the scaffold itself if the product broke because it was defective.

Even if you have these "third party" claims, you still may pursue a worker compensation claim. The lawyers handling "third party" claims are different from the lawyers handling worker compensation claims. So, if you have both types of claims, you will need two different lawyers.