

Near South Sider Stays on the Side of Injured Workers

by Elizabeth Davies



Battling a serious injury is always worrisome, but never more than when you're also faced with mounting medical bills.

That's where Patrick B. Nicholson of Cullen, Haskins, Nicholson & Menchetti, PC comes in. He brings decades of experience with the Illinois Workers' Compensation Commission to the table as he fights to help injured employees secure the benefits they're owed.

"Over the years, we've focused our practice more and more on workers' compensation, and now that's primarily what we do," says Nicholson. "You're trying to help people out by steering them through the process and helping them get the benefits they're supposed to be getting."

With most injured workers earning just two-thirds of their usual salary during a work-related disability situation, tensions and emotions can run high when expensive medical bills begin rolling in. That's particularly the case when an employee was injured at work, sometimes in unsafe work environments.

But those are the scenarios Nicholson has managed ever since he graduated law school in 1979. At that time, he had a general practice that grew ever more focused as the years progressed. It's now a high-volume practice with a high percentage of cases that settle.

Even with the shortest of cases, however, Nicholson's work brings both lasting impact and a sense of peace for his clients.

THE WORKERS' COMPENSATION PROCESS

When an employee is injured at work, often their employer pays for medical care or lost time benefits. In those cases, an employee may feel it's not necessary to file a claim with the Illinois Workers' Compensation Commission.

However, when the employer doesn't pay—perhaps because they dispute that the injury happened at work—the worker needs to file a claim with the commission. The case will be assigned to an arbitrator, and the worker may think it's unnecessary to have a lawyer. It doesn't always work that way.

"In my experience, sooner or later, the employer or the insurance company will deny payment of benefits, and that's the point when many injured workers realize they need to bring an attorney in," Nicholson says.

Sometimes, the employer might argue that the worker didn't qualify for injury benefits because that person was really an independent contractor. Or, they'll suggest that the injury predated the work accident in question.

Throughout the process in each case, Nicholson aims to help his clients navigate the complexities of the workers' compensation system.

"I try to be educational," he says. "This is what workers' compensation is, this is how workers' compensation works, so hopefully they have reasonable expectations."

Over the course of Nicholson's career,

workplace safety has become a talking point for many employers. From eliminating trip hazards to preventing the repetitive motions that lead to carpal tunnel, corporations are finding more and more financial incentives for improving safety because it leads to lower workers' compensation costs.

That might seem like a positive change on its face, Nicholson says, but that's not necessarily the case.

"A lot of employers and insurance companies are interested in safety because it saves money," he says. "Sometimes employees pressure a worker to not report an accident or file a claim because it would ruin the company's safety record."

In some cases, a workplace injury can affect an employee for life. Take, for instance, one of Nicholson's largest cases involving Ford Motor Company. In that scenario, the employee was working at a Chicago Ford plant when he injured his back. He was rendered permanently disabled, but the claim was initially dismissed by the arbitrator. So, Nicholson brought his case to the appellate court in an effort to obtain benefits.

"The nature and extent of his injury was contested by Ford," he recalls.

Today, the employee receives payment from Ford for the injury, and he will continue to do so for the remainder of his life. In that case, Nicholson feels his client secured justice.

Even in the worst of cases, however, victims cannot be reimbursed for many of the hardships endured. They may be compensated for lost wages or for medical bills, but not for recurring nightmares or the pain they feel while doing everyday tasks.

“Workers’ compensation isn’t designed to pay for pain and suffering, which I think is unfair,” says Nicholson, pointing to the agony of serious burn victims. “Those are the worst kinds of injuries because they are very painful.”

The state’s longstanding workers’ compensation law, which dates to 1911, can be complex when trying to pursue a claim.

“For injuries on the job, the employees gave up their right to seek damages in tort from the employers,” Nicholson says. “In exchange, the damages or benefits that employees were entitled to was limited. To recover benefits, an employee must prove the accidental injury arose out of and in the course of the employment.”

“While this sounds simple, it has now become very complicated for an injured employee to prove these elements.”

That’s perhaps why there is a small community of workers’ compensation lawyers in Illinois. For the most part, those lawyers know one another, interact regularly and enjoy a good camaraderie.

That includes David H. Wolfe of Wolfe & Jacobson, Ltd. He frequently is Nicholson’s opposing counsel before the Illinois Workers’ Compensation Commission. In the 20 years he has known Nicholson, Wolfe has been impressed with his integrity and hard work.

“Pat is an exceptional lawyer with a high degree of integrity,” he says. “He zealously represents the interests of his clients while maintaining a professional relationship with his opponents.”

“Pat’s ability to understand the issues, advocate for his clients, obtain good results for his clients, and at the same time maintain the highest degree of professionalism and respect for his adversaries is what truly sets Pat apart from his peers.”

GROWING INTO THE LAW

As the child of a school janitor and city clerk, Nicholson grew up as a tried-and-true South Sider. He attended St. Ignatius, Notre Dame and Loyola University Chicago. Law school was a bit of a toss-up for Nicholson, who graduated from Notre Dame as a business and marketing major. He considered following up with business school but applied to law school instead. There, he excelled and served on the editorial board of the *Loyola Law Review*.

Then as he was looking for his first job out of law school, Nicholson’s uncle introduced him to firm founder George Cullen. As it happened,

Cullen was planning to hire another law school grad, but that person didn’t pass the bar. So, he offered the job to Nicholson instead.

“I just happened to be in the right place at the right time,” he says.

Cullen says Nicholson was impressive all on his own. “Pat was recommended by people whom I respected greatly,” Cullen says.

“He had a great background. He lived on the Near South Side and managed to get through all this education without help from his family. Pat did all of this on his own, and I thought that was remarkable. I was impressed with his drive and energy.”

And so, it turned out that Nicholson was the perfect firm fit, and he has spent nearly 40 years loyal to the same employer. He hasn’t forgotten his draw to the business world, however. To that end, he manages much of the firm’s day-to-day business such as banking and insurance issues, which he enjoys doing.

Still, Nicholson remains highly committed to the law—and to workers’ concerns in particular. His firm is very active in workers’ compensation issues in Springfield. Nicholson is the former chair of the Workers’

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Compensation Committee of the Chicago Bar Association Young Lawyers Section. He also has served as chair of the Industrial Commission Committee of the Chicago Bar Association and on the Illinois State Bar Association Workers’ Compensation Council.

That comes as no surprise to Thomas Loucks of Childress Loucks & Plunkett, who has known Nicholson professionally for the past 20 years. He has been impressed with Nicholson’s professionalism and proactive attitude.

“He has dedicated himself to representing injured workers and become an expert in that field,” Loucks says. “But more so, he has taken an active role in changing and preserving legislation that benefits all workers.”

Joseph Garofalo of Garofalo, Schreiber & Storm, Chartered, is quite familiar with going up against Nicholson before the compensation commission. They have known one another for about 35 years, and they use that history to resolve their cases.

“We handle our responsibilities to our respective clients in a cordial, civil manner,” Garofalo says. “Instead of getting after each other and fighting about everything, Pat and I

approach each case as a problem to be solved, and then both of us work toward the goal of getting the best solution to the problem for our respective clients. That approach takes the stress and acrimony out of the litigation process.”

He consistently has been impressed with Nicholson’s professionalism, preparedness and expertise.

“He knows what he is doing and doesn’t need to fake his way or stumble through the process,” Garofalo says. “He knows how to get down to brass tacks and settle a case for a fair price—and if that can’t happen, he proceeds to trial and tries a case in an orderly manner.”

IN THE FOREFRONT OF THE FIELD

These days, Nicholson shares his expertise through memberships with the Chicago Bar Association, Illinois State Bar Association, Illinois Trial Lawyers Association, Workers’ Compensation Lawyers Association, Workplace Injury Litigation Group and American Association for Justice.

“His skill level in the field we practice in—primarily workers’ compensation—is probably in the top 10 in the state of Illinois,” Cullen says.

“He is extremely knowledgeable, and he drives right to the heart of a matter faster than any attorney I have known. I have great respect for his opinion.”

In 2013, Nicholson was named Lawyer of the Year for workers’ compensation law in Chicago by the *Best Lawyers in America*.

“The practice has become more complicated and recovery for injured workers more difficult over the years,”

he says. “We are helping many people in their time of need when their weekly benefits or medical treatment has been denied. It is personally fulfilling to help these people out and obtain those benefits for them.”

At 64, Nicholson does not plan to slow down. He actively brings in younger lawyers to train in workers’ compensation cases, but he hasn’t made retirement plans. At present, his practice is too fulfilling to leave.

“Our firm has been in the forefront of representing injured individuals at the Illinois Workers’ Compensation Commission and protecting their rights to the best of our ability,” he says. “My goal is that the firm continues to do so. The younger attorneys here are already carrying on that tradition.”

And Cullen is glad to have his firm moving forward in solid hands such as his.

“Pat has a wonderful reputation of being very kind and patient,” he says. “He’s very good with clients, and he’s very respectful of the legal profession and the people in it. This is one of his greatest attributes.”

“I would not hesitate to trust any matter to him,” Cullen adds. ■