



WORKERS' COMPENSATION • SOCIAL SECURITY DISABILITY • LONG-TERM DISABILITY • VETERANS' BENEFITS

HOT TOPIC

Can Social Media Affect a Workers' Comp. Case?

Your social media accounts can seriously, and often negatively, impact your Workers' Compensation case. Anything that you post publicly can, and will, be used against you. In fact, this is true for most types of legal actions.

What if you are not on social media?

It is hard for the Courts and Judges to determine where to draw the line when an insurance company attempts to submit evidence gained from your (or someone else's) social media account. Even if you are not personally active on social media sites (Facebook, Instagram, etc.), it is very likely that you still have a social media "presence". For example, you may have a family member or a friend who posts actively. Maybe while you were mowing the lawn, and your dog was chasing you, they took a quick video and posted it to their public-facing Facebook account. You now have a presence online.

What if you use privacy settings?

In 2018, a Court of Common Pleas Judge in Pennsylvania granted an insurance company's request to access a plaintiff's "private" Instagram account. This is alarming because, while there is no question that anything posted on a public-facing social media site or app can be introduced as evidence in a case, typically information that is kept private by using the site or app's security settings is not accessible by your employer or the insurance company. However, it is important to note that this was only one case. This does not mean that in every future case your employer and their insurance company will be granted access to your private account.



So, what can you do?

First, and most importantly, you should not delete anything that has already been posted. This could be considered destruction of evidence and could get you into trouble, potentially even charged criminally. The next step is that you should turn on all of your privacy settings and set them to the highest level possible. Ultimately, the Judge will have to answer the question of whether you have a "reasonable expectation of privacy" when you post something to your account. It is much easier to convince a Judge that you expected your posts to remain private when you actively take steps to ensure that you know exactly who is viewing your content.

Even taking these precautionary steps does not guarantee that your Employer or the insurance company will not find something on the internet to use against you. As our lives become more interconnected it becomes more apparent that we must always use caution and think about the potentially permanent consequences of using social media.

FREQUENT QUESTIONS

by: John P. Dogum, Esq.



Can a Workers' Comp. case be reopened?

Often after an accepted work injury and subsequent return to work a client is denied treatment when their provider is told the file is "closed". This is a tactic used by insurance carriers to avoid payment for treatment. The file may be "closed" in the insurance company's records, meaning they do not have it assigned to an adjuster as an active file, but there is a difference between their internal procedures and the law. Most providers will not bill if told the file is closed and needed treatment or even prescriptions are often not obtained. Once there is an accepted work injury, the medical portion is open and payable as a matter of law indefinitely and can only be "closed" by agreement, Judicial Order or a formal process called "Utilization Review" which, if not appealed, only applies to the provider reviewed. Do not wilt and go away as the carrier wants when told the "case/file is closed". Seek counsel for a legal analysis of your rights.

ATTORNEY SPOTLIGHT

Alfred J. Carlson, Esq.

Al Carlson is the Managing Partner at Martin Law and has been a litigator in Pennsylvania workers' compensation law since passing the bar in 1992. He joined his partners at Martin Law in 2000 to represent injured workers. He previously practiced at a leading defense firm in Philadelphia, representing international corporations, major insurance companies and state/local government agencies in Pennsylvania workers' compensation cases. In the spring of 2013, Mr. Carlson was among the first class of attorneys to become a Certified Specialist in Pennsylvania Workers' Compensation by the PA Bar Association's Section on Workers' Compensation Law as authorized by the Pennsylvania Supreme Court.

In addition to maintaining an active case load, Mr. Carlson is a frequent guest lecturer at Villanova University School of Law in the area of Pennsylvania workers' compensation and is also a Guest Lecturer at the Pennsylvania Bar Institute. Mr. Carlson served as a faculty member for a Continuing Legal Education (CLE) course entitled "I Know What you Did Last Weekend: Use of Social Media in Workers' Compensation Litigation" and has published numerous articles on the subject. Mr. Carlson served as a Co-Chair in 2008 for the Philadelphia Bar Association's Workers' Compensation Section and served as the Legislative Liaison. Mr. Carlson is also on the Board of Directors for the Justinian Society of Philadelphia. He was elected to the Board of Directors and Secretary for the Philadelphia Trial Lawyers Association in June 2010 and was also selected to serve a two-year term on the Nominating Committee of the Philadelphia Trial Lawyers Association in April 2018. Mr. Carlson currently serves as the Vice President of the Philadelphia Trial Lawyers Association. [\[READ MORE\]](#)



Certified Legal Specialties
Pennsylvania Workers' Compensation

Education

J.D. Widener University School of Law
(Wilmington, DE)

M.B.A. Widener University (Wilmington, DE)

B.S. Villanova University (Villanova, PA)
Accounting - Magna Cum Laude

IN THE NEWS! MARTIN LAW MANAGING PARTNER ALFRED J. CARLSON, ESQ. BECOMES THE VICE PRESIDENT OF THE PHILADELPHIA TRIAL LAWYERS ASSOCIATION. Mr. Carlson will be the first workers' compensation attorney elected to this position since 2004. "We are very proud of Al and look forward to seeing what he and his fellow officers at PTLA will do this year to protect