



# STIPE, HARPER, LAIZURE, USELTON, BELOTE, MAXCEY & THETFORD

FALL 2006

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## Juries protect us all

America's civil justice system has stood the test of time. It doesn't put anyone in jail. Instead, it punishes those who act with disregard for the welfare of the rest of us. It also strives to restore the health and well-being of those who have been harmed by others' actions.

Our fundamental constitutional right to a trial by jury is under attack. Special interests, such as the manufacturing, insurance, and drug industries, want to change the system to benefit their own financial and legal interests.

Here are other challenges to our justice system that many of us may not often think about:

- Inadequate juror compensation.
- Juror prejudice from public relations campaigns.
- Delayed or denied justice from court budget cuts.



- Judge shortages backlogging cases.
- Appellate courts reversing jury verdicts.
- Secret settlements hiding justice from the public.
- Refusing media access to investigate court files.
- Legislatures predetermining legal issues.
- A poisoned, partisan political landscape.

## *Important* Announcements

**Stipe, Harper, Laizure, Uselton, Belote, Maxcey & Thetford** is pleased to announce that **Jack Stipe** has become a partner in the firm. Jack practices in the firm's Oklahoma City office and has been a member of the Oklahoma Bar since 1999. His practice is concentrated in the area of general civil litigation, with special focus on personal injury litigation.

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The Oklahoma City office previously located at  
4111 North Lincoln Boulevard has moved.  
The new office is now located at

**525 Central Park Drive, Suite 101, in Oklahoma City.  
I-44 and Lincoln Boulevard**

**Stipe-Harper Law Firm. Over 50 Years of Fighting For You.**

# An explanation of Social Security Disability benefits

Many of us have been hurt or sick at one time or another and had to miss work. As we get older, our recovery time isn't what it used to be; unfortunately, many people find themselves suffering from an injury or illness that prevents them from returning to work for an extended period of time. As the bills pile up and the paychecks stop, life can become overwhelming. If you or someone you know fits into this situation, the attorneys at **Stipe, Harper, Laizure, Uselton, Belote, Maxcey & Thetford** can help.

Many people who are out of work based upon illness or injury qualify for Social Security benefits. However, the process can be long, difficult, and disappointing without the proper assistance. The following outlines what benefits are available, who is eligible, how the process works and how we can help you be successful in your application.

## ***What are Social Security Disability benefits?***

Social Security Disability benefits, or SSD, are paid to individuals who are disabled. The Social Security Administration pays monthly benefits to disabled individuals who have paid into the Social Security system. Under the federal Social Security Disability Act, "disability" means the "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or is expected to last for a continuous period of not less than 12 months." Disability benefits are paid to individuals who have worked in recent years. Usually, you have to have worked five out of the last ten years. For individuals under 31 years of age, the requirements are a little different since they have not been in the workforce as long.

## ***How do you become eligible for Social Security Disability benefits?***

- The first requirement is you must have paid into the Social Security Administration for a long enough period and in large enough amounts to be considered "insured";
- Next, you must not be "gainfully" employed;
- You also must have a disability that has lasted or is expected to last 12 months or longer; and
- You must have a disability that is severe enough to keep you from doing your past job or any other jobs in the local or national economy.

*(According to the Social Security Administration, a "disability" can be physical, emotional, or some combination of both.)*

The test for eligibility is not whether you can go back to a job you've lost, nor is it whether you've been able to find a job recently. The test is whether you are physically and emotionally CAPABLE of doing a job that is generally available in the everyday workplace. Furthermore, to obtain Social Security Disability benefits, you must have a doctor state that you are disabled "by medically acceptable clinical

and laboratory findings." Unfortunately, many genuinely disabling conditions are difficult to diagnose by objective testing. In cases like that, it's up to your attorney to present your doctor's reports properly, and to convince the government that you deserve your benefits.

## ***How long do I have to apply?***

There is no set time limit in which to apply for benefits. However, the longer you wait, the more benefits you may lose. Also, since your insured status usually ends five years from the last date that you worked, if you wait longer than five years to apply for benefits, it may become extremely difficult or impossible to obtain benefits.

## ***When should I apply?***

As soon as a doctor tells you that you will be unable to work for 12 months or more, or if you have already been unable to work for at least 12 months due to a medical disability.

## ***What if I am disabled but haven't worked much in the last ten years?***

You may qualify for Social Security Income benefits (SSI). SSI is paid to individuals who are low-income individuals/families and disabled, regardless of whether or not the individual has worked in the past. SSI child's disability benefits are paid to children who are less than 18 years old, are disabled, and the parents or guardians are of lower income.

## ***Can I draw both SSI and SSD?***

Yes. You can draw both, but only if the combined amount, along with other income and/or assets, is less than the amount set by the Social Security Administration as the maximum amount allowed. Also, you would draw SSI benefits during the five-month waiting period required before you can draw SSD benefits.

## ***Can my disabled child draw SSI?***

Yes. A child under the age of 18 can draw SSI benefits, but the same income and asset limitations apply. The income of the whole family and all assets will be taken into consideration.

## ***How does the Social Security process work?***

*Stages of the Social Security Disability Claims Process:* Do not be surprised if you are denied after you turn in your application. The **initial stage**, as it is called, almost always results in denial. Only about 40 percent of claims are approved at that stage. In the next stage, **reconsideration**, about 20 percent of individuals are approved. The last stage, **the hearing stage**, is where the individual actually has a hearing in front of an Administrative Law Judge. The hearing is informal, with only the judge, his secretary, and oftentimes a vocational expert in the room. Your attorney will be with you at this hearing.

## ***What can I do to have the best chance of winning my Social Security Disability or SSI claim?***



## Auto accidents

### What is “proper lookout?”

In auto accident cases, drivers may be found negligent for failing to keep “proper lookout.”

A driver is obliged by law to constantly monitor all the circumstances of driving in order to prevent a car accident. Requirements include paying attention to the roadway, traffic signals and controls, and other drivers.

To keep a proper lookout, drivers also should avoid common distractions. Studies show that the most common driver diversions are accidents, slowdowns, or other events outside the driver’s vehicle; changing radio stations or CDs; talking with passengers; adjusting heating or cooling controls; eating or drinking; talking on a car or cell phone; and smoking.

Younger drivers are more prone to music-related distractions. Adults have their attention diverted by passengers. Seniors attend to objects or events happening outside the vehicle.

Drive safely. Keep a proper lookout.

■ Statistically, claimants who retain an attorney to represent them are much more likely to win than those who go unrepresented. So it is wise to hire an experienced person to represent you. Another important thing to remember when deciding whether to hire an attorney to help you is that Social Security cases are ALWAYS handled on a contingency-fee contract. That means you do not pay any money out of your pocket, ever. When we successfully present your claim to the Social Security Administration, we will collect our attorney fee from your lump-sum payment of past-due benefits the Social Security Administration will pay you. That fee is also limited by law to 25 percent of those past-due benefits.

■ If you have already filed your initial application and been denied, it is also important to appeal because most claims are denied at the initial level, but are approved at higher levels of review. Please keep in mind that there are strict deadlines to file your appeal, which, if they go unmet, will result in your claim being dismissed and you left starting all over with your claim. This is just one example of why it is important to have an experienced attorney representing you.

#### *How does having legal help for my Social Security Disability and/or SSI claim better my chances of winning?*

1. Statistically, claimants who are represented by attorneys are much more likely to win their claims;
2. An experienced attorney knows what proof the Social Security and SSI disability system requires;
3. Using legal help eliminates both the necessity of waiting in long government lines and the chance that a government clerk’s incorrect notation on your condition jeopardizes your claim;
4. All aspects of your case, including complicated paperwork, will be handled professionally; and
5. No fee is collected if you’re Social Security Disability claim is not won, and fees are only collected on the back end.

Despite this information, you may have several other questions. **Stipe, Harper, Laizure, Uselton, Belote, Maxcey & Thetford** has attorneys dedicated to helping you and your family get the benefits you deserve. Please contact us for a free and quick evaluation of your disability claim as well as to answer any questions you may have.

## FOR YOUR SAFETY

### Recalled product roundup

Here are some recently recalled defective or dangerous products you may have in your home or at work:

- ✓ **King of Fans, Inc.**, recalled 75,000 Maxi-Heat™ Dream Tower Heaters. Interior heater wiring can short-circuit and burn consumers.
- ✓ **Porter-Cable** has voluntarily called back 70,000 Porter-Cable 890 Series Routers with motor coil insulation that can be worn away by vibration and shock users.
- ✓ **Country Home Products, Inc.**, has asked buyers to return 15,700 2005 Model NEUTON® Cordless Electric Lawn Mowers. Even when the handlebar is released, the motor sometimes continues to run, causing the blade to spin, which can harm consumers.
- ✓ **Fisher-Price** has recalled 614,000 Fisher-Price® Laugh & Learn™ Musical Learning Chairs™. Children may become trapped between the chair seatback and side table, which poses a strangulation hazard.
- ✓ **Simplicity Inc.** requests consumers to return 104,000 Aspen 3 in 1 Cribs, sold under the Graco Trademark. Support screws can loosen, allowing mattresses to fall, posing a suffocation hazard to young children.
- ✓ **LTD Commodities and its subsidiary, The Lakeside Collection**, have voluntarily recalled 34,600 Pilates Balls. Exercisers using the ball can be hurt by plastic clips or grommets that may loosen from rubber tubing on nylon webbing.

Visit [www.recalls.gov](http://www.recalls.gov) for a complete listing of current recalls.

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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

## SETTLEMENT REACHED IN WRONGFUL DEATH CASE

**Tony Laizure** and **Karen Goins** recently settled a wrongful death medical negligence case against a Pawnee County physician and hospital.

The case involved the failure of the emergency-room physician and nurses to recognize that the patient may have been suffering from bleeding in the brain, a medical condition known as a subarachnoid hemorrhage. Despite the fact the patient presented with all of the classical signs of a subarachnoid hemorrhage, the emergency-room physician felt as though the patient was suffering from a reaction to a prescription medication. The patient was sent home, where two hours later he experienced major bleeding, and died shortly thereafter.

The patient was survived by his wife and three sons, who filed a lawsuit against the physician and hospital in Pawnee County District Court. The case was set for trial in November 2006, but settled. The terms of the settlement are confidential.

A subarachnoid hemorrhage is a



**A subarachnoid hemorrhage is a medical emergency that requires immediate medical attention.**

medical emergency that requires immediate medical attention. Usually, the patient complains of one of the worst, if not the worst, headache the patient has ever experienced. Sometimes, the headache is accompanied by other symptoms such as nausea and vomiting, sensitivity to light, dizziness or seizure-like symptoms, although it is not necessary for these symptoms to be present.

If you or a loved one ever experiences these symptoms, you should proceed immediately to the emergency room. Be sure to tell the doctor you are having the worst headache ever, or that this headache is much worse than previous headaches. Once the doctor suspects a subarachnoid hemorrhage, the treatment of choice is a CT scan. This will help the doctor to see if there is indeed bleeding in the brain. The other treatment is a spinal tap or lumbar puncture, done to see if there is any blood in the spinal canal.

If you have any questions about this most important medical condition, call your physician. If you have any legal questions about this or other medical issues, call our toll-free number at **1-800-798-2613** and ask for **Tony Laizure**.