

## **HEIMANSON & WOLF, LLP. OBTAINS ABOVE POLICY LIMITS SETTLEMENT FOR SERIOUSLY INJURED DELIVERY TRUCK DRIVER**

Our client, a professional big-rig driver, was struck by a passing van when he was unloading his tractor trailer, and while in the course and scope of his employment. He suffered an acute open tibia-fibula fracture, transverse process fractures of the lumbar spine, a large right flank hematoma, and multiple abrasions.



Our client had to undergo an open reduction and internal fixation (“ORIF”) surgery to the tibia and fibula (the bones of the lower leg). Subsequently, our client developed recurrent secondary infections in the wound/surgery sites. He was unable to return to his usual work for more than a year. The total charges for his medical care well exceed \$400,000.00. Our client’s loss of earnings exceeded \$100,000.00.

This case presented two significant obstacles to resolution. First, the insurance limits for the van driver who struck our client, although significant, were insufficient to cover all the damages our client suffered. Second, our client’s employer, through their worker’s compensation carrier, asserted a claim for reimbursement for all benefits paid – the claim effectively eliminated the prospect of any direct monetary recovery by our client from the case against the van driver.

Through aggressive litigation and steadfast negotiation we were able to surmount both obstacles by:

- 1) Convincing the defendants, and their attorneys, to make a substantial personal contribution to the settlement fund which brought it well in excess of the available insurance policy limits; and,
- 2) Persuading the workers’ compensation carrier to accept pennies on the dollar on their reimbursement

claim because we were able to demonstrate that a significant element of employer negligence contributed to the occurrence of the accident.

Due to our efforts, our client managed to obtain a recovery well in excess of his expectations.

Much like this client, workers who are injured on the job can seek compensation directly from their employer's workers' compensation insurance for medical care costs and temporary/permanent disability payments. The Workers' Compensation system was designed to provide a safety net for workers while shielding employers from suits for injuries by their own employees. However, when an employee is seriously injured, the benefits provided by the Workers' Compensation system often fail to fully compensate the injured worker. Workers' compensation does not take into account pain and suffering, but rather strictly compensate workers for medical care, time off from work and their temporary/permanent disability.

The attorneys at Heimanson & Wolf, LLP., often evaluate work place injury cases for evidence of third party liability. As in the case, if a negligent third party is liable, the injured worker can make a claim against the third party which allows for greater recovery than that available strictly through the Workers' Compensation system.