

# The Gottesman Report

## A Newsletter For Your Benefit

June 2008

### What's New at SSA ...

SSA continues to push ahead with its pilot project to render favorable decisions on disability claims at the initial level as frequently as possible. This is a limited initiative that is only being taken in specific geographic areas – our tri-state area is one. Claims that are decided favorably within this time frame are those in which the medical documentation clearly supports a finding of total disability. It is not generally done in cases where the medical documentation is sparse or is capable of being viewed in any way other than completely favorable. For cases in which this is not done, the waiting period for a hearing continues to be approximately one year from the date on which the claim reaches the hearing office.

### Pulling the Wool Over Your Eyes

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But all is not so benign when SSA favorably allows claims within a few months. In many cases, SSA will cut short the retroactive benefit period, literally denying you thousands of dollars of retroactive benefits. When SSA does this, it counts on Claimants being too ill or being so grateful to get some money that they will not “rock the boat” to pursue the claim further. Thus, it saves the government a great deal of money when SSA does not have to pay out large retroactive benefit periods.

Likewise, if a Claimant has returned to full-time employment since the claim was filed, SSA will often not award the Claimant

the trial work period to which he/she is entitled. This again denies the Claimant approximately one year's worth of continued benefits, plus Medicare/Medicaid, to which he/she is legally entitled.

This is why having an attorney is valuable in disability cases. Many Claimants are still not aware of their rights when it comes to calculation of benefits. Only your representative can tell you whether you have gotten the maximum benefit possible and can protect your rights to get as much money as possible. Our office prides itself on not abandoning our clients after the case is won. While our representation of you ends when we win your claim, we will continue to work with you until you have received your proper benefit amount. This is legal work that is complimentary to our clients.

### Overpayment cases ...

We often receive calls from people who have cases in which SSA claims that they were overpaid, and now seeks re-payment of thousands of dollars of benefits already paid. Most private attorneys who handle overpayment cases require significant money to be placed into their escrow account by the client pending resolution of the matter. Most times this involves well over a thousand dollars or more, which most people cannot afford. This is because the normal way of an attorney being paid in SSDI/SSI claims is through assessment against the retroactive benefit, which is not available in overpayment cases. Until now, our office has routinely required anywhere from one thousand to three thousand dollars to be placed into escrow prior to committing to represent an overpayment client. However,

our office has now developed a different way to handle overpayment matters. If you have an overpayment problem, we invite you to contact our office to discuss how we now handle such matters.

### **Coming Soon ...**

Our office has been working on technology updates. Coming soon is our new and improved web site at [www.disabilitybenefitsattorney.com](http://www.disabilitybenefitsattorney.com). We have provided many enhancements to the site, including blog and pod-cast features, and all our future newsletters will be posted to the site.

Also – Ms. Gottesman is being interviewed on June 3 by the Panic Relief Support Group for a future audio broadcast on their website. Details to follow.

### **Our Practice Areas ...**

We would like to remind our readers that our practice areas in **New York** consist of Social Security disability /SSI claims, long-term disability claims, disability discrimination matters, and matrimonial matters, including custody, visitation and support matters. In **New Jersey**, our practice areas consist of Social Security disability/SSI, long-term disability claims, and disability discrimination claims **only**. Please call our office if you have any questions about our practice areas. Consultations regarding SSDI/SSI claims are complimentary, as are consultations when a potential client is referred by one of the Legal Services Plans of which we are a provider attorney. For all other consultations, there is a fee of \$200, which is applied towards the retainer if we decide to represent you. We have offices in both NY and NJ.

### **Employer Bias Cases ...**

We have decided to highlight this news again in our newsletter because it is so important.

Nearly a year ago, the U.S. Supreme Court decided, in a 5-4 opinion, that employees cannot reach more than six (6) months into the past to complain about discriminatory employment practices. This means that the EEOC complaint, which is a pre-requisite to suing your employer, cannot be filed more than six (6) months after the last (not first) discriminatory act occurred. This is a huge step back for employees, who used to have nearly a year to decide whether to file a complaint against an employer.

As we have said previously, it is very important that the EEOC complaint be drafted in exact and thorough language, as it serves as the notice to the employer of the charges against it. If the EEOC complaint is not drafted precisely, it can be used as the basis for the employer to make a motion to dismiss the Federal Court action.

This office is available to assist workers with filing an EEOC complaint and representing you before the EEOC.

### **Finally ...**

If you are interested in seeing a particular issue addressed in this Newsletter, or if anyone wishes to be placed on the mailing list for future Newsletters, please let us know.

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**Remember: The best “thank you” for a job well done is your referral of a potential new client.**