



**Community Voices**

# Why workers' compensation is no longer a 'grand bargain'

One of the most important protections that employees have is a workers' compensation system that is supposed to provide them with minimum necessary benefits when they suffer an injury on the job.

This system was predicated on a "grand bargain" that was initiated during the Industrial Revolution to deal with the rising tide of work-related injuries and death. The injured worker gave up the right to sue the employer for civil damages. In exchange, the employee would receive medical treatment and a sufficient amount of monetary benefits to help them get by during their recovery period. If their injuries caused some permanent limitation or restriction on their ability to function, additional benefits were paid to reflect their level of disability. If they were unable to return to their usual and customary job, they would be provided retraining to help them adjust to other more suitable employment within their limitations.



**James Yoro**

Workers' compensation was a progressive idea that came to fruition at a time when we as a society recognized that it was not fair to treat injured workers as if they were nothing more than a piece of broken machinery — something to be discarded and replaced. Human capital is a valuable commodity that contributes to the success of our economy. Therefore, when workers get injured, they should be helped and cared for and not marginalized. Originally, this was the goal of the workers' compensation system. At the beginning of the 20th century, all 50 states adopted such a system in accordance with this philosophy.

But in the last 15 years, things have gone horribly awry for the injured worker.

Recently, two investigative reports and several news articles — including those by the Occupational Safety and Health Administration, the U.S. Department of Labor, National Public Radio and The Washington Post — reveal how poorly injured workers are now being treated in the workers' compensation system and the effect this cost shifting of the burden has affected our economy and our society.

The Department of Labor report titled, "Adding inequality to injury: The costs of failing to protect workers on the job," summarized its findings as follows:

"The costs of workplace injuries are borne primarily by injured workers, their families, and taxpayer-supported components of the social safety net. Changes in state based workers' compensation insurance programs have made it increasingly difficult for injured workers to receive the full benefits (including adequate wage replacement payments and coverage for medical expenses) to which they are entitled. Employers now provide only a small percentage (about 20 percent) of the overall financial cost of workplace injuries and illnesses through workers' compensation. This cost-shift has forced injured workers, their families and taxpayers to subsidize the vast majority of the lost income and medical care costs generated by these conditions."

The study concluded that the "failure of many employers to prevent millions of work injuries and illnesses each year, and the failure of the broken workers' compensation system to ensure that workers do not bear the costs of their injuries and illnesses, are truly adding inequality to injury."

I have represented injured workers for more than 25 years and I've seen firsthand this slow deterioration in the system and how it has affected those most vulnerable in our society — the injured, the handicapped and disabled — in their struggle to obtain the benefits they deserve and achieve some measure of dignity. At times, my level of frustration is overwhelming as I gaze into the eyes of my clients and see the look of quiet desperation as they struggle to avoid near poverty, bankruptcy and sometimes divorce simply because they got injured on the job.

Franklin Roosevelt once said, "The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

If this is the measure for progress then the workers' compensation system is in a period of regression. The "grand bargain" is no longer a bargain.

*James A. Yoro is a certified workers' compensation attorney with nearly 40 years of legal experience. He is a partner at the Bakersfield-based law firm Chain | Cohn | Stiles.*

# Brag about the weather while we still can

One joy of being Californian is the opportunity to taunt folks Back East about their terrible winter weather. Hey, Boston, how does it feel to have been colonized by Eskimos?

But this winter, with Californians sending snow-bound Easterners a blizzard of photos of our palm trees and blue skies, all our taunting may be masking our fears about our own weather.

Horror film directors will tell you that nothing is more frightening than what you can't see. So California has never had a scarier winter than this one. Where is all the snow in the mountains? How could San Francisco go all of January without any rainfall? What happened to the February frosts on cars and lawns that once gave Angelinos a hint of winter?



**Joe Mathews**

The paradox of the California climate is that, because we seem to have so little weather, the weather is more important here than just about anywhere else.

According to a new poll, 69 percent of us say the climate is their favorite thing about living in California. Our regional economies, our lifestyles, and our culture all rely on predictably pleasant weather.

And so we are profoundly sensitive to slight changes in the weather. This may be why Californians have taken climate change more seriously than people in other states. The threat is not merely to our coastline or water supplies but to our very sense of ourselves.

The fools Back East, of course, think that we don't have seasons. But we do, even in L.A. — the rains of January through March, the June gloom, the triple-digit heat wave as school gets started in early September. The trouble now is that the seasons have gotten all mixed up, an unwelcome California fusion. February felt like July. Smaller ski resorts around the state closed mid-winter — not for lack of snow but because it wasn't cold enough to make snow.

I don't know about you, but I find myself confused by what weather I'm supposed to be rooting for. First, I'm told that the state needs big winter storms that produce lots of rain and snow to replenish our water supplies. Then, I come across a U.S. Geological Survey study, released in 2013, suggesting that a massive winter megastorm could bring hurricane-force storms to California for weeks.

The result: Biblical flooding, the evacuation of 1.5 million people, and causing \$725 billion in damage. Such climate costs could make the weather the most divisive issue in California.

Weather also may put more distance between California and the rest of the country. The Southwest is heating up faster than the rest of America as the north and east get wetter. The day may come when this dry, sun-baked state won't be much to brag about.

So let's taunt Easterners now, while we still can.

*Joe Mathews is California & innovation editor for Zócalo Public Square, for which he writes the Connecting California column.*

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