

## **Attorney Earns Accolades for His Disability-Law Work**

### **Abstract**

It takes a skilled lawyer to compel his corporate counterpart to reconsider a "lost cause" client.

Take disability-law legend Frank Darras, who recently helped convince health insurer UnumProvident to reopen disability cases by the hundreds of thousands, which the company previously declared open and shut.

"We have 215,000 claimants who are going to get one last chance to convince the company that they are disabled and that they are entitled to the benefits they richly deserve," says Darras, 50, a name partner in the Claremont firm of Shernoff, Bidart & Darras. "If an insured was denied coverage because the insurance company's doctor's opinion was given more weight than the doctor who treated the insured, the treating doctor's opinion will be given more weight."

UnumProvident's change of policy may prove the most visible episode of a career usually cloaked in quiet settlements and confidential resolutions. But colleagues such as Tom Girardi, who has repeatedly co-counseled with Darras, agree that Darras has built a solid reputation in the disability law field.

"Frank has done this kind of great thing for many years," says Girardi, co-founder of Girardi and Keese in downtown Los Angeles. "He has massive insight in the ways companies behave badly. Many an ordinary lawyer would not be able to ascertain illegal or immoral conduct, because the insurance carriers are very clever in how they do it."

Girardi says that some insurers trick customers by promising coverage but burying vaguely worded exceptions in the fine print of their insurance policies.

For example, in the State Farm earthquake case, customers sued the insurer over earthquake insurance that specified a 10 percent deductible on their losses, which stemmed from the 1994 Northridge earthquake. *Allegro v. State Farm*, 45 Cal.App.4th 1093 (1996).

"Homeowners bought the policy thinking if their home took \$100,000 in earthquake damage, they would pay a deductible of \$10,000 and receive \$90,000 in benefits. But State Farm pointed to the fine print and said, 'No, the deductible is 10 percent of your policy limit,'" Girardi says. "But Frank and I and other lawyers won that case. We turned it around and got the insurers to give our clients their money."

State Farm settled the case for \$100 million after the 2nd District Court of Appeal ruled that the state's unfair-business-practices laws covered insurance companies.

While the State Farm plaintiffs lived only in California, UnumProvident's prospective claimants live in 47 states. On Nov. 18, the company entered into settlement agreements with Maine, Massachusetts and Tennessee to reopen the cases, and observers credit the U.S. Department of Labor and New York Attorney General Eliot Spitzer's office for significant efforts against UnumProvident.

Darras says that, while the particulars of each claim vary, the stakes remain high for most of them.

"For a woman who is sitting at home in the dark, splitting up her pills to make them stretch out - for her, a \$8,000 settlement would be like winning the lottery," Darras says. "If just one of these people gets benefits they would otherwise not get, it could put food on the table or gas in the tank that they otherwise wouldn't buy, and that's a good thing."

Noted neutral Jeffrey L. Krivis has heard Darras argue many cases before him, and Krivis considers Frank the leading disability attorney in the nation.

"Not only has [Darras] done more successful cases than anyone else, he is a walking encyclopedia of disability law," says Krivis, founder of First Mediation Corp.

Krivis says Darras walks into cases from a position of great strength because he knows both the law and the facts of his client's circumstances so well.

"He's also a relationship-builder with his adversaries. He wants what's best for his clients, but he has an open mind, and he's willing to listen to the other side," Krivis says. "If you wanted to build a model for the perfect disability attorney, Frank is it."

In *Hubka v. Paul Revere Life Insurance Co.* in 2002, a federal judge ruled in Darras' favor that the insurance company could not withhold policy benefits without opening itself to bad-faith liability.

And in *Zemel v. Provident Life & Accident Insurance Co.* in 2001, the insurer, which relied on an in-house physician who never examined the plaintiff in person, settled out of court after Darras confronted it with eyewitness accounts of the plaintiff's disability.

Darras knows the heartbreak of grave injuries firsthand: He dreamed of playing Big 10 college football until a forklift accident injured his fingers when he was 18.

Instead, he became a paramedic and a lawyer, and he credits his legal success to the vision that has guided him since starting his career in 1986: creating a comprehensive disability practice that could take on claims of any size, as well as the toughest cases.

"The goal was to help, guide and encourage the disabled to reclaim their lives and restoring what they were entitled to. I asked everyone to give me their hardest cases to show that they could be done," Darras says.

He says that he joined the Claremont firm in 1988 and became partner two years later.

"Frank has carved out this legal niche representing disabled people who have disability insurance, and he has become a national expert in handling these matters," his partner William Shernoff says. "He has been looking at and negotiating more of these cases, week in and week out, than any lawyer I've ever known."

Over the years, Darras has built a system to handle the firm's disability practice caseload. He employs eight paralegals to screen 250-to-500 prospective clients per week and to evaluate a thousand cases per month.

The firm estimates that Darras has handled 10,000 cases in his time there.

"We'll take every case that's worthy, and some months, that'll mean 50 new cases to represent. Some

months, it'll mean 200 or even 300," says Darras, who splits his caseload with disability associates Susan Grabarsky, Michael Horrow and Lisa Martinez.

"These are often one-question cases, where the wrong answer to the right question will end the case immediately," he says. "When you're talking about people who could be getting \$200,000 per month in benefits and they're getting only \$50,000, the stakes are tremendously high."

Martin Rosen, who has faced off against Darras as an attorney for UnumProvident and other insurance companies, says that while they work through an adversarial process, Darras never presents himself as an antagonist.

"He's very practical in his litigating and will hold discussions where we can find some common ground," says Rosen, a litigation partner in the Los Angeles office of Barger & Wolen. "When he gives you his word on something, he keeps it. His word is gold."