

Second Edition
Revised and Expanded

Consumer Guide to Social Security
Disability Claims

9 Fatal Mistakes Social Security Disability Claimants Make

and how you can
avoid making them

This book includes:

- Social Security disability myths
- How the Social Security system operates
- Definitions of common Social Security disability terms
- Disability Insurance Benefits vs. Supplemental Security Income
- Eight questions to ask before hiring a law firm
- One thing you absolutely should do before hiring a law firm
- How Social Security disability attorney fees are calculated and paid
- The Client's Bill of Rights

By Texas Social Security Disability Lawyer

Robert A. Kraft



9 FATAL MISTAKES

SOCIAL SECURITY DISABILITY CLAIMANTS MAKE

*This Is The Book You Must Read Before Making Your
Claim For Social Security Disability Benefits*

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Thank you for reading this book. I believe you will find it helpful, and I would appreciate your comments.

If you have recently become disabled, or if someone you care about has become disabled, chances are you're worrying about what you should do next. You may also be feeling angry, frustrated, or just wondering if there is a simple way to handle your unfortunate situation.

You may be asking these questions: "Can I trust the government to take care of me? How do I deal with the Social Security Administration? Should I get a lawyer? Will I lose any benefits because I haven't been seeing doctors for each of my problems? Are there any government rules or deadlines that I might not be following correctly?"

If any of these questions have occurred to you, then keep reading. My hope is that this book will answer many of your questions, and that it will ease some of your stress and frustration.

This book is primarily about Social Security disability claims, but there is also information that will apply to private disability policies or to other types of Social Security benefits.

But first things first – who am I, and why have I written this book for you?

My name is Robert Kraft. I am an attorney who has been representing injured and disabled clients in Dallas and throughout Texas since 1971. Representing claimants and consumers is all I have ever done as a lawyer. I have never worked for an insurance company or for the government. My allegiance and sympathy has always been to injury and disability victims, and never to insurance companies or government agencies. I just want to help as many injured or disabled people as possible, and that's all I've ever wanted to do as a lawyer. If you're really interested, you can read more about me near the end of this book.

But the important thing is that today, more than ever, I am frustrated about how hard it is for people to get straight answers to their questions during the stressful time after becoming disabled. If you should find yourself in such a situation, frankly, I hope you call me and hire my law firm to represent you. But I wrote this book, and I'm giving it to Texas residents for free, because I want you to have this valuable information whether you hire me, hire someone else, or hire no one at all.

Remember...

When it comes to dealing with the Social Security Administration about your disability, even if you don't have me AT your side, I'm still ON your side.

Let me address one question right away, even though it's not really part of the introduction of this book. The first thing many potential clients ask is how much we charge as an attorney fee in a Social Security disability case. The answer is pretty simple. In most cases our fee is 25% of a person's past-due disability benefits. But there is a maximum fee of \$6000 (in 2015), no matter how large the past-due benefit amount is. (There is an exception to this general rule if more than one hearing is required, but this is how it works in the normal case.) We get paid directly by the government, at the end of the case. You have no up-front costs, and if you don't receive any past-due benefits, we don't get paid. This is called a contingent fee agreement.

OK, that's out of the way. Later in the book I'll give you more information about the details of attorney fees – how they are calculated, and how they are paid. I just didn't want that important question to keep you from concentrating on the rest of the book.

If you've become disabled, there are some things that you absolutely must know. That's why I've created this book. Things are so complicated and such a hassle these days, that many people just give up, and don't try to fight for their rights. This book details some of the most critical things you need to know, and even more importantly, explains critical mistakes you **must not make**, in order to get what you deserve under the law.

As a lawyer who works with injury and disability clients day in and day out, I am becoming more and more concerned that

honest, hard-working Americans are being taken advantage of by giant, uncaring insurance companies, by government agencies, and even by our legal system itself.

As a result, I have prepared this book by asking myself this question:

“If my best friend became disabled and filed for Social Security disability benefits, and I couldn’t be there to help, what are the most important things I would want him to know?”

It is my genuine hope that this information will help you learn the important things that you should – and that you should **not** – do while filing and pursuing your claim for Social Security disability benefits.

Before I begin, if you (or a family member or friend) have become seriously injured or disabled, please let me express my sincere sympathy and my best wishes for a complete recovery. Ideally, you are reading this book BEFORE you file a claim for disability benefits. That way, you will be better prepared if and when that time should come.

An accidental injury or the onset of a physical or mental disability can be one of the most tragic and stressful events that can happen to a person. I know, because I have dealt with these situations every working day for well over 40 years. I have helped thousands and thousands of clients through this difficult time in their lives, and I want to help you too.

With recent changes in the Social Security laws and regulations, and with the way the government is handling claims these days, I am even more worried that you may not get the help you really need and deserve. The last thing you need is to be taken advantage of during this difficult time in your life.

So, again, I want to thank you for reading this book. I think that the information I give you here will help you in your quest to obtain fair benefits for your disability.

I have written this book so that consumers could have good, solid information before hiring an attorney or dealing with the Social Security Administration on their own. I truly believe that you should have this valuable information right now, before you are pressured to answer questions or to make important decisions about your disability claim.

The United States Government created the Social Security Administration for the purpose of providing a sense of financial security and inner-peace to aging and disabled Americans.

Sadly, those who need help the most are experiencing just the opposite every day as they fight to obtain their well-deserved benefits. Underfunding of the Social Security Administration's day-to-day operations has resulted in enormous backlogs of denied claims that are awaiting appeal hearings.

If you are reading this book, more than likely you are either already in the process of trying to obtain Social Security disability benefits or you are considering your options for filing for benefits.

You may have already been denied and are wondering why, after all your years of hard work and handing part of your paycheck over to the government, you are being denied benefits that are rightfully yours. You may be a parent wondering why your child is being denied supplemental benefits when he or she is clearly suffering from one or more very serious impairments. If you have had these thoughts, or if you are just interested in learning more about the Social Security disability claims process, read on.

OK, are you still a little suspicious? Are you still wondering why I wrote this book, and why I'm giving it to Texas residents for free? Let me try to explain further.

I am just flat sick and tired of insurance companies and government agencies taking advantage of people before they have a chance to talk to an attorney. I have previously written a book about mistakes people make after an auto accident, when they deal with the giant auto insurance companies.

In writing this book about Social Security disability benefits, some of my language may seem as applicable to insurance companies as to the Social Security Administration. But in my mind it's hard to separate the two situations. Whether in an auto accident claim or a Social Security disability claim, you're dealing with a large bureaucracy that knows

much more about the law than you do. The Social Security Administration may not have the same motivation that a big insurance company does, but in either situation there is a danger that your “opponent” will take advantage of you, deliberately or accidentally. To even the odds, you should be armed with this important information, right from the beginning of your claim. I wrote this book so that you can be informed, today.

I am also sick and tired of the outrageous lawyer advertising where lawyers with a reputation for handling thousands of cases at a time make promises that can't be kept, or equate your injury or disability to “CASH, CASH, CASH.” I am also tired of lawyers and long-term-disability insurance companies filing frivolous Social Security disability claims, because frivolous claims hurt everyone by delaying valid claims from reaching a conclusion.

Most attorneys require you to make an appointment, during which you would get some of the information that I am providing here. I believe that you should be able to have this information right now, and without any pressure. The hiring of an attorney to represent you is an extremely important step that should not be taken lightly, and should be done with no pressure on you.

Also, this method of talking to you saves me time. I've packed a ton of information into this book, and it saves my employees and me the time that it would take just to talk to all of the new potential clients who contact us. We cannot and will not accept every case, and each day we turn down

cases that simply do not meet our case selection criteria. So, rather than cut you short on the phone, writing this book gives me a chance to tell you what you need to know so that you can make an informed decision about what steps to take with your case. Even if we do not accept your case, I still want you to be better educated about the claims process so that you don't fall victim to the complex rules and short deadlines involved in Social Security disability claims.

I Am Not Allowed to Give Legal Advice In this Book!

Even though I may know many of the arguments the Social Security Administration is going to make in your claim, I am not allowed to give legal advice in this book. I can offer suggestions and identify certain pitfalls and traps, but please do NOT take anything in this book to be legal advice unless you have agreed to hire me, and I have agreed, in writing, to accept your case.

Important Notice:

We do not want to interfere with any legal relationship you might have now. If you are already represented by a lawyer, this book may raise certain questions for you. Please discuss these questions with your current lawyer. Each law firm does things a little differently, and small differences don't mean that we are right, and your lawyer is wrong. If you are having some type of problem with your lawyer, please sit down with him or her and try to work out those problems. It is usually better to work out things and stay with your original lawyer, than to switch lawyers part way through a disability claim. Please do NOT ask us to take your case away from another lawyer – we won't do that.

SOCIAL SECURITY DISABILITY DEFINITIONS

You need to have a basic understanding of some of the terminology of the Social Security system before I get into the Fatal Mistakes. Here is a simplified, plain-language description of a few of the most common terms:

Benefits

Retirement, Disability, Dependents, Survivors, and Medicare are the five categories within the Social Security system under which you may receive benefits.

Beneficiary

Anyone who receives Social Security benefits.

Child

May include biological children or any other child who can inherit your personal property under state law or who meets certain specific requirements under the Social Security Act.

Consumer Price Index (CPI)

An index prepared by the U.S. Department of Labor that charts the rise in costs for selected goods and services. This index is used to compute COLA increases.

Cost of Living Adjustment (COLA)

Social Security benefits and Supplemental Security Income payments are increased each year to keep up with inflation.

Disability Benefits

These benefits are received if you are under full retirement age, have enough Social Security credits, and have a severe medical impairment that will prevent you from performing substantial work for more than a year, or you are expected to die from the impairment.

Early Retirement

You can start getting Social Security retirement benefits as early as age 62, but your benefit amount will be less than you would have gotten at full retirement age. If you take retirement benefits early, your benefit will be permanently reduced, based on the number of months you received checks before you reached full retirement age. (There is an exception to this rule that is beyond the scope of this book.)

Family Benefits

The following people may be eligible to receive benefits on your record: Spouse if aged 62 or older (or younger if caring for an entitled child under the age of 16); children, if unmarried and under the age of 18 (or under 19 and still in school); disabled children over the age of 18; and an ex-spouse in some circumstances.

Family Maximum

The maximum amount of benefits payable to an entire family on any one worker's record.

Federal Insurance Contributions Act (FICA)

The formal name of the funding mechanism for Social Security benefits. It is a payroll tax that is deducted from the worker's paycheck and matched by the employer.

Full Retirement Age

The age at which a person may first become entitled to unreduced retirement benefits. Beginning with year 2000 for workers and spouses born in 1938 or later and widows or widowers born in 1940 or later, the retirement age increases gradually from age 65 until it reaches age 67 in the year 2022. This increase affects the amount of the reduction for persons who begin receiving reduced benefits.

Old Age, Survivors, and Disability Insurance

This is the formal name of the Social Security System.

Representative Payee

If you receive Social Security benefits or Supplemental Security Income and become unable to handle your own financial affairs, a relative, friend, or an interested party is appointed to handle your Social Security matters. This person is called a representative payee.

Retirement Age - Full Benefits

Full retirement age was 65 for many years. However, beginning with the year 2000 (for workers and spouses born in 1938 or later, or widows and widowers born in 1940 or later), the retirement age increases gradually from age 65 until it reaches age 67 in the year 2022.

Retirement Age - Minimum

The minimum age for retirement – age 62 for workers, and age 60 for widows or widowers. You can choose a reduced benefit anytime between your minimum retirement age and your full retirement age.

Retroactive Benefits (Back Pay)

Monthly benefits that you may be entitled to before the month you actually file an application, if you meet the entitlement requirements.

Spouse

The person to whom you were legally married at the time you applied for benefits.

Substantial Gainful Activity (SGA)

To be eligible for disability benefits, a person must be unable to engage in Substantial Gainful Activity (SGA). A person who is earning more than a certain monthly amount is considered to be engaging in SGA. The amount of monthly earnings considered to be SGA in 2015 is \$1090. For a blind person, SGA is \$1820 per month in 2015.

Supplemental Security Income (SSI)

A federal supplemental income program that helps the aging, blind, and disabled, who have little or no income.

Survivor Benefits

If you die, benefits will be paid to: your spouse age 60 or older (50 or older if a disability rather than death occurs) or at any age if the spouse is caring for a child under the age

of 16; children age 18 or younger (19 or younger if still in school); and your parents, if you provide at least half of their financial support.

WHAT IS THE SOCIAL SECURITY SYSTEM?

I think the best way to understand a complicated concept is to begin with the basics. I will start by telling you about the various types of benefits available to citizens through the Social Security Administration.

From there, I will move on to the steps you have to go through in order to ultimately get approved for your disability benefits. Finally, I will reveal the nine “Fatal Mistakes” that I have seen Social Security disability claimants make that prevent them from getting their benefits even though they may truly be entitled.

The Social Security Administration offers several types of benefits: Retirement Benefits, Survivor’s Benefits, Disability Insurance Benefits, and Supplemental Security Income. There are other financial and health care benefits that are offered through Social Security. However, these are some of the most relevant ones. To find out about other possible benefits, visit www.ssa.gov or call the Social Security Administration toll-free at 1-800-772-1213.

This chart shows some of the differences in Disability Insurance Benefits (DIB) and Supplemental Security Income (SSI).

	Disability Insurance Benefits	Supplemental Security Income
What Is Considered A Disability?	Physical or Mental Impairment that lasts 12 months or more and that prevents you from working a full-time job	Same as DIB
Credit Requirements	Must have paid enough taxes in to Social Security recently to be eligible	No credit requirements
Financial Limitations	If you are working part time, you cannot earn more than the level for substantial gainful activity (2015: \$1,090 per month)	Household income and assets must be low enough to qualify.
How Much Can I Get?	Depends on how much you have paid into Social Security	Currently, \$733 maximum per month, but this amount decreases dollar for dollar with any income you have
Any Health Insurance Included?	Medicare: Eligible two years after you start receiving benefits	Medicaid: Eligible as soon as you are declared disabled
Can My Children Get Benefits?	Yes. Children are entitled to a dependent's benefit. But there is a family maximum.	Not as a result of your disability. Children must have their own disabilities.
Who Are These Benefits For?	Anyone who has paid in enough to be insured Anyone who may be eligible on a spouse or parent's work record	Adults of Retirement Age Disabled Adults Under Retirement Age Minor Children

RETIREMENT BENEFITS

Retirement benefits are available to those who have paid enough Social Security taxes (through income withholding) to be fully insured for retirement benefits. If you have worked and paid Social Security taxes on your income for a good portion of your life, you will almost certainly qualify for retirement benefits.

You are eligible to receive full retirement benefits when you have reached full retirement age. The full retirement age used to be 65, but is now rising.

Depending on the year you were born, your full retirement age may be anywhere between 65 and 67. This chart shows your full retirement age according to your year of birth.

Year of Birth	Full Retirement Age
1937 and earlier	65
1938	65 and 2 months
1939	65 and 4 months
1940	65 and 6 months
1941	65 and 8 months
1942	65 and 10 months
1943-1954	66
1955	66 and 2 months
1956	66 and 4 months
1957	66 and 6 months
1958	66 and 8 months
1959	66 and 10 months
1960 and later	67

You can choose to receive retirement benefits prior to reaching your full retirement age, starting at age 62. However, if you do choose early retirement you will incur a **permanent reduction penalty** in the amount of your monthly benefit. There is an exception to this rule, but it is fairly complex. I won't go into it in this book, as the book is primarily about disability benefits. As a general rule though, the earlier you retire, the greater the amount of the reduction.

Here's an example. Jim has worked his entire life in heating and cooling repair and decides it is time to call it quits when he turns 62 years old. He has always paid taxes into Social Security and decides he wants to go ahead and draw his retirement benefits. When Jim applies, the agent at the Social Security office doesn't tell him that his benefits will be permanently reduced. Jim begins drawing a retirement check in the amount of \$1280 per month. When Jim turns 66, his full retirement age, he finds out that his full retirement amount should be \$1600. However, he is not eligible to receive this monthly rate now. His monthly check will be \$1280 for the rest of his life. If he had waited to retire, he would be receiving \$320 more per month.

SURVIVOR BENEFITS

Survivor benefits are available to direct relatives of deceased workers if those deceased workers have paid enough money into Social Security to be insured for retirement and survivors benefits. (Again, you pay money into the Social Security system through monthly withholdings from your paychecks.)

WIDOW OR WIDOWER BENEFITS

- Under Age 50: You are not eligible to receive benefits unless you have a deceased spouse's minor child in your care.
- Age 50 – 59: You must be disabled and you receive a reduced benefit.
- Age 60 – 64: No disability requirement, but you will draw a reduced benefit.
- Age 65: No disability requirement and you are entitled to full benefits.

CHILD BENEFITS

Children of a deceased or disabled worker can receive benefits if they are:

- Under age 18 or still in high-school, or
- Adult children who have a disability that began prior to age 22.

Children of a *deceased* worker are entitled to an amount equal to $\frac{3}{4}$ of the deceased worker's disability benefit. This is limited by a family maximum.

Children of a *disabled* worker are entitled to an amount equal to $\frac{1}{2}$ of the deceased worker's disability benefit. This is limited by a family maximum.

DEPENDENT PARENT BENEFITS

Benefits may also be payable to the parent of a deceased worker if the parent lived in the deceased worker's care. If the parent was dependent on the child, the parent may be eligible to receive monthly benefits based on the deceased child's work record.

DISABILITY INSURANCE BENEFITS

Disability Insurance Benefits are what most people think of when they hear the phrase "Social Security Disability."

Disability Insurance was designed simply to provide disabled workers with income. Disability Insurance is sort of like any other insurance policy.

In order to be eligible to receive benefits, you pay in premiums every month by having taxes withheld from your paycheck. As long as you continue to pay your premium, you stay insured to receive benefits. Once you stop paying the premium (in other words, stop working or stop paying taxes), your coverage will eventually lapse or end.

Generally, your coverage will end within five years after you stop working. In order to receive Disability Insurance Benefits, you have to prove that you were disabled prior to the date your insurance lapsed. In other words, you must have become disabled within five years of the last date you worked.

You may be asking what it takes to prove that you are disabled. The Social Security Administration has an extremely strict definition of disability – stricter than any private disability insurance policy would have. In order to prove you are disabled under the Social Security disability laws, you must show *each* of the following:

- You have a physical or mental impairment that can be shown through medical evidence.
- You are unable to do ANY sort of work, not just your own past work, on a full-time basis. (There are

limited exceptions to this rule, depending on your age, education, and transferable job skills.)

- You are unable to work for 12 consecutive months or more at a level of substantial gainful activity. (In 2015, this means you are unable to earn more than \$1090 per month.)

Remember, you must prove all three of these things, not just one or two of them.

The amount of benefits you will receive each month depends on how long and how much you have paid into the Social Security system.

SUPPLEMENTAL SECURITY INCOME

Supplemental Security Income (SSI) is a program designed to provide financial assistance to those who are ineligible for Disability Insurance Benefits or who are eligible only for a small amount, but who are nevertheless unable to work due to a physical or mental impairment, and who have very limited income and financial resources.

In order to be eligible to receive these benefits, your household income must be very low and the value of your total assets (not including your house or car) must not exceed \$2000 if you are single or \$3000 if you are married. These are 2015 figures and could be changed in the future.

You must also prove that you are disabled. Again, in order to prove you are disabled, you must show each of the following:

- You have a physical or mental impairment that can be shown through medical evidence.
- You are unable to do ANY sort of work, not just your own past work, on a full-time basis. (There are limited exceptions to this rule, depending on your age, education, and transferable skills.)
- You are unable to work for 12 consecutive months or more at a level of substantial gainful activity (In 2015, this means you are unable to earn more than \$1090 per month).

The amount of monthly benefits you are entitled to receive depends upon the amount of your household income. As your household income rises above a certain amount, the amount of SSI you are entitled to receive begins to decrease dollar for dollar.

SSI is also available to children who have medical conditions that the Social Security Administration deems serious enough to be considered disabilities. For purposes of determining how much a child is due each month, part of the income of the parent or parents is deemed to be the child's income.

WHAT MEDICAL CONDITIONS AND OTHER FACTORS “COUNT” IN DETERMINING IF A PERSON QUALIFIES FOR DISABILITY?

One of the many differences in the Social Security disability system as compared with an auto accident or a workers’ compensation claim or is that in Social Security disability, a person’s entire life history is considered.

If you get hurt in a car wreck, the only things that matter are whether the wreck was someone else’s fault, and how badly you were injured.

If you get hurt on the job, the only things that matter are whether you were working at the time, and whether that one injury will keep you from working for a while.

But in the Social Security disability system, you can take into account not only any physical injury you have sustained, but also any unrelated, pre-existing medical conditions you may have, your educational level, any psychiatric problems you might have, and whether you have had training for a desk job rather than hard labor.

In other words, the government is supposed to consider the entire person as a whole before making a disability determination. This is good news for claimants, but it does put more pressure on claimants to provide all possible documentation – from medical records to school report cards.

To give you an idea of the types of conditions that might entitle a person to Social Security disability benefits I'm going to include a few articles from my law firm's injury and disability blog. You can read more articles like these at www.PISSD.com. (That stands for Personal Injury, Social Security Disability.)

Remember though, that **all** of your conditions are combined for the purposes of determining disability. So if you have a cardiac problem **and** arthritis **and** a back injury **and** a bipolar mental disorder, **all** of those will be considered.

On top of that, your age, education, and past work history are considered. So if you're a 55 year-old man with a tenth-grade education and have done heavy labor your whole life, you're going to have an easier time getting benefits than would a 40 year-old man who has a college education and has work experience as a bookkeeper.

Here are the articles:

Arthritis and Social Security Disability

According to the Arthritis Foundation, more than 27 million people are affected by Osteoarthritis and another 1.3 million people live with rheumatoid arthritis. These people can be your parents, your siblings, or even you!

Arthritis is broken up into two listings by Social Security. The first, Listing 1.02 for the Major dysfunction of a joint, covers disability caused by Osteoarthritis. Disability caused

by inflammatory or rheumatoid arthritis is covered by Listing 14.09.

It is very difficult to meet a listing for osteoarthritis, particularly in a person under the age of 65. Generally, the best approach is to document the existence of osteoarthritis and then document the actual physical limitations it places on a claimant. These physical limitations are referred to as a claimant's physical residual capacity to perform work related activities. They include activities such as sitting for a long period of time, standing for a long period of time, lifting, pushing, pulling, and walking. Also, osteoarthritis often presents in the hands of a claimant. If the claimant has had a long history of performing desk jobs requiring manual dexterity, the claimant's inability to perform that type of work can be the basis for a finding of "disabled."

The second listing covering arthritis is 14.09 for inflammatory arthritis. It should be noted that Rheumatoid Arthritis is found in the series of listings covering the immune system. That is because Rheumatoid or inflammatory arthritis is actually a systemic disorder, which can manifest itself in all parts of the body, not just the joints. It is however, most common in the joints. As with osteoarthritis it is very difficult to be found disabled based simply on the Listing for inflammatory arthritis. To be found to "meet or equal a listing" a claimant would have to provide a medically documented history of (1) joint pain, (2) joint swelling, (3) joint tenderness, (4) current joint inflammation, (5) occurring in two peripheral joints or one major weight bearing joint, (6) resulting in the inability to ambulate effectively or inability to perform fine

or gross movements, and (7) ongoing for 12 months or being expected to end in death.

A finding of disabled based on rheumatoid or inflammatory arthritis, like osteoarthritis, is more likely to be based on a claimant's decreased ability to perform work activities. A claimant needs to be prepared to offer credible testimony as to his or her ability to function in the workplace. What job function could the claimant not perform any longer? What adjustments or allowances did the claimant's workplace make for him or her? Did the claimant need to rely on his or her co-workers for assistance? Additionally, arthritis is often treated with powerful steroids such as Prednisone, which can have severe side effects. The side effects of this type of medication are not in and of themselves disabling, but can be considered a contributing factor.

Bipolar Disorder and Social Security Disability

Bipolar disorder is a mental disorder that results in extreme emotional changes and mood swings. Most people with Bipolar disorder alternate between extreme "Highs" (in which their mind races and they sometimes engage in bizarre and irrational behavior) to deep "Lows" (in which they have suicidal thoughts and unhappiness). According to the National Institute for Mental Health, Bipolar disorder affects over two million people. The age of diagnosis can range from adolescence into the early twenties. Bipolar Disorder can also lead to alcohol and drug abuse as a person tries to self-medicate. Sometimes an individual will meet

with three or four mental health professionals before being correctly diagnosed!

Bipolar disorder is recognized as a Disability by Social Security. However, if a person with Bipolar disorder wants to seek Social Security Disability benefits, it is very important that the individual receive regular treatment. This treatment should include visits to a mental health clinic for counseling and medication. Information regarding an individual's work history should also be gathered. Failed work attempts can be strong evidence of a person's mental disease, especially when the work attempt ended due to impulsive behavior or a lack of reliability.

Central Nervous System Vascular Accident and Social Security Disability

A Central Nervous System Vascular Accident, generally called a stroke, can have devastating long-term effects. It can cause problems with a victim's speech, movement, vision, hearing, and even the ability to understand. According to a 2005 government survey, the results of which were released early in 2008, stroke was the third leading cause of death in all people.

Social Security recognizes Central Nervous System Vascular Accident (CVA) as a disabling condition. Social Security is primarily concerned with a Claimant's functional limitations after a stroke. A stroke victim may be unable to stand for long periods of time, walk effectively to keep pace with other workers, have full use of their arms, fine motor skills,

etc. Additionally, some people who have a stroke will have problems speaking (Aphasia) to and understanding others. All of these factors will be considered by Social Security.

Congestive Heart Failure and Social Security Disability

Have you been diagnosed with congestive heart failure? Congestive Heart Failure (CHF) is a condition in which your heart does not circulate the blood through your body well. This tends to cause swelling, particularly in the legs, as your blood pools in your lower extremities. Often, a person with CHF cannot engage in work activities because his or her heart is just not strong enough. If you have been going through the steps for recovery recommended by your doctor but are still unable to work, you may qualify for Social Security Disability and Social Security Supplemental Income.

Congestive Heart Failure is covered by Social Security Listing 4.02 for Chronic Heart Failure. A successful claim under this listing requires MRIs or other imaging techniques demonstrating cardiac enlargement or overall low performance of your heart. Some examples would be: the inability to perform an exercise test at 5 METS or less, a left ventricular ejection fraction of 30% or less, three or more ventricular premature beats, or physical symptoms attributable to inadequate cerebral perfusion. While these terms are somewhat technical, your doctor can tell you if you meet any of these requirements.

Disorders of the Spine and Social Security Disability

Many people have back pain. According to the American Chiropractic Center at least 80% of people will suffer from some sort of back pain.

Back problems are generally covered by Social Security Listing 1.04 for “Disorders of the Spine.” The listing covers three causes of back pain. The first requires evidence of nerve root compression and “neuro-anatomic distribution of pain” along with limitations in range of movement, muscle strength, and sensory loss. Generally, if a person has the type and severity of back pain suggested by this portion of the listing, that person is probably on the way to the hospital!

The second type of back pain considered by Social Security is Spinal Arachnoiditis. Spinal Arachnoiditis is an inflammation of the arachnoid, which is a thin layer of tissue covering the spinal cord. This inflammation can be caused by injury, infection, surgery, or even injections into the spine. Since spinal arachnoiditis does not usually show up on MRIs, it can be hard to prove. The best evidence of arachnoiditis is a biopsy of the tissue itself.

The most commonly addressed form of back pain is Spinal Stenosis, which is covered by section C of the listing. Spinal Stenosis can be shown by MRI, CT scan, or myelogram. Stenosis is an abnormal narrowing of the spinal canal, which, eventually, presses the spinal column onto the nerve roots causing severe and unremitting pain. Depending on where the stenosis is occurring in the spine (Cervical, Thoracic, or

Lumbar), an individual can have symptoms such as numbness in the fingers, hands, legs, or feet, and difficulty walking.

It is not enough for a claimant to simply allege “back pain” as a reason for disability. Social Security needs objective medical evidence. This evidence can be in the form of tests and laboratory findings, as discussed previously, or objective physical reviews from physicians, preferably physicians specializing in Disorders of the Spine. Those treating physicians should also provide the potential claimant with an evaluation of physical limitations and work-related restrictions.

If you have become disabled due to back pain, the first step should be meeting with, and discussing your back pain with, a doctor. Once you have undergone a thorough examination by the doctor, and the doctor suggests that your spine disorder is severe, you may want to apply for Social Security Benefits.

Epilepsy and Social Security Disability

Over the years, quite a few of our Social Security disability clients have had epilepsy as a component of their disabilities.

Epilepsy is a common disorder of the neurologic function of the brain. It is primarily characterized by recurrent, unprovoked seizures. According to the World Health Organization, about 50 million people suffer from Epilepsy worldwide. Epilepsy can often be controlled with medication, but occasionally surgery is needed. Epilepsy can be considered disabling by

the Social Security Administration but it is usually presented as a secondary cause for disability.

Social Security covers Epilepsy under Listing 11.02 Epilepsy Grand Mal and Listing 11.03 for Epilepsy Petit Mal. Epilepsy Grand Mal is characterized by either daytime episodes that result in loss of consciousness, or nighttime episodes that are severe enough to interfere with daytime work functions. Epilepsy Petit Mal is characterized by alternating consciousness and manifestations of bizarre behavior that interferes with daytime work activities on a weekly basis.

In order to prevail against Social Security on a claim based entirely on Epileptic Seizures, the claimant needs to establish that 1) he or she continues to have seizures despite following at least three months of prescribed treatment, and 2) the seizures can be confirmed through an EEG (electroencephalogram). Unfortunately about 10% of people suffering from a seizure disorder have negative EEGs.

If people think they are having Epileptic Seizures and cannot work, they should start getting medical care immediately. They should ask their doctors to perform EEG tests. They should make sure they are complying with the doctor's instructions and make sure they are not using any illegal drugs or drinking alcohol, as this can interfere with the anti-seizure medication.

Fibromyalgia and Social Security Disability

Our firm has successfully represented thousands of clients with Social Security disability claims. One that made us especially proud involved 23 year-old Kacey Long. Of course I wouldn't normally mention a client by name, but Kacey is on a crusade to educate other women who may be considering breast implants.

Kacey had breast implant surgery in 2001. Almost immediately after the surgery her health began to decline, and eventually reached the point where she could barely walk. Kacey was diagnosed with several impairments, including rheumatoid arthritis, fibromyalgia, and chronic fatigue syndrome.

Kacey had her implants removed in 2003, but is still fighting to regain her health. She is determined to warn other women of the dangers associated with breast implants, and has been on a nationwide campus speaking tour. Kacey's story has received media attention from many sources, including The Washington Post, USA Today, Good Morning America, and MTV. Please visit Kacey's site at www.ImplantsOut.org to learn more about her.

We wish Kacey all the best in her attempt to regain full health, and in her efforts to educate other women about the risks of breast implants. Her Social Security disability case shows that a person of any age can be found to be disabled.

Multiple Sclerosis and Social Security Disability

“But you look so good,” is something that people often think or say when they meet someone with Multiple Sclerosis. However Multiple Sclerosis, or MS, can be a debilitating disease. Social Security recognizes MS as grounds for disability under Social Security Listing 11.09. The Listing requires a person with MS to have:

1. Disorganized motor function (problems controlling your arms or legs), or
2. Problems with vision (20/200 corrected vision in your best eye) or cognitive difficulties (problems with memory, disorientation to time and place, etc) or
3. Reproducible fatigue of motor function with substantial muscle weakness on repetitive activity.

MS can be hard for doctors to diagnose. Its symptoms can include fatigue, pain, cognitive problems like memory loss, weakness, blurred vision, dizziness, and bladder or bowel problems. A person with Multiple Sclerosis will often look just fine. That is why, in the context of a Social Security Disability hearing, it is so important to have an attorney to represent you and demonstrate to the ALJ all objective and subjective evidence that should be put forward. Objective evidence of MS will include MRIs of the Brain and Spine, observations of your treating doctor, and often, results of a spinal tap. Subjective evidence of MS will include many of

your activities of daily life and how multiple sclerosis has forced you to make changes in your life.

People with MS need both financial and emotional support. For emotional support a person with MS can lean on their family and loved ones, or contact the National Multiple Sclerosis Society. For financial support, people with MS should apply for Social Security Supplemental Income, Medicaid, and Social Security Disability.

For more information regarding MS you can contact The National Multiple Sclerosis Society by phoning 1-800-FIGHT-MS.

Peripheral Arterial Disease and Social Security Disability

Arteries carry blood from the heart to the body. In some cases a person's blood pressure can be too low to push the blood through the extremities. This problem is most commonly found in the lower extremities. When the blood supply is cut off or severely restricted to a body part, that part of the body "dies" and gangrene can set in, which can eventually lead to amputation. The condition in which your body does not push enough blood to your extremities is called Peripheral Arterial Disease.

Social Security recognizes Peripheral Arterial Disease as disabling under listing 4.12. The Listing requires intermittent claudication with at least **one** of the following:

- 1) A resting ankle/brachial systolic blood pressure ratio of less than .50.
- 2) A decrease in systolic blood pressure at the ankle on exercise of 50% of pre-exercise level.
- 3) A resting toe systolic pressure of less than 30 mm Hg.
- 4) A resting toe/brachial systolic pressure ratio of less than .40.

Typically, a person with Peripheral Arterial Disease will develop pain in the calf or thigh after walking a certain distance and the pain will increase to a level that causes that individual to start limping or to stop walking all together. The limping is called claudication.

Most people with Peripheral Arterial Disease will not meet the listing as described. Instead, that person's best chance to be found disabled will be to show that he or she cannot walk effectively to keep pace with others in the competitive job market.

Interstitial Cystitis and Social Security Disability

A number of our Social Security Disability clients suffer from interstitial cystitis. Individuals suffering from this disorder frequently experience the following symptoms:

- urinary frequency,
- urinary urgency, and

- pain (especially pelvic)

The course of prescribed treatment can include narcotic pain medications and bladder surgery. While not all individuals who have been diagnosed with interstitial cystitis will be found disabled under Social Security rules, one source of information for people with interstitial cystitis that we recommend is the Interstitial Cystitis Organization. The Interstitial Cystitis Organization is full of information and resources to those suffering from interstitial cystitis, and you can get find out more at www.ichelp.org or 1-800-HELP-ICA.

Heart Attack and Social Security Disability

A number of our Social Security Disability clients have suffered from heart attacks. Individuals suffering from this disorder frequently experience the following symptoms:

- shortness of breath,
- chest pain, and
- dizziness.

The course of prescribed treatment can include physical therapy, medications, and, in some cases, a stent placement. While not all individuals who have been diagnosed with a heart attack will be found disabled under Social Security rules, it is not uncommon for benefits to be granted based on this cardiac condition. One resource for people with heart attacks and other heart conditions is the American Heart Association. The [American Heart Association](http://www.heart.org) is a nonprofit that offers information to those suffering from heart attacks, and you can learn more at their site.

Ehlers-Danlos Syndrome and Social Security Disability

A number of our Social Security Disability clients suffer from the relatively rare Ehlers-Danlos Syndrome. This is a disorder of the connective tissue, and it is hereditary. Individuals suffering from this disorder frequently experience the following symptoms:

- loose joints or “double joints,”
- small, fragile blood vessels, and
- abnormal scar formation or wound healing.

The course of prescribed treatment can include physical therapy, medications, and treatment of individual symptoms. There is no cure for the disease. While not all individuals who have been diagnosed with Ehlers-Danlos Syndrome will be found disabled under Social Security rules, one source of information for people with this disease that we recommend is the [National Organization for Rare Disorders](#) (NORD). NORD has a site full of information and resources to those suffering from Ehlers-Danlos Syndrome as well as other diseases.

Schizophrenia and Social Security Disability

A number of our Social Security Disability clients suffer from schizophrenia. Individuals suffering from this disorder frequently experience the following:

- audio or visual hallucinations,
- unusual speech, and

- isolation or withdrawal.

The course of prescribed treatment includes antipsychotic medications. While not all individuals who have been diagnosed with schizophrenia will be found disabled under Social Security rules, one source of information for people with schizophrenia that we recommend is www.schizophrenia.com. This site is a source from the non-profit community full of information and resources useful to those suffering from the disease and to their loved ones.

ALS and Social Security Disability

A number of our Social Security Disability clients suffer from amyotrophic lateral sclerosis (ALS) or Lou Gehrig's Disease. Individuals suffering from this disorder frequently experience the following symptoms:

- weakness in the hand, foot, arm, or leg,
- difficulty speaking and swallowing, and
- difficulty walking.

The course of prescribed treatment can include night-time breathing assistance, a prescription of Riluzole (believed to reduce the damage of motor neurons), and stem cell or gene therapy. While not all individuals who have been diagnosed with ALS will be found disabled under Social Security rules, one source of information for people with ALS that we recommend is the [ALS Association](http://www.alsassociation.org). The ALS Association is a non-profit with great information and resources for those suffering from ALS, and you can learn a great deal by visiting their site.

PTSD and Social Security Disability

A number of our Social Security Disability clients suffer from post-traumatic-stress-disorder or PTSD. Individuals suffering from this disorder frequently experience the following symptoms:

- re-experiencing symptoms (for example, a car backfire reminds a veteran of gunfire from battle),
- avoidance of situations that remind a person of the traumatic event (for example, avoiding television shows with natural disasters after one survives an earthquake), and
- feeling keyed-up or hyper-aroused.

The course of prescribed treatment can include cognitive-behavioral therapy, exposure therapy, and medications such as selective serotonin reuptake inhibitors (SSRIs). While not all individuals who have been diagnosed with PTSD will be found disabled under Social Security rules, one source of information for people with PTSD that we recommend is WebMD.com. This is a site full of information and resources for those suffering from PTSD.

Addison's Disease and Social Security Disability

A number of our Social Security Disability clients suffer from Addison's disease. Individuals suffering from this disorder frequently experience the following symptoms:

- fatigue,

- dizziness, and
- muscle weakness with difficulty standing up.

The course of prescribed treatment can include hydrocortisone tablets or prednisone to replace missing cortisol, fludrocortisone to replace missing aldosterone. While not all individuals who have been diagnosed with Addison's disease will be found disabled under Social Security rules, one source of information for people with Addison's disease that we recommend is [Addison's Disease Research Today](#). Addison's Disease Research Today is a monthly online journal summarizing recent findings on Addison's disease.

Sleep Apnea and Social Security Disability

Many of our Social Security Disability clients suffer from sleep apnea. Individuals suffering from this disorder frequently experience:

- excessive daytime sleepiness (e.g., falling asleep easily and inappropriately),
- memory problems, and
- frequent awakenings during the night, often with snoring.

The course of prescribed treatment can include positional therapy (e.g., not sleeping on the back), oral or dental appliances that keep the airway open, weight loss, surgery, and use of a continuous positive airway pressure (CPAP) device. While not all individuals who have been diagnosed with sleep apnea will be found disabled under Social Security

rules, one source of information for people with sleep apnea that we recommend is the American Sleep Apnea Association. The American Sleep Apnea Association is a non-profit organization and should be considered a great information resource for those suffering from sleep apnea.

Parkinson's Disease and Social Security Disability

A number of our Social Security Disability clients suffer from Parkinson's disease. Individuals suffering from this disorder frequently experience the following symptoms:

- tremors or shaking,
- slow movement, and
- difficulty balancing.

The course of prescribed treatment varies depending on which symptoms are most troubling. Medications such as Stalevo are often used, and dosages are frequently modified with new medications being added or substituted. Physical and speech therapies are also frequently employed along with surgeries such as deep brain stimulation. While not all individuals who have been diagnosed with Parkinson's disease will be found disabled under Social Security rules, one source of information for people with Parkinson's disease that we recommend is the National Parkinson Foundation. The National Parkinson Foundation is a nonprofit organization and their site full of information and resources to those suffering from Parkinson's disease. You can call them at (800) 327-4545.

Social Security Disability and Children's Cases

Did you know that children with disabilities could qualify for Social Security Benefits and Medicare? The money from Social Security must be used to benefit the child.

How do children qualify? First, Social Security will review income available to the child and the parents to determine if the child financially qualifies. The child must not be earning more than \$1090 per week, in 2015 figures.

Second, Social Security reviews the problems the child has, in order to determine if he or she has "marked and severe functional limitations." This means your child's condition seriously limits his or her activities. This condition must be expected to last for longer than 12 months or possibly result in death.

There are some conditions that Social Security considers so disabling that they will begin making payments immediately while they review your child's case. These include: HIV, Total Blindness, Total Deafness, Cerebral Palsy, Down Syndrome, Muscular Dystrophy, Severe Retardation, and a birth weight below 2 lbs 10 ounces.

You Can Receive Disability Benefits Even Though You've Been Able to Return to Work

Suppose you suffer a back injury that requires two surgeries and rehabilitation over the time span of a year and a half. After completing the prescribed course of treatment you

return to work. You have recovered enough to no longer have a “severe impairment” and, therefore, are no longer disabled according to the Social Security Administration’s definition of “disability.”

What about the year and a half that you were unable to work? Can you receive benefits even though your condition has improved and you’ve been able to return to work? You bet - and it is fairly common to do so.

If an illness or condition has lasted a continuous period of at least 12 months you may be eligible for a “closed period of disability.” In our example, the “closed period” would be the year and a half spent recovering from back surgery and completing rehabilitation.

If you were unable to work for at least a year because of a physical or mental impairment you might be eligible for disability benefits even if you returned to work. Also, remember that if you are expected to be unable to work for at least a year because of a physical or mental condition you might be eligible for disability benefits.

THE DISABILITY DETERMINATION PROCESS

Initial Application

To be awarded disability benefits, you first have to assert your right to them. You assert your right by filing an application with the Social Security Administration.

You can make this application in several ways:

- In person at your local Social Security office
- By phone toll-free at 1-800-772-1213
- On the Internet at www.ssa.gov

Once you have filed an application, the Social Security Administration will turn your application over to your state's division of Disability Determination Services (DDS). This is an organization designed specifically for the purposes of determining whether an applicant is disabled, and therefore eligible to receive government benefits.

You will go through a process of filling out questionnaires about your medical condition and how it affects you on a daily basis. DDS may send you to appointments with physicians and/or psychologists for further evaluation of your condition. They will also gather your medical records and may talk to your friends or family about your physical and mental limitations.

Once they have gathered and evaluated all of this information, a decision will be made as to whether you are disabled. If you are approved, your benefits will be started. If you are denied, you will be notified and you must file an appeal in order to continue your claim. About 2/3 of all disability applicants are denied.

Reconsideration

If your initial application is denied, you must file an appeal with the Social Security Administration. This appeal is known as a Request for Reconsideration. You cannot skip this step and go directly to a hearing. You must go through this process in order to have your claim properly heard. **WARNING:** You must file your appeal within 60 days of the date stated in your Initial denial letter.

Once you file this appeal, your claim goes through the same evaluation process it went through during the initial application. However, at this stage, a different set of evaluators makes the decision. Only about 10% of all disability applications at this level of appeal are actually approved. If you are denied you must file the next appeal.

Hearing

If your claim has been denied at the reconsideration stage, you now have the opportunity to request a hearing before an Administrative Law Judge. **WARNING:** Again, you have only 60 days to file your appeal from the date stated in your Reconsideration denial letter.

At the Administrative Law Hearing, the judge will evaluate all the medical evidence in your file and make a new decision in your case. You will have the opportunity to tell the judge in person about all the limitations your condition causes and how these limitations affect you on a daily basis. The judge may ask a medical expert witness to testify about your limitations, and may ask a vocational expert witness to testify about jobs that are available in the national economy. You will also have the opportunity to have witnesses testify on your behalf if necessary. The judge will normally issue the decision in writing. Many cases that are denied in the earlier stages are approved at the hearing level.

The administrative law hearing is not like jury trials you may have seen in person or on television. In effect, the judge is both the government's advocate and also the decider of fact. The judge will be the person asking you questions, like an insurance lawyer would in a car wreck trial. The judge is also the person who decides whether to call an expert to testify. Then the judge is the person who makes the decision in the case. While many administrative law judges try their best to be fair and balanced, you can see how putting one person in this dual role of advocate and judge carries a risk of unfairness to the claimant.

Appeals Council and Beyond

If the administrative law judge denies your claim, your case is NOT over. You have the opportunity to appeal your case to the Social Security Administration's Appeals Council.

WARNING: You must file your appeal within 60 days of the Judge's decision.

Although you will not be entitled to a hearing at the Appeals Council, you can ask in writing that the Appeals Council approve your case or give you a new hearing based on the fact that the administrative law judge made either a legal or factual mistake.

If the Appeals Council denies your case, you have the option to challenge the Social Security Administration in federal court for a reversal of the denial or a new hearing. You may also have the option of filing a new claim while you await your appeal. (Our firm generally does NOT recommend that you both appeal and file a new claim, but rather that you follow the one course of action that is most beneficial to your case and to your particular circumstances. This is a complex decision and really should not be made without first consulting with an experienced Social Security disability lawyer.)

SOCIAL SECURITY DISABILITY MYTHS

- If a reasonable person would say you are too sick or hurt to work, you will automatically get Social Security disability benefits.
- You don't need a lawyer to guide you through the Social Security system because the government will be fair with you.
- The Social Security Administration will gather all your medical records and carefully consider every medical report before making a decision.
- If Social Security sends you to one of their doctors, that doctor will examine you thoroughly and treat you with respect.
- The Social Security Administration will ask your treating physician about his or her opinion of your residual functional capacity.
- The Social Security Administration will take the opinion of your treating doctor rather than the opinion of a doctor the government hired, and who did not treat you or even examine you.
- If you go to the Administrative Law Hearing and just tell your story, the judge will feel sorry for you and award you full disability benefits.

BAD THINGS THAT COULD HAPPEN IN THE SOCIAL SECURITY DISABILITY CLAIMS PROCESS:

- The Social Security disability office could lose or misplace your application or even your entire file.
- The Social Security office could fail to register your appeal in a timely manner.
- Your doctor could fail to send your medical records to the Social Security office, or Social Security could misplace the records.
- The disability officer could use the wrong standard of review based on your age, education, or skills.
- The Social Security office could attribute earnings to you that you did not actually earn.

Now, before I tell you the nine Fatal Mistakes Social Security Disability Victims Make, you first need to know this:

Each year, tens of thousands of people never receive the Social Security disability benefits they rightly deserve. This isn't because they don't want those benefits. Of course they do! It's just because they don't know what to do – and as a result, they simply don't do anything at all.

Many people don't get proper help, because they get bad advice either from the government or from friends and

family, or because they are afraid, intimidated, or confused. Don't let that happen to you. After suffering a disability, doing **nothing** is one of the worst things you can do.

So do something now! Either use what you've learned from this book and file a Social Security disability application yourself, or hire an attorney to handle your Social Security disability claim for you. At the very least, call a lawyer and find out if you might have a legitimate Social Security disability case.

To help you figure out what to do and what not to do, here are nine “Fatal Mistakes” that I have seen Social Security disability claimants make time after time. I believe that being aware of these fatal mistakes will help you make a big difference in the final results of your Social Security disability claim. These are valuable secrets that most claimants never get! There is quite a bit of information packed into the next few pages. You may have to read this book several times in order to pick up all the details, but I wanted to give you as much “ammunition” as possible, in case you are ever caught in a disability “war” with the federal government.

X FATAL MISTAKE 1:

FAILING TO CREATE AN EFFECTIVE MEDICAL RECORD

When you get sick or injure yourself in such a way that your illness or injury affects you over a long period of time, only you truly know and experience the full extent of your limitations and your pain. Only you personally know exactly what you are going through.

While you will eventually have the chance to describe your illness or conditions to disability examiners and an administrative law judge from your point of view, this is not legally sufficient to prove that you are disabled. The foundation of a successful Social Security disability claim is solid supporting medical evidence – medical records and reports.

Treat Early and Treat Often

If your medical condition is bad enough to keep you from going to work, then it is bad enough for you to seek medical treatment. You should consult a doctor as soon as possible. Understandably, you may not even be contemplating filing for Social Security disability benefits when you initially get hurt or fall ill.

However, if you do not have medical insurance and cannot afford treatment for yourself, you should attempt to apply for Medicaid with your local Department of Social Services.

You can also receive treatment at emergency rooms of public hospitals if your condition is severe enough to require emergency treatment. You may also qualify for various programs that allow you to receive treatment for free or with a minimal co-payment at public hospitals, beyond the emergency room treatment. Local examples would be at Parkland Hospital in Dallas or at John Peter Smith Hospital in Fort Worth.

Follow Reasonably Prescribed Treatment

Social Security law can prevent you from recovering benefits if you fail to follow the treatment that has been recommended by your doctors. You may ask, “What if I disagree with the medical treatment that my doctor is recommending?”

First of all, you should remember that your doctor is a practicing expert in his or her field and, generally all physicians act in the patient’s best interest. However, no one is perfect. If you feel very strongly that your doctor’s recommendations are wrong, you should talk with him or her about your feelings. If the doctor continues to insist upon the same course of treatment, you may want to obtain a second opinion from another medical professional.

IN NO CIRCUMSTANCE should you completely disregard your physician’s prescribed treatment without attempting to resolve your concerns.

Should your doctor recommend a course of treatment that has a possibility of not improving your condition and that

may actually worsen your condition, such as surgery, you should make sure that the doctor properly documents the chances of success or failure of the treatment. If the treatment is not likely to improve your condition, Social Security will not hold it against you if you do not elect to follow through with the treatment.

Remember that the burden of proof is on you! When your claim is presented to a disability employee for review, or to an Administrative Law Judge for decision, here's a fact of life: It's not what actually **did** happen, but only what you can **prove** happened. In other words, neither the reviewing employee nor the Administrative Law Judge has any obligation to believe what you say. You're going to have to prove your facts and prove your disability. How? You prove your facts and disability by carefully documenting everything you possibly can.

It's amazing how quickly we forget the pain and suffering we have gone through. Written words help us remember. That's why we take a shopping list to the grocery store! One of the first things to do after every doctor visit, injury, or other medical event is to go home and write out everything you can remember. You'll remember things after you get home that you forgot to write down or didn't have a chance to write down at the time of the occurrence. Then you need to keep your detailed pain diary. If you can't write because of your injuries, dictate your thoughts to a family member or friend to write down for you. This simple secret becomes a powerful tool for a fair result. It is important to make your

diary entries as frequently as possible. A summary at the end of each month will not be nearly as accurate as daily entries.

Like it or not, dealing with the federal government is like a giant paper shuffle. In our profession it's called "building the file." Documentation is the key. If you want to win your claim, you will first have to show proof of your disability. For example, if, because of your condition, you have to hire someone to cut your grass or clean your house, you need receipts to prove you spent the money. It is amazing how many of these expenses slip through the cracks, unless you make good notes, keep receipts, and bring all of this to the government's attention.

Keep detailed notes of all conversations with the government and with doctors, and get names, phone numbers, and job titles of everyone you talk with. If you have a problem with someone from the state or federal government, ask to speak with that person's supervisor. It's legal in Texas to record a conversation without telling the other person.

Document your doctor visits. I promise that you will not remember every date and time you saw a doctor or therapist. Keep a calendar, and mark each medical visit or other significant event. Keep a record of when you had to get crutches, when you got off crutches, when you stopped wearing a neck brace, etc. Get the correct addresses and phone numbers of all doctors or clinics you visit. Pick up business cards when you are in their offices. Save all your pill bottles, casts, braces, and any other similar items you receive from your doctors.

Another method of making your personal complaints of pain and other limitations a credible part of the record is keeping a personal journal documenting your pain or other events associated with your impairments.

For example, a person suffering from seizures should document the date and time of each seizure, along with the type of seizure, the intensity of the seizure, the recovery time, and any other information relevant to the event. The same kind of log could also be used to record migraine headaches and episodes of any other worsening of bodily pain.

This method of keeping track of your pain makes your complaints more credible and provides a tangible view of the on-going severity of your medical conditions.

Document your lost wages. The government is not going to take your word for anything. You need to prove why you left your job. The normal way to do this is with a statement from your employer, but the government might accept a note from your doctor telling you not to work.

They say a picture is worth a thousand words. This is certainly true when it comes to injuries. Pictures can be the difference between a successful claim and a loss. The right photograph can be a very powerful tool in motivating the Social Security Administration to make the right decision. The point is that in a disability claim you are trying to recreate the past. The more effectively you can do that, the better you can prove your case. So take pictures of your injuries, and make a photo record of your stay in the hospital. If your injuries created a

serious scar, it could be vital to get clear, close-up pictures to show the details of the scarring. When in doubt, get a photo!

If you bring an attorney into the claims process in the beginning, the law firm should be able to help with the necessary photographs. For instance, at Kraft & Associates, one of our investigators can take needed photographs for you.

Explain Your Pain and Limitations in Detail

We hear disability reviewers say that our client didn't complain about some specific problem the first time he or she saw the doctor, so that condition must have happened later, and the client wasn't really disabled as early as we're trying to prove. It's just human nature to tell the doctor about what hurts the worst, and not mention the little aches and pains. But six months later, what used to hurt the worst might be healed, and that little ache or pain might have developed into a serious problem. So at every doctor visit, from the first to the last, tell the doctor every single problem you have, no matter how insignificant it may seem to you. I always tell my clients to let the doctor or therapist know about EVERY pain or problem they have, and then let the **doctor** decide what's important and what's not. Don't try to diagnose yourself--you may make your medical condition and your case worse.

You need to make a commitment to your health and to your recovery by keeping your doctor appointments, even if it is time-consuming to do so. There is almost never a good reason or excuse to miss your doctor's appointment. By missing a

doctor's appointment, you are saying to the doctor, and to the government, that you don't hurt, and that your injury doesn't matter that much. Each time you go to the doctor and report that you are still having pain, your doctor makes an entry in the records. It is important for your doctor to have up-to-date information on your condition. Remember, you are going to get credit for the pain and suffering that you can PROVE. Not going to the doctor is a good way to "prove" that you are NOT hurting, and that you don't care. If you don't care, the doctor may not care. It is very important for you to work hard to get well, and to go to all of your medical appointments.

Be sure you give each of your doctors a detailed explanation of all your injuries and conditions. Your medical conditions may interact with each other to an extent that the doctor should consider every condition before prescribing your treatment or medication. For example, if you have a cardiac condition and a back injury, the doctor might prescribe a different injury rehabilitation routine than if you had a healthy heart.

Be honest with the doctors about any previous medical problems you have had. The doctor needs all of this information in order to better treat you for your current problems. Always be honest with your doctors. They are just trying to help you, and you need to cooperate and be truthful with them. Cooperate also by doing what your doctors tell you to do. As best you can, always follow your doctor's instructions. And be sure the doctor knows what you are doing during the day. In other words, don't let the doctor

think you're staying home and resting in bed if you're actually being very physically active. This could make a big difference in the medical treatment, and especially in medication, that your doctor recommends for you.

The best way to make your pain or other limitations a credible part of the record is to describe these to your physician and to have them included in medical notes.

Here is an example of an explanation that is not effective:

“Doctor, I hurt all over. The pain is everywhere. I can't do things like I used to. Nothing helps and I just feel like I'm walking around in a daze all the time.”

Although this lets the doctor know the patient is in pretty bad pain, it doesn't give any specifics about where or how much the pain limits the person. In most cases the more specific the statements, the more believable they will be.

Here's an example of a more effective explanation:

“Doctor, my pain is in my lower back and it sometimes goes down the back of both of my legs to the knees. I can only bend over far enough to touch my knees and I can't twist without any pain. I can only stand for about 20 minutes before I have to sit down and I can only sit for about 10 minutes unless I'm in a recliner. The pain medicine you gave me makes me tired and dizzy for most of the day. I usually fall asleep for a couple of hours every day. I have to have help getting dressed in the

morning and I'm not able to do any housework other than light dusting."

Of course, your explanation will focus on the particular limitations you experience. However, you should use this degree of detail when talking with your doctor and you should make sure that these details are put into your medical records. We recommend that you make a written list of your symptoms, including side effects of medications, and a list of all your medications before you see your health care professional. You can quickly read the list to the doctor (or give the doctor a copy of the list) and make sure you haven't left out anything. A complete list of your subjective medical complaints is very valuable to the doctor for properly diagnosing and treating your conditions.

Consult Specialists

A specialist is a doctor who focuses his or her individual practice on a particular area of medicine. These doctors deal with, and generally have more expertise with, a certain area of medicine than your primary care physician would. Examples of such specialists are:

Illness

Arthritis or Fibromyalgia

Bones

Brain and Nerves

Cancer

Diabetes

Feet

Specialty

Rheumatologist

Orthopedist

Neurologist

Oncologist

Endocrinologist

Podiatrist

Heart	Cardiologist
Kidneys	Urologist
Lungs	Pulmonologist
Mental Health	Psychiatrist

This is just a handful of examples of specialties. You should speak with your primary care physician about your particular problems to determine what specialist you should consult. The point is that a specialist's opinion regarding your particular condition is going to be much more persuasive to a judge than a general practitioner's opinion. By getting an early initial diagnosis (or even a later confirmation of a previous diagnosis), from a specialist you will definitely save yourself a lot of trouble in making sure you have sufficient documentation of your conditions.

X FATAL MISTAKE 2:

DISCONTINUING MEDICAL TREATMENT

Social Security Disability is also a medical program. The amount of money in monthly benefits is not huge. But along with limited financial help, you will receive Medicare or Medicaid. These medical benefits should allow you to seek competent medical professionals to treat your disabling medical conditions. We all hope that competent medical treatment will improve your condition and allow you to return to the workforce.

Of course, returning to work is not possible in many cases. However, proper medical care may improve your symptoms and may make your daily activities more bearable.

A real problem arises when a disabled person gives up on the opportunity to treat his or her medical condition. Sometimes, there is really not much that can be done, and the individual gets frustrated and just discontinues all medical care. If this happens to you, and Social Security reviews your case after you have already been granted monthly benefits, the natural assumption is that you have recovered or no longer require medical care. Your Social Security benefits may then be terminated.

We strongly urge our clients to continue medical care. Even the slightest bit of improvement is worth the effort. Medical science comes up with new treatments and medications every day. Take advantage of the medical care afforded by the Social Security disability process. This is better for you, and better for your case.

X FATAL MISTAKE 3:

WAITING TOO LONG TO FILE FOR SOCIAL SECURITY DISABILITY BENEFITS OR WAITING TOO LONG (OR FAILING) TO FILE AN APPEAL

If you have already applied for your Social Security disability benefits and you have been denied, you most likely received a letter notifying you of this denial. Toward the end of that letter, there is a paragraph telling you that you have the right

to appeal your case. This paragraph states that you have 60 days from the date in the letter to appeal your claim.

If you fail to file an appeal on time, you may have to start the application process over from the beginning. This also means you will have to go back to the end of the waiting list. You may also permanently lose your right to much-needed back benefits. You should appeal as soon as possible after consulting an attorney about your rights to appeal. (There are some “good cause” exceptions to these deadlines that a lawyer can explain to you, but these exceptions are not easy to get, and no matter what else may be happening in your life at the moment, you need to get your appeals filed within the mandatory time limit.)

X FATAL MISTAKE 4:

ILLEGAL DRUG USE, EXCESSIVE ALCOHOL USE, OR TOBACCO USE

Social Security disability claimants who abuse illegal drugs and alcohol risk losing their entitlements to benefits. Social Security disability laws can prevent you from receiving disability benefits if your alcohol or drug use is a major factor causing your disability.

You may have heard of people receiving disability benefits for alcohol use in the past. However, federal laws have changed. Drug addiction and alcoholism are no longer considered disabilities that can be legally compensated with Social Security disability benefits.

Proving that drug and alcohol use is *not* a material cause of your disability is very difficult. If you are not able to prove that you would be disabled even if you were not using illegal drugs or alcohol, you will not be entitled to benefits. (As is so often the case in Social Security disability claims, there are exceptions to this general rule, and an experienced lawyer will be able to explain the exceptions.)

The same general principal applies if you are trying to get disability for a breathing problem, and you are continuing to smoke – you’re not only ruining your health, you’re also ruining your disability claim.

Also, even though it is possible to prove disability even with on-going substance abuse, drug and alcohol use tends to harm your credibility as a witness. As for tobacco, it increases the damage done to the body by many medical conditions. In plain language, tobacco use will give a disability reviewer or an administrative law judge an excuse for denying a claim if the reviewer or the judge is already looking for an excuse to say no.

Our law firm takes very, very few cases where the claimant is abusing drugs or alcohol, and tobacco use may tip the scales and cause us to not take a case we might otherwise have taken. So again, for the benefit of your health, and potentially for the benefit of your claim, don’t use illegal drugs, don’t abuse alcohol, and don’t smoke. If you are doing any of those things now, stop immediately.

X FATAL MISTAKE 5:

FILING FOR UNEMPLOYMENT BENEFITS

When you file for unemployment benefits with the Texas Workforce Commission, or its equivalent in your own state, you generally have to affirm that you are physically and mentally capable of working. This assertion is contradictory to what you are telling the Social Security Administration. If you have received unemployment benefits at any time during the period you are alleging that you are disabled, you may not be awarded Social Security disability benefits. (Once again, there are some exceptions to this rule.)

X FATAL MISTAKE 6:

NOT HIRING A LAW FIRM OR HIRING THE WRONG LAW FIRM

One of the worst mistakes that disability claimants make is to represent themselves. We won't pretend that there are not some people who represent themselves and win their cases. However, the probability of you winning your disability case is smaller without the aid of an attorney.

You may be wondering what an attorney can do for you that you can't do for yourself. Among other things, an attorney can:

- Make sure all your appeals are filed timely, to preserve your cause of action.
- Make sure Social Security has all medical, vocational and other relevant documentation to prove your case.
- Apply your situation to complex Social Security regulations to make the best argument in support of your claim.
- Look for the possibility of re-opening previous filings that you did not appeal – this could result in more back benefits that you would never even know you were entitled to on your own.
- Look for ways to expedite your hearing office decision, if feasible.
- Make sure you get ALL the benefits to which you are entitled.
- Continue to be available for advice should any problems arise after you begin receiving benefits.

While it seems that most people should know it is important to seek advice when they are disabled, statistics show that many people don't do so.

Here are the main reasons why people don't hire a lawyer when they are disabled:

- They don't know if they really need a lawyer, so they are hesitant to talk to one.
- They don't know a lawyer personally, so they don't bother to look for one.
- They aren't sure if they can trust a lawyer, so they don't want to use one.
- They think they cannot afford to hire a lawyer.

These reasons are not good ones. In spite of all the lawyer jokes you may have heard, there are many honest, hard-working, and ethical lawyers who can help you deal with the Social Security Administration. While it is true that a lawyer will usually get a portion of the money you collect from back benefits, it is also true that a good lawyer can dramatically increase your chances of getting a larger award.

So why do you need an attorney in a Social Security disability claim? Sadly, as soon as you file your application for Social Security disability benefits, you are thrown into an adversarial legal system. That's not the way Social Security disability is supposed to work, but it's a fact. The federal government is supposed to be fair and impartial, but the government has in place a team of reviewers, investigators, and attorneys who at times may seem to be working against you, seeking to deny your claim completely or to pay you as little as possible in disability benefits.

Many disabled persons, already in distressed physical and financial circumstances, understandably choose to delay what they consider to be the hassles involved in retaining an attorney. Some people may have had a bad experience with an attorney in the past (in a divorce, for example), or they simply do not like or trust attorneys. These people may attempt to handle their own disability claims, without legal help.

Some disability claimants, in an attempt to avoid paying legal fees, try to represent themselves, and call an attorney only after they realize that they've gotten "in over their heads." Unfortunately, there are many mistakes (such as providing harmful and incorrect information to the government), which cannot be "undone" by even the most experienced Social Security disability attorney. Plus, if you wait too long to get legal help, it gets harder to find evidence and witnesses. You also risk losing your claim because the deadline for filing an appeal has expired.

The bottom line is that – considering the legalities and complexities of the system for compensating disability victims – hiring an attorney is usually necessary to "level the playing field," and to ensure that you receive maximum compensation for your disability.

OK, so now you've decided either to hire a law firm or not. If you do want to hire a law firm, how do you choose the best one for you? Hiring a law firm is easy. But hiring the RIGHT law firm takes a little extra work. You see, there is as much difference between individual law firms as there is

between doctors, accountants, or other professionals. Choose carefully!

The best way to learn about a specific law firm is to ask your friends and neighbors about them. If someone you know has used that firm in the past and has been satisfied with the firm, that is a good recommendation. Another way to learn is to ask the lawyers in the firm to send you some free information about themselves, and then to meet with them and ask any questions you may have. I want clients to ask questions of me, and of the lawyers and employees who work at my firm, because I want the clients to be confident that they have chosen the best law firm for them.

We always initially meet with our clients for free so they can get to know a little about our firm and our experience, as well as get the chance to describe their personal situations. After hearing a description of your injuries or physical and mental conditions, lawyers should be able to give you a good idea whether and how they can help you.

You certainly should at least contact a lawyer and get some free advice. Many law firms won't even talk to people in this situation – as soon as they determine there's no "good case" for them, they just want to get you off the phone and move on. Our law firm isn't like that. If you call us with a problem or a question, even if we know we can't represent you, we'll still try to answer your questions or we'll refer you to another lawyer or to a government agency that might help you.

Some law firms are claims “factories.” They use non-lawyers to handle the hearings and you never even talk to a lawyer. Let me suggest that you should stay clear of a situation like this. You need a law firm that will handle your case from start to finish, will pay personal attention to you, will be available when you need them, and will return your phone calls promptly. There is a difference!

Here are eight questions you might consider asking a law firm before hiring them:

1. How much experience do you have in representing Social Security disability claimants?
2. Who at your office (both attorneys and non-attorneys) will be assigned to my case?
3. What are the qualifications and experience of the people (both attorneys and non-attorneys) assigned to handle the day-to-day duties of my case at your office?
4. Who at your office (both attorneys and non-attorneys) will be communicating with the Social Security Administration on my case?
5. Will the attorney actually work on my case or merely oversee non-attorneys' work?
6. Are you covered by a legal malpractice insurance policy?

7. Have you ever been disciplined by the State Bar of Texas?

8. Does your firm always use a lawyer in Administrative Law Judge hearings, or do you use legal assistants?

We think that a law firm should offer a personal commitment to ALL of their clients. Just look at our Client's Bill of Rights near the end of this book. We commit, to every client we have, that they will be treated fairly. Then we GUARANTEE to treat every single client with the respect, attention, and dignity that person deserves. We can't stress enough to you how important this is!

First and Foremost — Be Honest with Yourself

The information we have provided here is not meant to advocate that you file a Social Security claim if you truly believe you are capable of working full-time.

If you believe that you'd be able to do some sort of work on a full-time basis, you can be fairly sure that the medical records are going to reflect that, and you will ultimately be found not disabled, no matter how many appeals you file.

Our office NEVER advises a client not to try to work. To advise someone not to try to work is tantamount to fraud. If you think you can return to the work force, you should try. One of two things will happen:

- (1) You may find out that you can perform less demanding or lighter work. A full-time job will pay you more than disability payments, and will restore your feelings of self-worth and dignity. You can always apply for disability benefits later, should your condition worsen.

- (2) You try, and find out you can't return to the full-time workforce. What better way to show you really can't work than by actually trying?

The Social Security disability application and appeals process is extremely lengthy. There is no sense in facing financial destitution waiting on Social Security to process an appeal if you think you might be able to return to work. On the other hand, you should also be honest with yourself if you feel that you cannot do any sort of work. In other words, you must leave your pride at the door and make an honest assessment of yourself.

We realize that one of the hardest things for a formerly strong and independent person to do is to admit that you need help. However, you must also realize that you are not alone and there is no reason to be embarrassed.

These benefits are provided to you under law and you have earned the right to pursue them and attain them. However, part of your decision on whether to pursue your benefits should be a consultation with an attorney for an evaluation of your claim.

How Social Security Disability Attorney Fees Are Calculated And Paid

I mentioned earlier in this book that I would talk more about how attorney fees are calculated and paid in Social Security disability claims. We frequently have potential Social Security disability clients ask us about our fees. This is how we explain things to them.

Most Social Security disability attorneys charge the same fees for representing claimants. This is because the Social Security Administration has set a certain standard for attorney fees, and all attorney fees must be approved by the Social Security Administration before the attorneys can be paid.

The standard fee for a “normal” Social Security disability claim that is concluded at or before the first administrative law hearing is 25% of the past-due benefits obtained for the claimant, with a maximum fee amount of \$6000. If the claim is forced to go beyond the first hearing, the maximum fee amount may be increased. This figure is as of 2015.

This is referred to as a “contingent” fee, and in simple terms, it means the client does not pay the attorney any money to begin the claim. The attorney is paid only at the end of the claim, and then only if the client receives past-due disability benefits.

Perhaps this is best explained through examples. For instance, a client may hire a lawyer to begin a claim for disability benefits. After going through the entire claim process, which

can take many months, the client might be awarded \$10,000 in past-due benefits, as well as future benefits for life. The attorney will be paid 25% of that \$10,000, which would be \$2500. If the client had received \$50,000 in past-due benefits, the attorney would only be paid \$6000, because that amount is the maximum fee allowed, even though that is much less than 25% of \$50,000.

The attorney fee is withheld by the Social Security Administration, and is mailed to the lawyer at about the same time as the rest of the past-due benefits is mailed to the client. Sometimes the lawyer receives the fee before the client receives the check for the past-due benefits. This is always embarrassing to us, and we would much prefer that the client be paid before the lawyer. However, we have no control over the Social Security Administration process.

Unfortunately, the Social Security Administration is notorious for miscalculating benefits, and for mailing letters that are confusing or just plain wrong. It is important for the lawyer to verify every detail of the award in order to be sure the client receives the correct amount of benefit money.

If you have a Social Security disability claim and you receive a confusing letter, you should call your lawyer immediately, so the lawyer can explain the letter to you or can contact the Social Security Administration and get the matter resolved properly.

This is extremely important:

I very strongly recommend that you insist on meeting at the law firm's office, so you can get a "feel" for the operation, and can meet several members of the staff. Also, insist on meeting the lawyer whose name is on the door. The owner or senior partner can't handle the details of every case, but you absolutely should meet with that lawyer before you make a decision on hiring the law firm to represent you. The owner or senior partner sets the policy for the entire law firm. If you're not comfortable with, and confident in, that lawyer, chances are you won't be comfortable with, and confident in, the law firm as a whole. BUT, if you don't meet "the boss" up front, you may not realize you chose the wrong firm until it's too late to change. Go back and read this paragraph again—it's that important!

X FATAL MISTAKE 7:

NOT BEING HONEST WITH YOUR LAWYER OR THE SOCIAL SECURITY ADMINISTRATION

Your credibility as a medical patient and as a witness can make or break your Social Security disability claim. Your credibility is built upon many things – including your age, education, work history, medical history, criminal history, family history, and other variables. However, a cornerstone of credibility, particularly in the hearing room, is the consistency

of your statements. Often, the success of a Social Security claimant's case can rest on whether the administrative law judge believes that the claimant's limitations are as bad as he or she reports.

Consistency in recorded statements to Social Security personnel, doctors, employers, friends, family, and the administrative law judge builds a strong foundation for the credibility of your complaints.

However, inconsistencies in your statements can allow an administrative law judge to attack the credibility of your complaints and therefore deny your claim and make winning on appeal even more difficult. Our firm insists that all our clients tell the truth about every situation. That will guarantee consistency.

Make sure you always tell the truth to the government!

Equally as important as being truthful with the government is being truthful with your lawyer. Your lawyer will be speaking for you to the Social Security Administration. If your lawyer is passing along bad information, it will seriously damage your Social Security disability claim.

Don't try to hide anything from your lawyer just because you think it might hurt your claim. Your lawyer can deal with most such problems if he or she knows about them. But if you lie about things, and the government finds out, then your case is probably going to be lost.

Don't misrepresent your activity level. The federal government can hire private investigators to conduct video surveillance. If you claim that you cannot run, climb, or lift, and you get caught on video, you're going to have problems with your claim. There is no good explanation that can overcome the eye of the camera.

Don't change your address, telephone, or employment without notifying your attorney. Your lawyer must be able to locate you immediately if an important question or problem arises.

Don't try to hide the truth from your lawyer about a past criminal history, or about drug or alcohol abuse. Once again, your lawyer can handle almost any problem if you tell your lawyer about the problem. If your lawyer is "ambushed" by the government with such damaging information, your lawyer has no time to prepare a defense.

Don't forget to tell your lawyer about every doctor you see. This is important information for your lawyer, and if your lawyer doesn't know about every doctor you've seen, you may miss out on helpful information that the doctor could provide.

Don't miss any meetings scheduled with your lawyer. Your lawyer's time is valuable, and there is a purpose for every meeting that is scheduled. Sometimes a meeting can be rescheduled, but other times, a meeting is "now or never."

Don't skip over any letter from your lawyer, and do call if there is something in it you don't understand. Sometimes a letter is just to tell you that your case is progressing normally, and the letter is frankly not too important. But other times, a letter will be sent to give you essential information or to tell you about an important deadline in your case.

X FATAL MISTAKE 8:

EXAGGERATING YOUR DISABILITIES OR NOT BEING COMPLETELY HONEST IN OTHER WAYS

If you haven't worked on one side or the other of Social Security disability claims, you have no idea how incredibly much information the federal government can get about you. You are not going to get away with hiding anything, so don't even try. They will find out if you lie about one little thing, and then they won't believe anything else you say. One lie, even about a small matter, can kill your case – absolutely kill it. Have I made this simple point clear? From the instant you enter the Social Security disability system, ALWAYS TELL THE TRUTH.

The government has access to any past injury claims you have made – auto, job, and other. They have access to any past criminal record you may have. They have databases that will tell them all about your marriages, divorces, past addresses, and past employments. They may hire investigators to park outside your house and video your comings and goings. I have seen surveillance video of my clients taking out the trash, mowing the yard, washing the car, etc. The government may

try to say you aren't disabled because you can perform these simple activities. The investigator may follow you around town to see if you are working when you say you're too injured to work. Once more – ALWAYS TELL THE TRUTH.

We certainly want our clients to tell the Social Security Administration about all the medical problems they have. This is vital to winning a claim. But we do NOT want our clients to exaggerate their problems. The disability reviewers and the Administrative Law Judges are far too smart to be fooled by exaggerations. We cringe when we hear a client say something like, "I hurt so bad that I never get out of bed." Or "My back hurts so much I can't even lift a cup of coffee." Those statements reek of exaggeration.

Maybe you can't lift a gallon of milk, but very few people are really so disabled that they can't lift a cup of coffee due to back pain. The fact is that not being able to lift a gallon of milk is evidence of a pretty severe disability. There's no need to stretch the truth and try to make your condition sound worse than it is. Just tell the truth – don't minimize your problems, but don't exaggerate them either.

X FATAL MISTAKE 9:

GETTING FRUSTRATED WITH THE SYSTEM AND GIVING UP

Dealing with the enormous bureaucracy of the Social Security Disability process can tax the patience and temperament of the most reasonable person. There is little doubt that

having a professional communicate with the government employees allows your claim to move more easily through the complicated process.

Our office has hired retired Social Security Disability and Office of Hearing and Appeals employees and we have learned how to communicate with a spirit of cooperation and understanding with the Disability employees we encounter.

We have found that most Disability employees are hard-working, professional, and caring individuals. We also recognize that they are completely overwhelmed by the number of cases they are required to handle. The National Organization of Social Security Claimants Representatives (of which we are Sustaining Members) has informed us that at the end of fiscal year (FY) 2012, the average processing time was less than one year at 353 days. The average time had risen nearly one month by the end of FY 2013 to 382 days, although in the last month of that year, it was 396 days (September 2013). The time continued to rise during every month of FY 2014, when it ended with an average time of 422 days. However, in the last month of FY 2014 (September 2014), it was 454 days, about two months longer than September 2013. While the first two months of FY 2015 showed slight improvement from September 2014, the times were still nearly two months longer than the same months in calendar year 2013: October 2014 - 435 days (vs. 386 days in October 2013); and November 2014 - 440 days (vs. 393 days in November 2013).

Trying to move your case through these tremendous numbers and this backlog requires expertise, patience, and understanding. We have found that most Disability employees respond well to our spirit of cooperation and understanding.

Conclusion:

This book has hit only some of the highlights of what you need to do to increase your own chances of success in filing a claim for Social Security disability benefits. As you can see, it is an information game. One advantage you have during the beginning stages of your claim is that you alone have access to all of the evidence. The more of it you can collect, the more of it you can use to your own advantage.

SO WHAT ELSE CAN WE DO TO HELP YOU?

In my law practice I've found that many people are FRUSTRATED, SCARED, INTIMIDATED and UNSURE OF WHAT TO DO. Sometimes people find it hard just to ask for help. Others may have already been intimidated by the federal government or other agencies with which they've been dealing. Some may even believe that it is wrong to bring any claim for disabilities at all.

I've found that once people talk with me or with others at my law firm about their claims and about the legal process, they feel much better, and more at ease with the whole system. After talking with us, they seem to understand what's fair, and they feel good about doing the right thing.

I think people also appreciate the opportunity to talk with us at no charge, and with no pressure.

ONE THING YOU DON'T WANT IS TO BE PRESSURED!

I don't blame you in the least. I certainly don't like to be pressured either. That's why you must be careful, and must take the time to make the best decisions possible. You can't make a good decision if you are being PRESSURED!

To be completely honest, one of the reasons I wrote this book is to see if my firm can help you. We would like to talk with you about your legal rights, and to answer your questions without any pressure – FREE!

HERE IS WHAT WE WANT TO OFFER YOU:

A free consultation. You can meet with us at our office, or we can have a consultation by telephone if it's too inconvenient for you to get to our office. We'll talk about your medical conditions and whether we think you have a good Social Security disability claim, and we'll discuss your other legal rights. We can almost always tell you right away, in that first meeting or phone call, whether we will be able to help you. And there's no charge at all for that first meeting or telephone call with our law firm. It is our hope that during this interview we can help you with the following:

- Find out if you meet Social Security's criteria for receiving disability benefits.
- Find out if you are taking the proper steps to preserve your rights to appeal a disability denial.
- See if you might be exposed to risks you may not even know exist, and that could spell disaster for your claim.
- And LOTS MORE!

Remember, you are under no obligation, and no one will pressure you. We are here to help you! That is our personal guarantee to you.

Our goal is simply to create a situation where you feel comfortable talking with an expert about your legal options, and to answer any questions you may have. We understand

that this can be a very difficult time. You may not be feeling well because of the pain and distress from your physical and mental conditions. Medication you're taking for those conditions might make you a little fuzzy. Stress can make things worse.

If this book makes sense to you, then you've probably thought of a few more questions. Feel free to call us while these are still fresh in your mind. Waiting any longer may just cause more stress, or put your claim at greater risk. We would be more than happy to get you the information that could ease your mind. Remember, the law is filled with tricky time limitations and notice deadlines!

Why are we willing to do all this? We want you to see for yourself that there are lawyers available who are honest, competent, and are willing to work hard for your best interests.

Remember that we get paid only when we collect money for our clients. We get paid only if you get paid. The more you get, the more we get. And the faster you get your money, the faster we get our fee. So we have every incentive to devote ourselves to your case and fight for your right to receive the kind of compensation you deserve. That's the reason our law firm's motto is: **We're On Your Side.**

Please allow me to take just a few extra moments to explain our CLIENT BILL OF RIGHTS. Lawyers will tell you that it is impossible to offer a guarantee in the legal business. WRONG! We say that law firm clients should settle for

nothing less! Remember, your law firm works for you – not the other way around.

Client's Bill of Rights:

At Kraft & Associates we believe we can promise our clients quality service with personal attention. We believe that as our Social Security disability client you:

- Have the right to our respect
- Have the right to speak with a knowledgeable person when you call
- Have the right to expect competence from our firm and all who work here
- Have the right to personal attention from us
- Have the right to expect loyalty to you and your cause
- Have the right to know the truth about your case
- Have the right to efficiency and effectiveness in your legal representation
- Have the right to a fair written agreement with our firm
- Have the right to make the ultimate decision on your case

If you think this approach is fair, and you want to take advantage of the free consultation, with no obligation, just give us a call. We will make time for you to talk with us.

Thanks again for buying or requesting this book. I look forward to hearing from you!

Sincerely,



Robert A. Kraft
Kraft & Associates
(214) 999-9999
(817) 999-9999
(800) 989-9999

P.S. Remember, trying to do it yourself usually ends up causing more frustration for you, and less money in your pocket. If you call our office, we will arrange a conference to discuss your case at no charge. You can ask any questions, and we will discuss options that are available to you.

This free consultation puts you under no obligation to use us as your attorney, and we will not pressure you in any way. Our job is to help you, and to counsel you, but you are the one who makes the decisions!

For much more information, you can check out our firm at www.KraftLaw.com. Our site has many informative articles, and links to many valuable legal and medical Internet resources.

I also write a blog for injured and disabled people. It contains answers to many of the questions our clients ask, and additional resources for consumers. Check it out at www.PISSD.com.

At Kraft & Associates, we believe we have a duty as lawyers to educate members of the public about their rights and responsibilities. We try to do this through our Internet sites and newsletters. I hope you take a look at all we do, and I think you will find our work to be helpful to you as you pursue your claim.

Thank you again for taking the time to read this book.

ABOUT THE AUTHOR

A native of Waco, Texas, Robert Kraft graduated from Baylor University with a degree in Business Administration, and from Baylor University School of Law in 1971. Mr. Kraft has practiced plaintiff's personal injury and Social Security disability law in Dallas since 1971. During that time he has represented many thousands of clients in almost every type of injury and disability claim.

Mr. Kraft is a Sustaining Member of the National Organization of Social Security Claimants Representatives. He is a former Director, and a current Director Emeritus, of the Dallas Trial Lawyers Association. He has served as President of the North Dallas Bar Association, and is currently a Director of that organization. Mr. Kraft is a Fellow of the College of the State Bar of Texas, a Member of the Texas Trial Lawyers Association, and a Sustaining Member of the American Association for Justice. He is a Member of the Texas Center for Legal Ethics and Professionalism, and is also a Member of the American Bar Association, the State Bar of Texas, and the Dallas Bar Association.

Mr. Kraft has been licensed to practice before the Court of Veterans Appeals since 1994, and is accredited by the Department of Veterans Affairs to represent veterans in claims for benefits. He is also a member of the Military Law Section of the State Bar of Texas.

On October 15, 2002, Mr. Kraft was admitted in person to practice before the Supreme Court of the United States.

The swearing-in ceremony was performed by the late Chief Justice William Rehnquist, with the full Supreme Court in session.

Mr. Kraft has written articles for the American Bar Association about accommodating disabled clients, and has made many presentations to lawyers about legal ethics and other topics.

Mr. Kraft is proud to have been married since 1969 to a very patient woman, and to have helped raise two wonderful daughters. He has been blessed with two handsome grandsons and one beautiful granddaughter.

Social Security Disability Acronyms

AC	Appeals Council
ADL	Activities of Daily Living
ALJ	Administrative Law Judge
AOD	Alleged Onset of Disability or Alleged Onset Date
BHA	Bureau of Hearings and Appeals – former name of ODAR
CE	Consultative Examination or Examiner
COLA	Cost of Living Adjustment
DAA	Drug Addiction and/or Alcoholism
DAC	Disabled Adult Child – Title II
DDS	Disability Determination Service – the state agency
DIB	Disability Insurance Benefits – Title II
DLI	Date Last Insured – Title II disability insured status
DO	District Office – local SSA field office
DOB	Date of Birth
DOT	Dictionary of Occupational Titles
EAJA	Equal Access to Justice Act
EPE	Extended Period of Eligibility – Title II
FOIA	Freedom of Information Act
HALLEX	Hearings, Appeals and Litigation Law [Lex] – OHA policy manual
HOCALJ	Hearing Office Chief ALJ
IRWE	Impairment-Related Work Expense
ME	Medical Expert – designated physician at OHA level
MRFC	Mental RFC
MSS	Medical Source Statement
ODAR	Office of Disability, Adjudication and Review (formerly OHA)
OGC	Office of General Counsel
OHA	Office of Hearings and Appeals – former name of ODAR
OIG	Office of the Inspector General

PIA	Primary Insurance Amount – base benefit rate
POMS	Program Operations Manual System – SSA claims manual
PRW	Past Relevant Work
QC	Quarter of Coverage – Title II
RFC	Residual Functional Capacity
SGA	Substantial Gainful Activity
SSA	Social Security Administration
SSDC	Social Security (Title II) and SSI (Title XVI) concurrent claim
SSDI	Social Security Disability Insurance – Title II
SSI	Supplemental Security Income – Title XVI
SSR	Social Security Ruling
TWP	Trial Work Period – Title II
USC	United States Code
UWA	Unsuccessful Work Attempt
VE	Vocational Expert
VR	Vocational Rehabilitation
WC	Workers' Compensation

WA



Texas attorney Robert A. Kraft has practiced plaintiff's personal injury law in Dallas, Texas since 1971. In that time he has represented thousands of clients in almost every type of injury and disability claim.

He has used his experience to write this book explaining some of the "fatal mistakes" he has seen Social Security disability claimants make.

This book warns consumers of potential pitfalls in the disability claims process, and educates disabled people so they won't make the same mistakes in pursuing their own disability cases.

Written in plain English, without complicated legal language, this book will be a valuable aid for everyone forced to fight with big government agencies to get the benefits they deserve.

For more information about injury and disability claims, please visit the website of Kraft & Associates at www.KraftLaw.com.

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