



BY MICHELLE PARKER, EDITOR IN CHIEF

In early 1991, Daniel Chesner* was enjoying a successful career he loved. He had a good working relationship with his colleagues, was valued and trusted by his superiors, and had recently been awarded a multimillion-dollar contract he had been working for months to obtain. But all that abruptly changed in May of that year.

Severely injured in a drunk driving crash, Daniel awoke in the hospital to find himself on a ventilator, in traction with 30 broken bones and paralyzed from the waist down. He also found that his boss expected him to work from his hospital bed if he wanted to receive 50 percent of his salary and keep his benefits.

Daniel did just that and, after five months, he returned to the office. Two days later, he was laid off because the company said they could no longer come up with tasks for him to do.

When he applied for unemployment benefits, he was denied because his employer reported to the unemployment agency that Daniel was mentally incapable of working—a charge that was not supported by a single shred of medical evidence.

Fortunately, most people don't experience the horror Daniel endured. Most find that their colleagues rally around them, and that their company diligently works to integrate them back into the workplace.

But even under the best of circumstances, returning to work after an injury can be difficult. To help ease the transition for everyone, it's important to be aware of pertinent laws, manage your concerns and emotions, and understand and accept your own limitations.

Under Law

Many people ask Daniel why he didn't take legal action against his former employer. The fact is, he tried. Unfortunately, Daniel's experience occurred before the enactment of many of the laws that are in place today to help protect those who are injured or permanently disabled.

Following an incident that leaves you injured to the point that you cannot work, even temporarily, it's important to contact your employer as soon as possible. Depending on your circumstances, you

may be eligible to take advantage of the Family and Medical Leave Act (FMLA) of 1993, which is designed to allow qualified employees a temporary leave for situations such as an injury involving incapacitation, treatment in a hospital or residential medical-care facility, and continuing treatment by a healthcare provider.

In Daniel's case, if the FMLA had been in place and he qualified for it, he wouldn't have had to work from his hospital bed nor would he have had to worry about being out of a job when he returned to work.

To qualify for the leave, your employer must have 50 or more employees within 75 miles, you need to have worked for at least 12 non-consecutive months and have worked at least 1,250 hours during those months. If you are granted the leave, you are entitled to 12 weeks off without pay, but with benefits. You also are assured that if you can go back to work, your previous job position, or an equivalent job, will be available to you.

But what happens if you or your employer doesn't meet those requirements?

According to Rick Mahrle, an attorney and member of the Society for Human Resource Management, "It is then up to the employer to apply policies they have in place, such as allowing the use of paid sick days or earned vacation time. The employer, however, has no legal obligation beyond what they would normally allow."

To protect yourself, Rick says, "Obtaining short- or long-term disability insurance can help. But, the insurance has to be obtained before the incident in which you are injured or rendered permanently disabled."

For those who are permanently disabled, the Americans with Disabilities Act (ADA) comes into play.

The ADA has two prongs: architectural barriers, which ensures all public buildings and accommodations meet standards that allow disabled people to utilize or access them; and discrimination with employment, which ensures disabled people are not discriminated against in the workplace.

Don't let legal, emotional or physical obstacles stand in your way of returning to work after an injury

Employing Strategies

* Names and identifying details have been changed.

Under the ADA, employers do not have to restructure your job to work within your disability's limitations, nor do they have to create a job they don't already have that would allow you to work. They are, however, required to determine whether there is an existing job within the company that you can do and, if so, they are under obligation to make reasonable accommodations for your disability.

"Reasonable accommodations could include widening the work area of a wheelchair-mobile employee so that he or she has access, providing computer screen amplification for a visually



JOB REQUIREMENTS

If you're injured or permanently disabled, don't give up hope of getting back to your job. Once physically capable, you can concentrate on getting back to work by following these tips:

- Educate yourself about the laws that are in place to protect those who are injured or permanently disabled, such as the Family and Medical Leave Act (www.dol.gov) and the Americans with Disabilities Act (www.ada.gov).
- Take the time to recover as fully as possible.
- Maintain two-way communication with your employer before and after returning to work.
- Ask for adaptations, but be reasonable—do not ask for more than what you truly need to work within your limitations.
- Be flexible with your employer in developing accommodations in your workplace.
- Maintain the most positive attitude possible.
- Don't hold a pity party for yourself at work.
- Keep your anger and frustrations in check at work.
- Accept your limitations and determine what you can and cannot do.
- Acknowledge colleagues who have or may have to take on some of your workload.

impaired person, a special kind of headset for a hearing-impaired employee or time off for treatments relating to the disability," Rick offers as examples. "There is a whole list of things you can think of that is reasonable for the employer to do."

Workplace Worries

Once you have fully recovered and established with your employer that you can return to work, there is another element to contend with—your concerns and emotions.

Dorothy Mercer, Ph.D., a psychologist from Eastern Kentucky University and author of *Injury—Learning to Live Again*, says, "Many people have anxiety over whether they are going to be able to do it; whether they will have the mental and/or physical stamina. If you don't, you will eventually have to face the fact that you aren't who you were, and that is a grief process. I suggest asking a colleague you trust to give you feedback on what is different so you can deal with your limitations. There has to be that painful recognition that we aren't going to be who we were, and that is a tough thing to say to ourselves."

Rick says that in dealing with your limitations, it is important to acknowledge the people who have been taking on extra work. "Resentments can build up and things happen that you could avoid if you simply say, 'I can't do that any more. I am sorry that the burden falls on you, but I appreciate your help.' Just saying that goes a long way in making things better and keeping morale up in the workplace."

There is also the fear of how your colleagues will react to you. Even if they were supportive throughout your recovery, you may still be anxious about how you will be treated in the office.

Dawn Brown certainly can relate to those concerns.

When she was eight months pregnant with her daughter, Laura, Dawn, her husband and her mother were hit head on by a drunk driver. Dawn's mother was killed instantly. Her husband was confined to a wheelchair. The crash also tore Dawn's uterus and intestines, broke her ribs and punctured a lung. Physicians performed an emergency C-section, but Laura's little skull had been fractured in utero and they were unable to revive her. Dawn lost almost all her blood volume, and a priest was called in to perform last rites. When she awoke from a coma 17 days later, she learned that her daughter and mother had been buried.

"Everyone rallied around me. Co-workers worked with my clients so I would not lose business and they made sure I got the commission," Dawn recalls. "But, I was afraid they [colleagues] would act funny around me or feel sorry for me. I didn't want anyone to feel like they were walking on eggshells around me."

Before returning to work, Dawn talked to her supervisor about her concerns and asked that her co-workers treat her as they did before the crash.

"I did find that people were afraid to joke with me. I think they thought it was inappropriate," Dawn says. "But it's actually very healthy, especially to a grieving person."

"They also wanted to ask specific questions about my crash and injuries, which made me feel good because it told me that they were interested and cared about me. Some people don't like to talk about their situation, but for me, it was very therapeutic," Dawn says.

Dr. Mercer says, "The bottom line is, you have to make the decision to be who you are *now* and let everyone else figure out how to deal with you, because you cannot do that for them."

Accepting Your Limitations

Quite a few people return to work not realizing they have the "hidden injury" of a closed head injury. Such was the case for Martha Connelly*.

The crash Martha was involved in was particularly gruesome. So much so, it left her unable to sleep or even close her eyes. Every time she did, she would see the horrendously graphic images of the two innocent men killed in the car the drunk driver hit at 98 mph, causing it to fly in the air and violently crash into her car.

After two weeks of recovery from what she describes as "all kinds of wicked pain," Martha returned to work.

"I shouldn't have gone back as early as I did because I was still hurting, very

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distracted and emotional," Martha confides. "But I felt guilty, I felt I had an obligation."

As soon as she was back at work, she immediately knew something was wrong.

"I was not functioning like I should have been. I was unable to remember anything. I kept making mistakes, some of them repeatedly. I was not me," Martha says. "Everyone at work noticed it too. But they kept saying, 'You saw something really bad, and can't get it off your mind.' That was legitimate and believable, so we all kept thinking I was going to get better, get over it and go back to normal."

But things did not get better.

"People would say to me, 'We have a problem.' They intended to make me feel bad, because they wanted me to stop the behavior," Martha recalls. "Once, I forgot to schedule a monthly meeting that was required for some managers to get their bonuses. I am lucky I wasn't fired."



It took 18 months, but Martha eventually sought help from her medical doctor, who diagnosed a closed head injury.

"I educated myself about the injury," Martha says. "That's when everything started to make sense to me, which helped. I now knew what was wrong with me and I started to accept my limitations. I really started to deal with it in a way that allowed me to work on living with the injury."

By the time Martha was diagnosed, she was working at another job.

"If I would have stayed there long enough to find out about my head injury, I don't think I would have continued to work there knowing that I wasn't able to go back to who I was before," Martha says. "Out of respect for them, I would have quit in order not to continue to make mistakes."

It Takes Work

While statistics vary, there are a great many injured or permanently disabled people in the workplace today. And for many of them, the road to making that return was difficult. Some, like Daniel, had to contend with legal issues. Others, like Dawn and Martha, struggled to overcome their emotions, concerns, and new physical and mental limitations. What they all learned, though, is that an injury doesn't have to keep you out of the workplace. Getting back to your job is possible—and it can be an important step in the healing process. ■