

Brian Therrien: Let's get back to some of the lifestyles conditions and things that are asked of us, and how they affect Social Security Disability application. I'll use one specific that's come in here and we had a person write in and say. I drank six cans of Pabst Blue Ribbon and drove my car and I thought it was great but the officer that pulled me over didn't. {chuckle} And I'm trying to file for Social Security Disability, is this going to affect anything?

Jonathan Ginsberg: Yup, that's a good question and it comes up not infrequently. That is if alcohol or drug abuse is a, what they call a material contributing factor to the disability, then that person is not eligible for benefits. So if I've got somebody that has an alcohol issue in their background and if it's in those medical records, those medical records by the way. You've got to be very careful and when you talk to your doctor, because if a doctor senses that you are drug seeking or going from doctor to doctor to get narcotic prescriptions or there is a discussion of alcoholism in there. That can be a real, real problem., because Social Security sees that and they'll cut you off or they'll deny you on that basis. If alcohol is involved, then there's got to be something else that would make the person disabled or the alcohol use has got to be so long and damaging that the person has some sort of organ damage. In other words, if you drink consistently for fifteen or twenty years, then your liver is probably going to have elevated liver enzymes, your disability might have stemmed from the damage to your liver, even if you stop drinking. But yeah, if somebody has been drinking, that's probably not a good thing. I will tell you from my experience, that any time that the judge sees that, he automatically gets very. Very concerned and those cases are very unlikely y to be approved. The second area that comes up. In fact it came up in my office yesterday. I get letters from prisoners quite frequently.

Brian Therrien: Okay.

Jonathan Ginsberg: If they are disabled, if you are in prison or in a State mental hospital. You are not eligible for benefits until you get out. I will tell you right now that judges are not real fond of approving people who have long prison records because that affects their creditability. So those are a couple of areas where you really got to really watch out for.

Brian Therrien: So if you are a felon, you have to be very conscious about that, as well as, alcohol or drug related addictions or convictions.

Jonathan Ginsberg: Right. You used to be, I mean years ago, alcoholism or drug abuse could be the basis for disability, because again, it is perceived by the American Medical Association as a disease. But I think that there were a couple of these reports on various TV programs, where people we were drug addicts were using Social Security tax money, the money from tax payers to support their habits. So they took that out. That's probably not a bad thing.

Brian Therrien: Yeah.

Jonathan Ginsberg: Those people are probably just making things worse for themselves. But yeah, that is something when I look at a case I am very, very concerned if I see any kind of alcohol or drug use.

Brian Therrien: Yeah.

Jonathan Ginsberg: I always tell people to get help and get sober, because judges will many times not approve a person until they feel that they are sober. Another thing is that people who are alcoholics or drug users tend to be optimistic about when they stopped or have they stopped and judges are very aware of that as well.

Brian Therrien: Okay. In moderation is okay, but just don't abuse it.

Jonathan Ginsberg: In my mind, I just think that anytime, alcohol and drug use should not be a part of a disability record.

Brian Therrien: Hmm.

Jonathan Ginsberg: You take clients as you find them, but if you have somebody that has that in the record, well they have had some issues with abuse of a substance. That is a factor that might lead me not to take the case, because those cases are more difficult. Judges are just, knee-jerk going to react to that and they are just not going to approve those people.

Brian Therrien: Okay.

Jonathan Ginsberg: I am not saying every one of them, I am just saying that is just another factor to consider and what I would say is that if it is there. If a claimant has had some drug issues, they need to make sure that it is very clear in the record that they are past that and that is over and done with and they are not actively engaging in that activity. That can maybe cut that off at the pass. Of course, the biggest thing is don't lie about it. If somebody has had relapses, acknowledge them, deal with them. But don't lie about them because it will show up in the record.

Brian Therrien: Okay, good. Here's a sensitive subject and you've talked about it briefly in the beginning. The process the receive benefits is long. If you meet a listing then, you know, six to eight months and that's the minority of the cases. So the question that we hear is how do you survive. I mean, what do people do? Do you have any advice for them? Or tips? How do you address that?

Jonathan Ginsberg: It's tough. It's a real tough one. There is a lot of people that end up moving with family and friends and they struggle and I think that part of it is to have a realistic expectation as to what is going to happen so that you don't expect things to happen quickly. To realize that this is a marathon not a sprint, so you have to keep going to the doctor. You need to make sure that your loved ones understand that this is not something that is going to be very, very quick and rapid. There is a real problem I

think that is one of the things that Social Security is trying to grapple with to try and make the process a little bit shorter. We will just have to see what happens. I have had some success when people are facing foreclosure or facing eminent being on the street, where they can turn to their elected representatives and sometimes those cases, we call them dire need cases, can be moved to the front. That is much less effective then it was a few years ago.

Brian Therrien: Okay.

Jonathan Ginsberg: But everyone once in a while if somebody, especially if they have a terminal condition and they are dying. Those cases will sometimes be moved to the front if you get an elected representative, senator or congressman involved.

Brian Therrien: What about working through this. I mean, we talked about that before. You mentioned that it wasn't. If you are working and that's noted in your application then they are saying then why do you need Social Security Disability. Is that accurate?

Jonathan Ginsberg: Yeah. And I think that is something that makes a very good point and people say to me all the time. Well can I work part time? Here's how it kind of come down on this. On one hand a failed work attempt is helpful to your case, because number one, it shows good faith and number two it shows that you are trying to do something but you can't. So, clearly, if somebody is motivated to work and that is positive evidence. So if you have five or six work attempts where you last two or three weeks at a place and you get fired for absenteeism or because of inability to get through a work day. Well that could be good evidence. Where I run into trouble is when somebody has got work attempts where they work for three or four months. Once you get beyond three months it stops being a work attempt and its more like a job. I think that muddies the water. So I would never tell somebody not to work, but I will tell them if they do work and they get beyond three or four months, that is going to make it more difficult to prove they are disabled.

Brian Therrien: Okay.

Jonathan Ginsberg: No matter what job you have, there is probably something a little bit easier out there and a judge would conclude that if they can last six or eight months at a job in a warehouse, maybe they could do something full time as a textile inspector or a hand packer. So in my view work efforts if it gets beyond, a work attempt can be detrimental to a case.

Brian Therrien: Okay, good to know.

Jonathan Ginsberg: Especially because Social Security sees things in black and white. It shouldn't be this way, but it is. They see things in black and white and if you are working, by definition you are not disabled.

Brian Therrien: So do you have direct advice for your clients?

Jonathan Ginsberg: Direct advice in the sense that I tell them. They say to me; can I try to work. I say sure go try to work but be aware that if you last more than two or three months, it may put you in a closed period situation where we are asking for disability from a period of time and then it comes to an end. Or it may change our onset date. We may find that our onset date has been moved forward so that you don't get as much back benefits.

Brian Therrien: Yeah.

Jonathan Ginsberg: So yeah, if you got to eat, you got to eat. But again, Social Security's attitude is, if you got to eat and you can work then you are not disabled.

Brian Therrien: Yeah, it's really a catch 22.

Jonathan Ginsberg: It is.

Brian Therrien: I mean, I don't know if I am speaking out of turn here, but the cleaner way is to not work because then there is no area for confusion. I am not working and I can't work. Here's my deal.

Jonathan Ginsberg: Right. That's exactly right.

Brian Therrien: Yeah. Back to the amount of money that people get paid real quickly. Does everybody get paid the same amount of money? Tell me how that works again.

Jonathan Ginsberg: Well they get paid based on something called a PIA.

Brian Therrien: Oh.

Jonathan Ginsberg: Which is a calculation that Social Security does looking at their household. Looking at what they paid into the system and it's a function, I couldn't explain to you exactly how it works but it is a number that is a function of what they have paid into the system. So if somebody that has been a high earner that has earned a hundred thousand dollars a year. They are going to be getting a lot more money that has been earning fifteen or twenty thousand dollars a year.

Brian Therrien: All right. I noticed that in some of your work, back on the tips and tricks that you work to go through the system. Tell me if I am speaking out of turn Jonathan, but you advise people to claim a state of depression to work through their case. That sounds kind of wild to me, but I am anxious to hear about it.

Jonathan Ginsberg: Well, first of all you have to realize why. The reason why is because Social Security, if you allege depression, they will schedule a consultative evaluation with a psychologist.

Brian Therrien: Okay.

Jonathan Ginsberg: It doesn't cost you anything and basically my experience then most of the time. These psychological consultative evaluations, they will find something that limits you in some fashion. And really if you think about it, it makes sense. If you have been working, your whole life and you have been a productive self-sufficient individual there is probably going to be an element of depression, even if you don't realize it. A lot of times the psychological evaluation will uncover that if you have any kind of learning issues that maybe went undiagnosed. They may uncover that because they do these various tests. So I find that in most cases, there is going to be an element of depression. At the very least, the psychologist will usually find something that could help your case. So I usually advise everybody as a matter of course to allege depression because it is probably there, number one. Number two, it's probably going to generate something that is going to help your case.

Brian Therrien: Okay. Well you know I look at it this way. As a guy, speaking to other guys out there, if I was unable to work and my livelihood was taken away from me and I was providing. Which a lot of guys do, whether it is for yourself or for a family. I can see where somebody would have an altered mental state, which may cause depression. That's just my take. I am not a doctor. I'm just a researcher, but I see that.

Jonathan Ginsberg: Yup, I mean again it makes perfect sense. If you have led a certain lifestyle and you had a certain vision of yourself and sense of yourself and all of a sudden that has completely changed, of course you are going to be depressed about it.

Brian Therrien: Mmhmm

Jonathan Ginsberg: That's a very reasonable thing and I think that a lot of men don't necessarily recognize it. A lot of times the sources do. But really for anybody. I think that it is probably not a bad idea to have that evaluated. And again, nine times out of ten it will result in something that will be beneficial to me.

Brian Therrien: Okay.

Jonathan Ginsberg: And you know what, if it doesn't and it comes back and there is nothing wrong. Then you are no worse off.

Brian Therrien: Okay.

Jonathan Ginsberg: So by contrast, with Social Security if you allege a physical problem and in most cases are involved there, they will send you out to a physical consultative evaluation as well. That's a different animal because those rarely help.

Those are typically the IME type of doctors that you see in Workers Compensation cases. They rarely find anything wrong with anybody. Judges give them very little weight and it's a waste of time for everybody but you've got to go through the process. So in most cases, most claimants will find themselves being sent out for a physical evaluation and a mental health evaluation. The physical one is not going to do them a whole lot of good, but the mental health one might, but you might as well get it.

Brian Therrien: Okay. I am going to look at this from a recap point and try to piece together midway through here what we've gone through. Which is, if somebody comes through, they've gotten started and then we've talked about the guide and how the guide can benefit with the listing functional work capacity and we've spoken a little bit about how long it takes. So, if they don't meet a listing it could be two and half or three years. Right?

Jonathan Ginsberg: It could be, depending on where the live and again, some places are faster than others but I think that a couple years is probably a minimum and three to four years is a worst case.

Brian Therrien: Okay. So we've really zeroed in on the listing part. I just, I hate to keep going over this but these questions are asked so many times I just want to make it clear to people what the key steps are. Are there any other things that you can think of that are important that we may have missed that should be discussed? In coming through, getting started, getting that Form 7008, determining the medical problem, seeing if you match a listing and the functional capacity part.

Jonathan Ginsberg: Just a couple of ones. One would be that there is a very short Appeals deadline and if you get turned down, you have only sixty days, six zero days to file your appeal. So, when you get your denial notice, your denied. You want to do two things. One is you want to make sure that you file your appeal within sixty days of that denial notice. If you don't you will have to start all over again, so that's important to do and a lot of times you they don't necessarily send you the Form, the blank form. You have to either request it or get it online. So you have to give yourself plenty of time and not wait for the last minute to do it. But the appeal deadlines are very important, if you miss them and there are some cases that you can argue it wasn't filled out because of some medical condition or health condition. But it is best not to get involved in. It's best to do them on time or get them in earlier. Again, another thing the guide will help you do it to help you get these forms filled out. Sixty days seems like a lot of time but if you are sick and uncomfortable, it can zip by. So be very, very aware of that. The second thing is when you get the denial notice, look at it. Say you have a denial notice and see what medical records were used to make that denial. You will find a lot of times Social Security does not have all of the medical records on hand when they make their decision. The reason for that is that Social Security, the adjudicator takes the file, and you provide them with a list of all of your doctors with names and addresses and so forth. But if the doctor does not respond of the address has changed, Social Security only waits a certain amount of time and if they don't get those records back they just go with what they have. So I have several cases, I've seen where people have gotten really strong medical records

that never got to the file. The case was denied and by simply providing those records that I had in my office at that point we got the case approved. So it is really important to see what they've got to try to keep track of what they have to make sure they have all the medical records. Because again, all they can do is request them, they don't do a lot of follow-ups, they don't have the time or inclination to do so. But you as the claimant or you as the claimants attorney. You can get on the phone and push the doctor to supply these records. Doctor's offices are under budget crunches just like anybody else. Their reimbursements are down and making copies of medical records is kind of at the bottom of their list.

Brian Therrien: Mmhmm.

Jonathan Ginsberg: You have to sometimes push and Social Security will pay ten or twenty dollars for this but for many doctors that is not enough money to justify the effort, they just ignore them. Ignore the letters. So it's important to look at those letters and see to make sure that you've got everything covered and that's why you have your own file.

Brian Therrien: So this is really good advice for somebody who may have already started the application process.

Jonathan Ginsberg: You want to keep everything that they have given you and you want to read it and look at it and see, because again, a lot of it's form. It's just a form that says that we denied you because of this, that and the other. But they will say the following records were used to make this decision. They will list the doctors and the dates of the records and if you see something big is missing then you know that there is a gap to be filled. If you can fill it that helps speed the process up a little bit.

Brian Therrien: Okay. I'm going to move forward a little bit. You've done a great job of outlining that for us. Now, can you bring us through this part of the program and address the confusion that people have as to when to get an attorney, if they need an attorney. I'm hearing here, if you can go and meet a listing, you don't need an attorney, all you need to do it get the guide, right?

Jonathan Ginsberg: Correct.

Brian Therrien: So, when does an attorney come into play here. You see advertising everywhere really for this.

Jonathan Ginsberg: Right.

Brian Therrien: Tell us what we need to know.

Jonathan Ginsberg: Okay. Well, first of all, realize how attorneys get paid and that is, we attorneys are paid typically 25% of any past due benefits. In other words, if

somebody applies, you know, January 1 and they allege an onset date of March two years ago. There may be a couple years of back benefits involved here. So by the time we get to the hearing, maybe two or three years or four years. So attorneys get paid 25% of any past due benefits.

Brian Therrien: That could be a lot of money.

Jonathan Ginsberg: That could be a lot of money. But basically up to \$5,300.

Brian Therrien: Oh, ok. It's capped.

Jonathan Ginsberg: Now a days its capped. You can ask for additional fees if you've done more work, but most people do what is called a fee agreement. Typically when I win a case, I'll get checks for \$5,225 which, there is a users fee involved. But basically, that's what the attorneys end up getting paid for these cases. So if you've gotten a twenty or thirty thousand dollars in back benefits, which is not at all uncommon, attorneys are going to get paid 25% of that.

Brian Therrien: Wow.

Jonathan Ginsberg: Now, attorneys; and again I'm an attorney. I'm telling you the truth as I see it. Really, there is not much we can do at the initial stage, because Social Security has to do its thing there. Even at the reconsideration stage, which is a phase that they are going to move out, they are trying to get rid of. It's still there in most places right now. There's not really much we can do. I usually get involved with cases when there is a hearing to be scheduled. Somebody gets denied with the initial application, denied at reconsideration, then I will get involved to request a hearing. That is where I make my money.

Brian Therrien: Okay. We want to finish this topic, but can you tell us what is reconsideration? Maybe, let me give an example. Let's say that somebody comes through and they fill out the paperwork and it goes through, whizzes by the adjudicator and take it from there.

Jonathan Ginsberg: All right. Here's the time frames. Somebody applies; it goes to the adjudicator stage to see an adjudicator...

Brian Therrien: Mmhmm

Jonathan Ginsberg: This will usually take about six to eight months to collect medical records and evaluate it with the help of in-house physicians and other experts at the same office.

Brian Therrien: Okay.

Jonathan Ginsberg: So typically about six to eight months from the time you filed and you will get a letter from Social Security saying that we have denied your claim. And of course a lot of good cases are denied. You then have sixty days to file for what is called reconsideration. And again, reconsideration is not the same in every location. There are a number of different programs to eliminate it because it is such a waste of time. But it is still in a lot of places so we will talk about it. Reconsideration is essentially where you fill out additional forms to update the record. It goes back to the same people that denied it the first time and again, let's say that something was missing and you provided it. That's when the adjudicator can make a decision; approval reconsideration. Statistically, very, very, very few cases are approved at reconsideration.

Brian Therrien: Can I ask a question here?

Jonathan Ginsberg: Yes.

Brian Therrien: If somebody at reconsideration sends in their original paperwork and they don't know about your secret and the guide and the listing strategy and they refile the paperwork at the reconsideration level. Is there a chance that they could meet a listing?

Jonathan Ginsberg: Sure. Absolutely.

Brian Therrien: Okay.

Jonathan Ginsberg: Again, reconsideration is not a refiling. It is simply you asking for a reconsideration of the initial denial notice.

Brian Therrien: Okay.

Jonathan Ginsberg: But yes. Yeah, they are looking for the same thing and again, the cases that are approved at reconsideration are ones where a medical record ahas straggled in, the doctor was late and it finally got there. Or something new has happened and the adjudicator has a justification for approving it. Again, I have had several cases where my clients or customer bought my guide after the initial denial but before the reconsideration, when they filled out the reconsideration form, which is a whole different set of forms. They did it right and they got approved there. Statistically, reconsideration is a very low level of approval. I think your chances of getting approved if you know what you are doing of course, but its relatively low level approval system wide.

Brian Therrien: Good.

Jonathan Ginsberg: Again, reconsideration process is going to take another six to eight months, so now we are probably at twelve to sixteen months into the process. You get a denial notice from reconsideration, it looks very similar to the one that you got from the initial denial. Then you have sixty days, which is two months to file for a hearing.

And at that point the file is physically moved from the state agency office to the office of hearings and appeals. And that is moving from the state of, whatever state. State of Georgia, State of Alabama, State of New York, to the office of hearings and appeals in a federal government office building and that's where the judge will actually look at the file. That process takes about one and a half to three years to play. I did a little research on this and according to the governments own statistics. The amount of time that the typical cases is taking about three years start to finish nationwide. Social Security employees work on that file for a grand total of seven days.

Brian Therrien: Ohhh

Jonathan Ginsberg: Seven work days in three years. The governments own statistics.

Brian Therrien: So I see five steps here: somebody applies and it goes through the adjudicator and the adjudicator reviews it collects medical records and typically sends you back a yeah or neigh. If it is denied there is reconsideration. You have sixty days to file. Correct?

Jonathan Ginsberg: Correct.

Brian Therrien: Any additional information in there? Something that was left out. The reasons why you still think...

Jonathan Ginsberg: Right.

Brian Therrien: Okay. So that's sent in and there is six to eight months may go by and then, if its sent back it's typically not approved at reconsideration, it would be denied. Then you would have another sixty days to request a hearing. Right?

Jonathan Ginsberg: That's correct.

Brian Therrien: Okay. So when you request that hearing, what is the time between the time that hearing is requested and the hearing is...

Jonathan Ginsberg: Is done?

Brian Therrien: Is done.

Jonathan Ginsberg: That's where the big delay is.

Brian Therrien: That's the biggest delay.

Jonathan Ginsberg: That last delay is 26 months.

Brian Therrien: Oohhh.

Jonathan Ginsberg: After you file that request or appeal for a hearing to the time the hearing is actually scheduled is about two years. Now in other places it is going to be a little less time, but in several jurisdictions, Georgia, Atlanta in particular is twenty four to twenty six months.

Brian Therrien: Okay.

Jonathan Ginsberg: If you think about it, the challenge areas, there are a couple of things that are very important to point out about this delay. If you remember at the initial adjudication section. We have adjudicators who are collecting medical records, at least requesting them. Once you request a hearing there are no more adjudicators involved, nobody is updating the file. So it's you or your attorney has got the sole responsibility of updating that file.

Brian Therrien: Ahhh

Jonathan Ginsberg: Make sure that the medical records are updated, so that is why when you get an attorney. Yeah, I think that's where it starts to make sense to get an attorney, because keeping the file updated and knowing how to do all of that starts to be some work.

Brian Therrien: Mmhmm

Jonathan Ginsberg: You have got to have... there is a timing aspect involved and plus another factor is that if for some reason you didn't have something included in your initial application or your reconsideration, your attorney can get that in early on. Because you don't want to get to a hearing and all of a sudden the judge finds out that you have got a bad knee. That needs to be brought up much, much earlier. A good attorney will look at the file and figure out what is the theory of our case? What do we need and prepare that case for the hearing.

Brian Therrien: Mmm, yeah. So after you requested a hearing you are basically on your own. There is no more adjudicators.

Jonathan Ginsberg: That's correct.

Brian Therrien: So either way, if somebody really wants to venture out and do this whole process on their own and not get the guide, they just have to have impeccable records and know the language.

Jonathan Ginsberg: Plus I'll say going to a hearing, if you are not an attorney and your going without an attorney to a hearing, its not pleasant. Judges are overworked, my opinion, this is only my opinion. It is my sense that those judges just get very frustrated with non-represented claimants because they have to take so much more time to explain the process.

Brian Therrien: Okay.

Jonathan Ginsberg: The files are rarely in the right order and the person normally doesn't have any real clear idea of what they are trying to prove.

Brian Therrien: Are there other people out there other than an attorney that can represent, you know, that have a better understanding of the process than the regular, Joe Layman.

Jonathan Ginsberg: Yeah. Well Social Security does allow non-attorney reps to go. Again, Social Security is unique in that you can actually represent somebody without being an attorney. There are some non-attorney reps. There are some good ones and some not so good ones. Again, they don't have, obviously I don't think every attorney is great either. The nice thing about an attorney is you have the screen process. You have the bar exam and they probably have a certain level of capacity and capability. There are non-attorney reps that do a good job and ones that don't do a very good job at all. So I personally think it is a little riskier to go with a non-attorney rep.

Brian Therrien: Mmhmm.

Jonathan Ginsberg: But there are some good ones out there. I have been asked the question. What good does my guide do if you have already passed through the reconsideration phase and again, it comes from preparing the case for a hearing. One of the things that I think is important to do it if you really have the forms correctly, the functional capacity forms, the listing forms and one of the things that I have got in there. Is those forms. So I think if you have to go to a hearing, it would be valuable to have your file done correctly. I've got a lot of attorneys that use my book, because they want to fill these forms out correctly as well.

Brian Therrien: Is that right.

Jonathan Ginsberg: Absolutely.

Brian Therrien: I'm looking at this from a business perspective from a guy sitting on your side of the fence as a lawyer. Why would I want to represent somebody if they are just in the application process, because the back benefits, that's what I would get paid on. I am assuming that I have done all the hard work and had an education as a lawyer.

Jonathan Ginsberg: Right.

Brian Therrien: And we go through this and somebody gets awarded like six to eight months into and it and I do my job right, but Social Security the compensation, I am just getting a few months of back benefits and not even at the \$5300 range.

Jonathan Ginsberg: Right, but you get 25% of those few months, plus in Title II cases there is a five month waiting period, so they don't even pay the first five months. So theoretically you could be an attorney and do your job really well and get the person approved early and get paid nothing. I think that is really the ethical issue as attorneys we have an ethical obligation to your clients that really precedes, you know, our desire to get paid on things. The way I deal with it is this. First of all, if you take on a case, you have an ethical obligation to try to win in and win it as early as you can. If you are not going to get paid on it, don't take the case at that stage. Which I think most attorneys, this is one of the things that I wrote this book for, was most attorneys I know that do a lot of this work, don't get involved with cases until the hearing stage.

Brian Therrien: Mmhmm.

Jonathan Ginsberg: Because there is so little money involved and Social Security has a habit of, if you do win it early and they cut your fee and they won't even pay the 25%, they will only pay four of five hundred dollars and say that's all I am going to pay you, because they don't see how you possibly could have possibly done any more, because you did a lot of work on it. So, many attorneys don't want to mess with a case until they are to the hearing stage, because it is a chance to get paid at that level are so limited and that's the problem. Part of what I have tried to fill the gap with was to give some people some guidance of how to do it at the initial and the recon stages, with the understanding that will probably have a difficult time getting an attorney and if they have an attorney, how hard is he really going to work, know there is not much money involved.

Brian Therrien: Yeah, okay. Let's talk about those who have been denied and sixty days to request a hearing. When they get that denial confirmation, should they request the hearing on their own or should they at that point in time seek a lawyer? What's the exact moment that you suggest?

Jonathan Ginsberg: I personally think that they should probably get an attorney at the time that they get denied. I mean, they can certainly fill out the hearing request form and especially if they think there is a really strong chance that they are going to get approved and if they are running late, they can do it themselves. But I think it is probably a good idea to get an attorney involved to do that. Most attorneys when you get involved with the case, you will go ahead and fill out these forms, the hearing request form for the claimant. Again, there is many cases that I have been involved with that the person filed their own hearing request form, because they didn't know about getting an attorney early enough or for whatever reason they waited. But yeah, that is the best time to do it when you received your denial letter from reconsideration.

Brian Therrien: Okay, this kind of leads us into some of the other work that you do and you do a lot of work beyond the Atlanta area and it's actually remarkable. We have worked out a program with you where you have established a network of lawyers that you've approved and give your stamp of approval and they are set up throughout the US where people can, below this interview on the site here, they can click on it and go in and

fill out information and they can actually find a lawyer. So if I have somebody in Des Moines, Iowa or I have somebody up here in Vermont and I need a lawyer that can help me after I have been denied. You have gone out and built this network that you have allowed us to have access to. Somebody can fill out a form, it doesn't cost anything right? To request a lawyer? And they don't have to use them of course. What I am curious about is what criteria do you look for in the people that are in this network. I mean, how do you see who's good? Are they all good? Of course that is a loaded question, but tell us about it.

Jonathan Ginsberg: Well, basically what I did, with the writing I was doing with this, I talk to a lot of people and of course there is a national organization that most attorneys who do this belong to and you kind of get a sense of who's publishing things and who's awarding cases and things like that. I just got on the phone quite honestly and started talking to people. I will tell you how it developed. I wrote the book initially, I didn't have any kind of lawyer network and I started getting emails and calls from people all over the country, could you refer me to a lawyer. So I was just literally getting on the phone and just calling people and talking to them and saying; look, I have somebody that just called me and they are in California or they are in Florida, Texas or Nevada and they need some help here. I wasn't asking for any. I was trying to find somebody that was good. And over the course of a number of months, I just sort of developed these contacts with people and I found that this is something that I need to make a little more formal, so some of the people that I referred cases to. I called them back and you know when you talk to an attorney you kind of get a sense. I sort of know what I am looking for. These are people that will take the time to talk to me and talk to the person I am referring to them and yet they have to show an interest in their client. Obviously, they have to show the experience that they have been doing this for a while. That's what I am looking for. People that have had some experience that are nice people. When it gets to a difficult time in somebodies life. Your disabled, you cant function, you have to have an attorney that will return phone calls. Who will work with you and when you talk to attorneys you just naturally start talking shop and you get a sense of who does it the right way and who has a good approach. Some of them quite honestly, I kicked off the program. I didn't feel they were doing what I wanted them to do. I talk to these folks all the time.

Brian Therrien: Mmhmm.

Jonathan Ginsberg: I have a pretty good sense after talking to them, that they have the experience, the background and skill set to do a good job with the cases. So those are the ones that I leave on the list.

Brian Therrien: Great. So just to reflect back to the guide. The guide works everywhere? Right?

Jonathan Ginsberg: Right.

Brian Therrien: Social Security disability playing filed is United States and then this network covers anybody that would need a lawyer throughout the U.S.

Jonathan Ginsberg: That's correct.

Brian Therrien: Okay.

Jonathan Ginsberg: Lawyers, literally people all over the country.

Brian Therrien: Okay.

Jonathan Ginsberg: Some of them cover more than one state, but most of them are in the state that they practice in. They cover that state and again these are good folks. I know them all and I feel real comfortable with them

Brian Therrien: Okay. Let's talk about some other categories. We have people who express; widows seeking pensions, that is one category that people would have questions about. Veterans seeking benefits. Does the guide provide any assistance to those categories?

Jonathan Ginsberg: It does not deal with Veterans disability. Veterans disability is completely different system.

Brian Therrien: Okay.

Jonathan Ginsberg: I have done a little bit of that type of work and it's not really designed for attorneys, because there is no way for attorneys to get paid in Veteran cases, therefore there is not too much a Veterans Barr that deals with that. Similar in a sense of asking disability question, but the forms are totally different and that would be a different book. I have toyed with that idea, but I haven't actually written it yet.

Brian Therrien: Okay.

Jonathan Ginsberg: The widow's issue is where Social Security disability does allow a widow or widower to claim on the deceased spouses earning's records, if that widow or widower is fifty years old and became disabled within seven years of their spouse dying. So you may have a housewife, which is a typical situation

Brian Therrien: Mmhmm.

Jonathan Ginsberg: Husband died three or four years ago and the housewife is disabled. Social Security disability, the same forms would apply in that widows claim would be based on the deceased spouse earnings record.

Brian Therrien: Over fifty.

Jonathan Ginsberg: It would apply to that only.

Brian Therrien: Okay. So that covers Veterans and widows. Now, children. You do quite a bit of work for children. Tell us about that.

Jonathan Ginsberg: Children's cases are a different animal and I have a whole separate guide for child cases and basically child cases are all SSI, because obviously the children have not worked. Child SSI has a different set of standards, basically it is a different set of listings, in order to win a child SSI case, you have to essentially meet the listing. It used to be that there was a different standard, but now it is pretty much, you have to meet the listing. And so my child SSI books really focuses on answer the questions in terms to those listings. Because again, this is not the functional capacity anymore, this is about do you meet the listing. A lot of the child cases that we see are ADHD or ADD, Attention Deficit prone.

Brian Therrien: Mmhmm.

Jonathan Ginsberg: Of course then there is the child's medical problems, but essentially you have got to get forms from doctors that say the child meets the listing and then again, the child guide which is actually a little bit longer than the adult guide because I really wanted to go into a number of child conditions that the forms can be a little more extensive. Like the child guide actually covers. I think every form covers ADHD, because that is such a big one. I've got other medical problems as well. I think there are three conditions, physical, mental and ADHD for each one. So every form is filled out three times. So you've got a pretty good guide to fill out the forms correctly for the child case.

Brian Therrien: So when you say SSI, I was just thinking back the to previous conversation. SSI being less the SSDI. The reason that it is SSI, is because they haven't worked. Is that right?

Jonathan Ginsberg: Right. SSI, is essentially a welfare program. Essentially, what it means is if you have very low income and you have very little in terms of assets, you'd qualify for SSI. People who are making fifty or sixty thousand dollars a year, are not going to qualify for SSI. The only thing that a child can qualify for in that type of household is called a Katie Beckon waiver. Which allows a disabled child to qualify for Medicaid, medical benefits. That is state by state and that is really beyond the scope of the book, because the book focuses on disability. But it is within the scope of the book, in terms of payment. The child from a middle class household or a wealthy household, its not going to get any monetary benefits, but it might be able to qualify for Medicaid. Which in many cases is really what the parents are most interested in anyway.

Brian Therrien: Are children awarded the same amount? Is it a flat fee for every child if they meet a listing.

Jonathan Ginsberg: A flat number. Right. Its going to be about five hundred to six hundred dollars if they meet a listing. It is going to be subject to offer. Meaning, that is the parents have a certain amount of income, that might be offer by one hundred or two

hundred dollars, something like that so that the actual dollar figure the child gets may be a hundred and fifty to two hundred dollars a month. When all is said and done. But they do get Medicaid which provide for medical treatment, which again, in a lot of cases, that is what the parents are most after anyway. But the amounts are going to be capped. Its not going to be very much money, but it can be some. If they get five hundred dollars a month, that's more then nothing a month. So if you are in a difficult financial situation it can be helpful.

Brian Therrien: Mmhmm.

Jonathan Ginsberg: That is adjusted every year for inflation.

Brian Therrien: Okay. So this is a separate guide that you have. We will make that available at the bottom of the site as well, so that you can go in and learn about that. We walked about the disability guide, which is your claim to fame there. Then the legal network that you have and then the children's process. I know that we are time sensitive here and we are just about out of time, but I want to speak about a few other things and some of the work that you've done in this area, but before I do, if somebody was to go in and pick up this book. Is there any type of guarantee that you offer with the child guide and the regular adult guide? Like, if they don't like it can they send it back to you?

Jonathan Ginsberg: Absolutely. Absolutely, they can send it right back. Its called the money back guarantee and I thinks its put a lot of time into it and its pretty good, but if its not what somebody needs , then send it back to me in unused condition and I'll give their money back.

Brian Therrien: No harm, no foul.

Jonathan Ginsberg: Absolutely.

Brian Therrien: Okay. You've done a bunch of other work in this Social Security disability space. You've done state-by-state information where people could come in and learn about that. You run a blog that you personally lend your time. It's like an online legal council I find it interesting. You're a lawyer that says here you don't need me you can get my guide, you can come to my site, you can ask me questions and I'm going top answer them for free and in addition to that you are even running a radio station. So I want to learn about a few of these things in closing. If you could hit some of the highlights.

Jonathan Ginsberg: Sure. Yeah, basically I have a couple of blogs where I answer questions and I have an internet radio program. In some ways it's for sort of selfish reasons. The blog actually help me to become a better lawyer, because when you are answering questions all the time, it really does go a long way to help solidify my information. People ask me questions that quite honestly I would have never thought of them. I get some really insightful question on the blogs. A blog for those that don't know is a blog or interactive web site. It allows me to really stay current with what is

going on online. I also subscribe to and I encourage other people to do this. To other blogs in the Social Security disability area. Some of them are somewhat technical and they are written for lawyers, but again it allows me to kind of keep my eye on what is going on in the area. Because the law does change and the processes do change and it allows me to sort of stay current with it. When I answer questions I have to look things up unless I know them off the top of my head.

Brian Therrien: Mmhmm.

Jonathan Ginsberg: I will look it up and it really helps me increase my knowledge. The radio station, the internet radio station is a way for me to answer questions, because some people don't like to read and I realize that reading through long blog entries can be, you know, for some people its difficult, especially if they cant see real well. If they don't have a good education. So the radio station is a way for answering questions to deliver that information in a verbal way or I can basically answer the questions for them. Basically, if the same types of questions that I solicit the questions on all my websites. People can answer me a question and if I think that it is something that has a common appeal, I will just add it to the radio program. I generate the radio program two or three times a month and it's only about ten or fifteen minutes at a pop.

Brian Therrien: Mmhmm.

Jonathan Ginsberg: But it is a chance for me to interview folks, just like you are interviewing me. I might interview another attorney who does something kind of interesting and I will talk about case studies and how I won a case or how a case got lost or even interview clients and ask them what do they find. It is just sort of a way to add a little bit of dimension to the practice so that I can help people understand what this process is all about. It is really a rewarding area of practice. I've done a lot of different kinds of law in my career and it is kind of neat when you can make a major difference in somebodies life. You go into a hearing and win the hearing and now they have some money to live with dignity...

Brian Therrien: Mmhmm.

Jonathan Ginsberg: And they have access to medical treatment and they have a lump sum coming in that they feel like they have their life back. There is nothing better for me to see then somebody get on disability and then they get themselves together and they go back to work. That is really very fulfilling.

Brian Therrien: Yeah.

Jonathan Ginsberg: So this is just kind of my way of giving back a little bit.

Brian Therrien: Well, I can see, I mean, there is a two-fold thing and I want to come back to this blog in a minute. But I see from the financial incentive to be minimal

for an attorney to get involved in the beginning. People need help to get this process going, but this whole guide thing is a clever idea. Now, I just want to make sure, I spend a fair amount of time online and I know a little bit about blogs but maybe everybody else does and maybe it's just me that doesn't know a whole lot. But from a blog perspective, I just want to understand how it works. If I come into your site and I want to ask you a question or learn something. Are you saying that I can ask that question, submit it to you and you turn around and post it back and those responses that you have, that's what you're referring to as a blog.

Jonathan Ginsberg: Correct. Basically a blog is a specialized kind of website that instead of just being something that you write and it just sits out there. It is designed to be updated on a daily or weekly basis.

Brian Therrien: Okay.

Jonathan Ginsberg: So on the blogs themselves or actually on any of the websites, there is a place where somebody can ask a question and that question comes to me as an email and if it looks like it is a good question, something that I think other people would be interested in. I will basically cut and paste it and put it on the blog and essentially my response to that individual's question then becomes part of the public now. It's part of the website.

Brian Therrien: Okay.

Jonathan Ginsberg: These are questions that I get from folks all over the country. It may be a simple question about where can I find out how much money am I going to get. Which again it's the Form, request for benefits statements. Or it could be a more complicated question, like somebody might write in and say that their medical records were lost or that they had a drinking problem a few years ago, how do they deal with it. So I will talk about strategy. It's really just a way for me to answer questions that otherwise, I might answer on a one to one basis, now I can do so and everybody benefits from it. Of course, I take off the personal information from it. But it is a way for me to just sort of share the knowledge, instead of sharing with one person, I can share it with a lot of people.

Brian Therrien: Okay. Very good. Last thing before we run out of time here, is you have state by state information that you are going to allow us to tap into and as I was looking at it, if I understand it correctly. Somebody can go in and they can indicate the state that they are in, the condition that they have. Right?

Jonathan Ginsberg: Right.

Brian Therrien: And there is a sorting process that you have that will bring up resources that will be beneficial for them for Social Security disability. Is that correct?

Jonathan Ginsberg: Exactly. What I did was, I took, every state has a little bit different process in terms of the address and numbers for the state agencies and just the contact information to the appropriate people. As appropriate, there are more strategies that are more applicable in one state verse another and I will put that in there as well. But I basically have where somebody can go to the site and they can click on their state, it's a dropdown menu. If they live in Arkansas, they click on Arkansas.

Brian Therrien: Mmhmm.

Jonathan Ginsberg: And it comes up kind of a strategy for kind of winning a case in Arkansas.

Brian Therrien: Okay.

Jonathan Ginsberg: The strategies for winning in Florida, or whatever it may be.

Brian Therrien: Okay.

Jonathan Ginsberg: Then they can also do a select for their condition. So for example a lot of the common conditions that I have a lot of the questions on fibro myalgia, is a real big one. Cardiac problems. Depression. I took those five or six biggest one and basically I did a whole little section of the website about those condition. So they can read about strategies of how to win a fibro myalgia case. How to win heart disease case, asthma case, diabetes case and I keep adding to that. So every time I come up with a strategy that I think has some general applicability on a medical problem, I add it to the website. So that is just a way for people to get some more customized information that would apply to their particular situation as opposed to Social Security as a whole. Because there is a strategy for fibro myalgia that is going to be different then a strategy for Cardia problems.

Brian Therrien: Okay. Awesome. Let's recap okay. I want to see if I got it all right. See if I pass the est.

Jonathan Ginsberg: All right.

Brian Therrien: Here's what I see and what I think I have this mapped out. Some of the key points that people want to take away from this is have a consistent medical treatment right? That's one of the first things. Second to that, is they want to make sure that those are well documented, keep awesome records. Look at this like running a business and keep requesting the records on a three or four month basis. You want to guard those records so that you have them at all times. Don't trust the fact that somebody else has them and they are going to keep them and they aren't going to get lost. Whether it's your doctor or Social Security. Okay, use the guide to speak to the adjudicator. If you are just starting with this process and you want to speak to the adjudicator in their language. Using ideally if you can, one of the fourteen listings. If a

listing doesn't apply then you want to work in the right language that will allow you to win on a functional capacity. Right? We in line so far?

Jonathan Ginsberg: So far so good.

Brian Therrien: Okay.

Jonathan Ginsberg: Right along I would say that the listings, the fourteen are listing categories, within each category there is going to be ten, twelve listings themselves.

Brian Therrien: Okay.

Jonathan Ginsberg: Its not fourteen listings, its fourteen categories of listings.

Brian Therrien: Okay.

Jonathan Ginsberg: Otherwise that is correct.

Brian Therrien: Okay, and some are in there. You want to get this Form 7008 that is in the guide and send that in and find out how much money you are going to get back.

Jonathan Ginsberg: That is correct.

Brian Therrien: Okay, the next major step that I see is; you've gone through, you've applied you put your application through the adjudicator and if it didn't get picked up there, they are going to send you back a reconsideration , in some areas, not in all. Right?

Jonathan Ginsberg: Send you back a denial notice and then you have to file for reconsideration.

Brian Therrien: File for reconsideration. Thank you.

Jonathan Ginsberg: That is correct.

Brian Therrien: Its not common that you are going to be approved at that stage, so chances are, you are going to be denied. Right?

Jonathan Ginsberg: Correct.

Brian Therrien: You have sixty days to request a hearing at that point and time, is when you need to come to the bottom of this recording here, or back to this disability guide website and click on the form and go in and find a lawyer. You can use that with any lawyer you want. That's what I see as the major steps.

Jonathan Ginsberg: Correct.

Brian Therrien: Okay, great. I've learned a lot today. Listen, I want to thank you. This has been great. You do great work. You do a lot of complementary work that is just super for people and the results that people are getting with the guide. The testimonials that I've read and the people that I've talked to have been fantastic. So thank you for your work. Anything in closing that you want to share with us? Final tip or trick or bad joke or anything?

Jonathan Ginsberg: No, I could tell you some lawyer jokes but I don't think I want to go there. I would just say that the big thing to remember is that this is a government system. You have to speak their language and it is a long drawn out process and you've got to be prepared. You have to just. The way you put it earlier. You have to look at this as a business. Its your job, if you are disabled for the next couple of year is to prepare yourself to win disability. It's a very difficult thing for people to sort of consider themselves as disabled. You have got to realize if you are disabled. Its tough out there and you have got to look for every source of income or medical treatment that you can possibly get if you are eligible for this type of stuff. I'd go for it. You have far too many people t, I think they just wait around and they don't do anything until it's too late and they have lost their eligibility and they've lost their insurability and they don't have anything. Then you're really, really in trouble. So I would just say, what you said before. Make this your business. Make this your task for the next couple years. That is very, very sage and sound advice.

Brian Therrien: Okay. Great. Listen in closing, thank you very much for taking the time. Powerful information. You do great work. Thanks for sharing everything.

Jonathan Ginsberg: My pleasure. Nice to talk to you Brian.

(End File)