



# MN MARASCO & NESSELBUSH LLP

## LAW OFFICES

*Rhode Island's Trusted Personal Injury & Social Security Disability Law Firm*

### AREAS OF PRACTICE

#### Personal Injury Law:

- ☞ Auto Accidents
- ☞ Medical Malpractice
- ☞ Motorcycle Accidents
- ☞ Wrongful Death
- ☞ Uninsured Motorist
- ☞ Premises Liability
- ☞ Alcohol Related Accidents

#### Social Security Disability Law:

- ☞ Social Security Disability Insurance (SSDI)
- ☞ Supplemental Security Income (SSI)

### FOUR CONVENIENT LOCATIONS

#### PROVIDENCE:

685 Westminster Street  
(401) 274-7400

#### WAKEFIELD:

231 Old Tower Hill Road, Suite 206  
(401) 783-0000

#### WARWICK:

51 Jefferson Boulevard, 3rd floor  
(401) 738-7700

#### WOONSOCKET:

603 Park Avenue  
(401) 762-9800

Free Parking, Easy Access

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*This newsletter is intended for current and former clients of Marasco & Nesselbush. We thank you for your many kind referrals, and for placing your trust and confidence in our firm.*

## SOCIAL SECURITY LAW

### Fibromyalgia: Trigger Points and Your Disability Claim

According to the Mayo Clinic, fibromyalgia is a disorder characterized by widespread musculoskeletal pain accompanied by fatigue, sleep, memory and mood issues. Researchers believe that fibromyalgia affects the way the brain processes pain signals. It is difficult to diagnose and to treat; symptoms and their intensity can vary.

If you have fibromyalgia, you may be eligible for Social Security Disability

benefits. Although fibromyalgia is not part of Social Security's Listing of Impairments, Marasco & Nesselbush attorneys have obtained disability benefits for many fibromyalgia sufferers, even after they were denied benefits. Fibromyalgia patients should pursue their disability claims through the appeals process, with the help of experienced attorneys.

After someone with fibromyalgia

*Continued on page 3- Fibromyalgia*

## PERSONAL INJURY LAW

### Injuries Caused by Snow and Ice

Winter brings treacherous weather; nearly a third of emergency room admissions are related to slip and fall injuries, many caused by snow and ice. Such injuries can have a devastating impact upon peoples' lives. From a legal perspective, slip and fall cases present unique and difficult liability and notice issues, which our experienced attorneys have the expertise to overcome. Getting an experienced legal opinion as soon as possible and documenting the condition that caused the fall can be critical in successfully resolving these cases.

Our personal injury team was recently able to earn a hard-fought victory in just such a case. Marasco & Nesselbush represented an elderly infirmed client against a large property management company in the Providence County Superior Court. The company refused to settle our client's case, despite the fact that she had fallen and sustained severe injuries, including a fractured wrist. The property management company had clearly failed to remove snow and ice, and instead allowed it to accumulate in the parking lot. The company contended that their actions were reasonable and that the fall had occurred soon after the snow storm abated.

Our attorneys and staff put weeks of preparation into the case. Our hard work ultimately paid off when the case was settled on the first day of trial for more than four times what the property management company had previously offered. This outcome was possible because our attorneys and staff were prepared to take on the company in court.

Our firm is always happy to offer those injured by accidents free initial consultations. For many, these consultations provide valuable information about their legal rights. Please don't hesitate to call us should you ever have questions about your rights.





## MEET OUR ATTORNEYS: Mariam A. Lavoie, Esq.

**M**ariam A. Lavoie, Esq. practices Social Security Disability Law at Marasco & Nesselbush. Raised in Mexico City and California, Attorney Lavoie is bilingual (English/Spanish) and has worked with clients

from many cultures. She has lived in Rhode Island for 25 years, presently in West Warwick with her husband and two teenage children. Attorney Lavoie earned her law degree from Suffolk University.

### *Why have you chosen to practice Social Security Disability law?*

After finishing law school, I represented injured workers, including immigrants, pursuing Workers' Compensation and Personal Injury claims. I decided to focus on Social Security Disability claims for several reasons. I find Social Security Disability law challenging and extremely rewarding. Social Security claimants present with a wide array of complex medical issues and personal strife. I love the challenge of providing compassionate legal care to clients and proving their disability cases in court. It is truly the most rewarding work that I've ever done. I'm also very sensitive to the needs of injured people and those who live with illnesses. Because my daughter is a Type 1 diabetic and I'm the guardian of an older adult with mental illness, I experience first hand, daily, the challenges faced by those living with disabilities.

### *Please describe a case that meant a lot to you.*

Many cases inspire me to believe that justice and compassion still exist in the world. One such case involved a teenager with Asperger's Syndrome. His family was very supportive and

cares; however, the financial and personal pressures associated with providing him with needed care challenged them. The young man's family filed an application for SSI on his behalf. Our office rigorously represented him until we obtained a favorable decision before an Administrative Law Judge. Winning this case meant my client and his family gained additional supports and better medical coverage that ultimately changed their lives for the better. Although this case was special to me, every time our attorneys win benefits for those who really need them, it creates a feeling of accomplishment.

### *What inspires you?*

Every day, I'm inspired and sustained by my faith, my family and service to the community. Growing up, my father exemplified character traits I still aspire to. Although he's 74, he remains employed full time, teaching and researching physics. He loves to learn, is curious about everything, and still reminds me that I can do anything! I acquired my love of learning from him. I'm also inspired by those who use their talents to improve the lives of others. I enjoy involving my family in community service, whether feeding the hungry at meal sites or volunteering for community organizations. I'm especially excited about mentoring a student in the coming weeks.

### *If you could change one thing about the world, what would it be?*

This is a difficult question. On one hand, I am tempted to say I would devise a cure for Type 1 diabetes, or for any of the diseases that afflict children. On the other, I would provide every child with the opportunities and support needed to become an equipped, responsible adult. This addresses both issues, since it's better to be equipped for affliction than spared from it.

## Auto Insurers: Best and Worst

**A** leading consumer research group awarded Amica Mutual, of Lincoln, Rhode Island, its top rating in 2010. J.D. Power and Associates ranked Amica "highest in customer satisfaction among national auto insurers for 11 years in a row, and among national homeowner's insurers for nine years in a row." Amica was one of only three insurers that attained a top rated score. Marasco & Nesselbush has also been impressed with the professionalism and quality of service provided by MetLife Auto and Home.

At the other end of the spectrum, in a survey done by the Northwest Automotive Trades Association, Allstate, GEICO and Safeco were deemed among the worst at taking care of

customers after an accident. Allstate was awarded a D+; GEICO and Safeco tied with a C-; Farmers, Nationwide, Progressive, Liberty Mutual and Ameriprise received a C; and Travelers received a B-.

Our experiences are consistent with these findings. Marasco & Nesselbush attorneys have decades of experience dealing with every insurer who underwrites policies in Rhode Island. Our skilled team of attorneys and other professionals work together to promptly and fairly resolve auto accident and other insurance claims. Based upon our experience, we achieve extraordinary results for our clients through settlement or trial.

REAL INTEGRITY IS DOING THE RIGHT THING,  
KNOWING THAT NOBODY'S GOING TO KNOW  
WHETHER YOU DID IT OR NOT.

~ Oprah Winfrey ~

**Fibromyalgia** - continued from page 1

files for disability at their local Social Security office, the case is transferred to Disability Determination Services (DDS). DDS makes "disability determinations," or decisions at the Initial and Reconsideration levels. Often, because there is no Social Security Listing for fibromyalgia, DDS will deny these claims, unless the fibromyalgia is associated with another illness, such as lupus or arthritis.

DDS often denies fibromyalgia claims because the diagnosis was not made by a specialist, like a rheumatologist. In fact, fibromyalgia claimants are often denied if their diagnosis is made only by a "family doctor" or primary care physician (PCP). DDS is required by Social Security Regulations to provide more weight to the opinion of specialists, especially if PCPs do not order tests to exclude other causes of pain, or if PCPs do not properly perform and document the "trigger point" examination. Also, when PCPs diagnose fibromyalgia, DDS may disregard it as a "label" used to explain unusual, persistent pain when no other diagnosis fits. Thus, fibromyalgia is harder to prove to DDS than other diagnoses. Specialists such as rheumatologists are critical in winning benefits. Specialists must clearly discuss whether and how a patient meets the criteria for fibromyalgia based on the physical examination and the person's history and symptoms. They can properly make and document the diagnosis, and state how the disorder affects the person's ability to work.

### So...what's a fibromyalgia claimant to do?

First and foremost, if your fibromyalgia truly makes you unable to work, you are both eligible and deserving of disability benefits. You may require a full hearing before a judge because Social Security and DDS may be reluctant to award your fibromyalgia claim. However, please don't give up. Consult an attorney who can help you better document your case as you proceed through the appeals process.

Secondly, make sure that your doctor has performed the appropriate physical examination—the "trigger point" examination. Make sure to explain that you need a complete work-up for a fibromyalgia diagnosis because you are applying for Social Security disability, and be certain that your doctor has sent you for all other appropriate tests to rule out other causes for your pain and symptoms. Be sure to tell your doctor what kind of pain, fatigue and other symptoms you are experiencing, as well as how your symptoms affect your ability to work and your routine activities of daily living.

Finally, if you are not already being treated by a rheumatologist, ask your PCP to refer you to one. There are many excellent and compassionate rheumatologists in Rhode Island. Call Marasco & Nesselbush if you would like a listing of area rheumatologists.

Admittedly, fibromyalgia cases are difficult to prove. However, you are more likely to succeed with the help and representation of an experienced Social Security Disability attorney. Marasco & Nesselbush has successfully represented hundreds of clients with fibromyalgia. Feel free to call us at any stage of the Social Security disability process.

Clip this and keep in the glove box of your vehicle

## WHAT TO DO If You Are In An Auto Accident



Call 911 right away.

Do NOT move your vehicle until a police officer says it's OK, unless it's necessary for safety reasons.



If you or your passengers are hurt, get medical help right away. If paramedics, EMTs, or police officers advise you or your passengers to take an ambulance to an emergency room, do it.



Get the names, addresses, and phone numbers of everyone who saw the accident happen (including other drivers and people walking on the street).



Get the names, addresses, drivers' license numbers and insurance information from all the other drivers involved in the accident.



If the person who hit you flees the scene before the police arrive, try to get the license plate number. Write down the plate number, state, color and model of car, if possible.



If possible, take pictures of the accident scene and damage to all vehicles with a camera or cell phone.



Never talk with an insurance company (even your own) before you talk with your attorney.

Please visit our website

[www.M-N-Law.com](http://www.M-N-Law.com)

or call us at

**(401) 274-7400**

for more information or a free legal consultation about a car, truck or cycle accident.



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## We Thank You for Your Trust

### **SOCIAL SECURITY FACTS AND STATS...**

#### **Size and Scope of the Social Security Disability Programs (SSDI and SSI)**

In 2009 (the most recent year for which this information is available):

- SSDI benefits were paid to more than 8.9 million people.
- SSI disability benefits were paid to 7.7 million people.
- Mental disorders accounted for about a third of all disabled workers cases, and for about 60% of SSI cases.
- The average monthly benefit received by a disabled worker was \$1,064.30.
- Rhode Island's maximum monthly SSI benefit was \$713.

*Sources: Annual Statistical Report on the Social Security Disability Program, 2009 (released July, 2010) and SSI Annual Statistical Report, 2009 (released September, 2010)*

### OUR TEAM

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We are very proud of our legal assistants and paralegals. We have chosen them because of their intelligence, skills and abilities, attention to detail, and ability to help win cases. If you are changing addresses, health insurers, doctors or phone numbers, or if you are going back to work, please contact your legal assistant. All of them can be reached at (401) 274-7400, or by email.

#### *Client Testimonial*

"You all make a wonderful team. This is my third time using your firm, and I am once again totally satisfied. I will always recommend you to others. Much continued success to you. You will always have my business." ~ Note from Client, 2010