

Lex and Verum

The National Association of Workers' Compensation Judiciary



NAWJC Judicial College 2009

The NAWJC convened its inaugural Judicial College on August 17 and 18, 2009 in Orlando, Florida, in conjunction with the Florida Workers' Compensation Institute (WCI). More than forty Judges from nine states attended this exceptional program that included a live spinal surgery, live oral argument before the Florida First District Court of Appeal, and presentations by national leaders on topics including evidence, judicial writing and bias.

Workers' Compensation Adjudicators have recognized and discussed the unique responsibilities that face us. Many have attended judicial programs held in conjunction with programs focused on the needs of administrators, Commissioners and others. For the first time, an organization and educational program has been designed by and for workers' compensation adjudicators. The interrelationship of this specific program and the exceptionally broad curriculum offered by the WCI resulted in an experience second to none.

Plan today to join us for the second annual NAWCJ Judicial College next August.

John Lazzara, President.

Upcoming Events:

The NAWCJ is joining with the Florida Office of Judges of Compensation Claims to sponsor a series of Lunch and Learn programs, see details on page 2.



Professor Terrell presented an intense and compelling two hour program on effective judicial writing. Attendees said:

“Absolutely fabulous in both content and presentation, could have had just him for the whole two days. I have already used some of what I learned to edit orders in progress.”

“This speaker's presentation was a real treat - entertaining as well as educational.”

Lex and Verum

The Future is Now, Don't Miss IT.

Hon. David Langham

Pop culture sometimes aptly describes life, and sometimes misses the mark. Current icon John Mayer sings “we keep on waiting on the world to change.” While this may aptly describe the posture of some, we in the legal system know that the wait is long over. We are instead confronting change daily, adapting, refining, and adjusting. Our progress both alleviates or minimizes old obstacles and stresses, and creates or illuminates new obstacles and challenges. With the new challenges come new stresses. Our challenge is to better understand the impact of the world changing around us. As we appreciate the effects on the administration of justice, we will better appreciate the strengths and weaknesses of the new tools which may be brought to bear. As we acquire, accept, and adjust to the changes, the stresses we suffer will most likely relate primarily not to the changes themselves, but to our personal and collective choices in how we react to them.

Leveraging technology is nothing new. Since the invention of the wheel, mankind has engaged in the process of innovation, adaptation, and reinvention. Heraclitus of Ephesus is credited with the conclusion “the only constant is change.” Even accepting the truth of this, however, it seems as if change is occurring at ever increasing speed, allowing us ever shorter opportunities to grasp change and adapt personally and professionally before the next wave washes onto the beach.

Cont. P.3



A Panel of six appellate Judges presented an extensive expose of the workers' compensation appellate process at the 2009 Judicial College.

Special Thanks

The NAWCJ would like to extend our deep gratitude to three lawyers whose exceptional contributions have been crucial to our success:

James N. McConnaughay, Esq.
Steven A. Rissman, Esq.
H. George Kagan, Esq.

“Second Fridays” – Join us.

The Florida OJCC and NAWJC will co-sponsor lunch and learn seminars from 12:00 to 1:00 Eastern on the second Friday of upcoming months. Upcoming “Second Fridays” Lunch and Learn Opportunities for NAWJC Members:

October 9, 2009 Dr. James McClusky, “MRSA: A Quick Primer.”

November 13, 2009 Andy Small, “Positive Leadership for Positive Results.”

December 11, 2009 Dr. Raymond Harbison, “Not Every Workplace Exposure is Toxic.”

January 8, 2010 Jerry Fogel, “Medicine, Disability, & Liability.”

February 12, 2010 Rafael Gonzalez, “Living with Medicare Set-Aside Requirements and Settling Cases.”

These programs are offered free of charge to NAWCJ members
For more information, email Judge Lazzara JLL@NAWCJ.org

Each of us may make some decisions about the extent to which technology will enter into our lives. There are Judges that refuse to accept any facsimiles from litigants or their counsel. This is a resistance to allowing that technology to interfere with the processes already adopted by that Judge. Essentially, however, this can be seen objectively only as a rejection of progress. Others rely upon staff to print electronic mail, upon which they hand-write responses for staff to then type into a return message. An absolute effect of technology is that information moves at a more rapid pace. Because the pace of communication increases, those who resist the attendant benefits of change will find that information will therefore accumulate on their desks and in their inboxes.

In 2000, only 22% of small businesses had websites according to Business Week. State government had just begun to deploy websites, with varying degrees of complexity and success. According to Stateline.org, the “first sites that appeared around 1995-96 were rudimentary, sometimes just a homepage announcing the state’s presence on the Internet.” Some studies concluded that as of the new century 85% of all governmental information technology efforts, aimed at more efficient and effective public administration, ended in failure. J. Ramon Gil-Garcia, of *The Center for Technology in Government, University at Albany, SUNY*, noted in 2001 that most government internet efforts then were “mainly used for displaying information in public websites,” and that government was just beginning to use “the web for communication with the public and to provide online services to citizens, businesses and other users.”

In 2001, the Florida Office of the Judges of Compensation Claims (OJCC) became a part of the Division of Administrative Hearings (DOAH). At that time, the OJCC District Offices were equipped with first-generation Pentium computers that were utilizing Windows version 3.1, and a commercial case management software (Client Profiles) primarily designed for operation of a law office. Client Profiles did not operate in the Windows environment, but instead ran in the background operating system, MS-DOS, and interacted with WordPerfect version 6.1. Thus, in October 2001 the OJCC was using 8 year old computer hardware, with a 9 year old operating system, running commercial case management software not designed for a Judicial setting, and generating documents with a 7 year old word processor program, which ran in DOS. The only semblance of a computer network between the District Offices was provided by “dial-up” modem connections which required human action at each connecting terminal.

In 2009, the OJCC has just deployed electronic service of Judicial orders and notices. This follows an eight year journey that has included deployment of an integrated case-management system and claims database, electronic filing for attorneys, for adjusters, and for mediators. The system currently accepts in excess of 30,000 documents each month, a figure that is expanding at double digit rates. The proprietary database and management aspects allow Judges to generate lists of cases based upon various management criteria such as the age of the pending petition for benefits, or the volume of time since a pleading was last filed therein.

Cont. P.4

What Attendees had to say about the 2009 NAWCJ College:

“Top-notch writing instructors like this year are always welcome.”



“Judge Lazzara made the premiere of this event so memorable that it will be hard to top in the future.”

“Overall, the seminar was extremely worthwhile.”

“Fabulous concept and program.”

“The conference was, to my thinking, near-perfect, so I can't really think of many ways to improve it.”



Each of these changes has required flexibility and adjustment, training and practice. Today, the OJCC offers a public webpage with a significant variety of tools for attorneys, adjusters and the public. Links to statutes, medical provider databases and the Division of Workers' Compensation are among these. This platform also facilitates the delivery of OJCC produced video presentations on the mediation process and video teleconference trials. Training demonstrations for the electronic filing system are also available. A library of trial orders entered since 2001 is searchable on the OJCC website with a "Google Search" that allows the public with researchable access to over 10,000 trial orders on a myriad of topics.

Perspective; one could be content at what has been accomplished, and the vast array of technological wonders that the OJCC has deployed to the benefit of Floridians. To do so would ignore Heraclitus. We have not arrived, the journey continues. To pause on the platform and look back on where we have come would be to risk missing the next challenge on the horizon. Today, states continue to struggle with the budgetary constraints that conflict with implementation of technological improvement. With such limitations, how does state government leverage the advantages of technology?

Step 1. Take notice of what has already been provided. Most Judges send and receive email, many with popular programs such as Outlook or similar. A majority of Judges do not use the significant other features of this program. This program will also facilitate "to do" lists, which would help with remembering to rule, for instance upon a Motion after some specific period. This program allows preparation of "to do" lists, calendaring of events or tasks by "proxy," which allows staff to manage time for Judges and Judges to manage staff. Some programs have integrated conversion features that will convert documents into a portable document format (PDF) file without investment in or installation of ancillary programs.

Cont. P.5

From the 2009 NAWCJ College:



NAWJC President Hon. John Lazzara welcomed attendees.



Florida OJCC technology experts demonstrated e-filing and other innovations.



Thousands attended the Workers' Compensation Institute, of which NAWCJ College was part.



Exceptional speakers, crucial topics.

The Future, *cont. from P.4*

Step 2. Find what is free. The internet offers a variety of sites that include helpful information and tools. If an agency cannot commit financial resources to establishing a web-presence, there are inexpensive and even free “template” sites that will facilitate establishing a web site with little or no investment. The Pensacola District Office website is a good example; [www. freewebs.com/districtawest](http://www.freewebs.com/districtawest). Such a presence is invaluable for the dissemination of information and sharing of resources.

Step 3. Absorb the mistakes and successes of others. Sean Karsten is credited with saying “do not learn from your mistakes, learn from the mistakes of others so that you do not make any.” This is unrealistic, of course, and we will all make mistakes. However, the more you can learn from the missteps and mistakes others have already made, the better off you will be.

Step 4. Imagine, innovate and experiment. An integrated case management system is a great help with processing claims. However, a creative Judge could initiate an electronic filing process with a dedicated email address for submission of documents, an organized sub-directory on a staff person’s computer, and a procedural rule or guideline to facilitate their use. Likewise, without the integrated system, a Judge can commit to electronically serve orders and notices with nothing but an email account and some basic training. If email access is a hindrance, see step 2 and the vast number of free email providers on the internet. Remember that “people who make no mistakes lack boldness and the spirit of adventure. They are the brakes on the wheels of progress,” Dale Turner.

Finally, commit to the conclusion that the world will continue to change. Accept that this will occur with or without your consent or acceptance. You can “wait on the world to change,” but know that whether you accept it or not, it is changing before your eyes. Decide how you will deal with the change that surrounds you. Discuss your ideas and your reservations with peers and colleagues. Share your stress with those you know will commiserate, and listen to your peers when they do the same. Know that many people within various workers’ compensation adjudication systems are willing, able, and some even eager to help you with your concerns, your ideas, and your questions.

The future is now, ready or not. Don’t miss it.

*** **

Workers’ Compensation Resources

National Association of Workers’ Compensation

Judiciary

www.NAWJC.org

Workers’ Compensation Institute

www.fwciweb.org

Florida OJCC

www.fljcc.org

Online Orthopedic Information

www.wheelsonline.com

Your National Association of Workers’ Compensation
Judiciary Board:

Hon. John J. Lazzara, President

Florida Office of Judges of Compensation Claims

Hon. James R. Wolf, Secretary

Florida First District Court of Appeal

Hon. Bob Cohen

Florida Division of Administrative Hearings

Hon. Paul Hawkes

Florida First District Court of Appeal

Hon. David Langham

Florida Office of Judges of Compensation **Claims**

The NAWCJ Needs You

Are you interested in being more involved in the NAWJC? The NAWJC needs suggestions for future educational curricula, articles for this newsletter, your suggestions, and your participation. If you have an article you would allow us to publish, please send it to President John Lazzara (JJL@NAWCJ.org). President Lazzara would also welcome any suggestions you have. If you have suggestions, or are interested in volunteering your time, please contact him.

Membership in the National Association of Workers' Compensation Judiciary is open to any person whose responsibility is the adjudication of workers' compensation claims. Throughout the nation, there are a variety of titles that are used to describe us, "Judge," "Commissioner," and "Deputy Commissioner" are a few. The NAWJC also has Associate Membership for those interested in supporting the education of workers' compensation adjudicators. The NAWJC is thankful to the concerned professionals that have contributed their time and resources to support our efforts. We recognize them here.

JAMES ANDERSON
ANDERSON CRAWLEY &
BURKE, PLLC
RIDGELAND, MS

REGAN ANKNEY
MCANGUS, GOUDELOCK &
COURIE, LLC
CHARLESTON, SC

ROBERT BARRETT
RISSMAN, BARRETT, HURT,
DONAHUE & MCLAIN,PA
ORLANDO, FL

DOUGLAS BENNETT
SWIFT, CURRIE, MCGHEE &
HIERS, LLP
ATLANTA, GA

SHARKEY BURKE, JR.
ANDERSON CRAWLEY &
BURKE, PLLC
RIDGELAND, MS

THOMAS CASSIDY, JR.
LEITNER, WILLIAMS, DOOLEY &
NAPOLITAN, PLLC
MEMPHIS, TN

TIM CONNER
LEITNER, WILLIAMS, DOOLEY &
NAPOLITAN, PLLC
MEMPHIS, TN

R. STEPHEN COONROD
MCCONNAUGHAY, DUFFY,
COONROD, POPE &WEAVER, PA
TALLAHASSEE, FL

MARK DAVIS
MCANGUS, GOUDELOCK &
COURIE, LLC
CHARLESTON, SC

THOMAS DEMENT, II
LEITNER, WILLIAMS, DOOLEY &
NAPOLITAN, PLLC
MEMPHIS, TN

ROBERT DONAHUE
RISSMAN, BARRETT, HURT,
DONAHUE & MCLAIN,PA
FORT PIERCE, FL

TERRY GERMANY
ANDERSON CRAWLEY &
BURKE, PLLC
RIDGELAND, MS

J. RUSSELL GOUDELOCK,
MCANGUS, GOUDELOCK &
COURIE, LLC
CHARLESTON, SC

LAURENCE LEAVY
LAURENCE LEAVY &
ASSOCIATES
DAVIE, FL

HUGH MCANGUS
MCANGUS, GOUDELOCK &
COURIE, LLC
CHARLESTON, SC

JAMES MCCONNAUGHAY
MCCONNAUGHAY, DUFFY,
COONROD, POPE & WEAVER,
PA
TALLAHASSEE, FL

JOHN MCLAIN, III
RISSMAN, BARREIT, HURT,
DONAHUE & MCLAIN, P.A.
ORLANDO, FL

DAVID MCLAURIN
ANDERSON CRAWLEY &
BURKE, PLLC
RIDGELAND, MS

DAVID NOBLIT
LEITNER, WILLIAMS, DOOLEY &
NAPOLITAN, P.L.L.C.
CHAITANOOGA, TN

R. BRIGGS PEERY
SWIFT, CURRIE, MCGHEE &
HIERS, LLP
ATLANTA,GA

STEVEN RISSMAN
RISSMAN, BARRET, HURT,
DONAHUE & MCLAIN, P.A.
ORLANDO, FL

MICHAEL RYDER
SWIFT, CURRIE, MCGHEE &
HIERS, LLP
ATLANTA,GA

E. LOUIS STERN
MCCONNAUGHAY, DUFFY,
COONROD, POPE & WEAVER,
PA
SARASOTA, FL

RICHARD WAITS
SWIFT, CURRIE, MCGHEE &
HIERS, LLP
ATLANTA, GA

PATRICK WEAVER
MCCONNAUGHAY, DUFFY,
COONROD, POPE & WEAVER,
PA
PANAMA CITY FL