Lex and Verum

The National Association of Workers' Compensation Judiciary

Number XXV, September 2011

President's Page

By Hon. Ellen Lorenzen
NAWCJ President

Fall is in the air, except in Florida, Mississippi, Alabama, Louisiana and Texas (and now I have to add, Georgia, South Carolina, North Carolina, Maryland, The District of Columbia, Pennsylvania, New Jersey, Connecticut, New York, Vermont and points north into Canada) where hurricane season lingers. For those of us living in the deep south, fall is not marked by the changing of the leaves or that special tang in the morning air that hints of frost. For me, the onset of fall is marked by the extra 10 to 15 minutes my morning commute takes once school starts and the passing of yet another August get-together in Orlando.

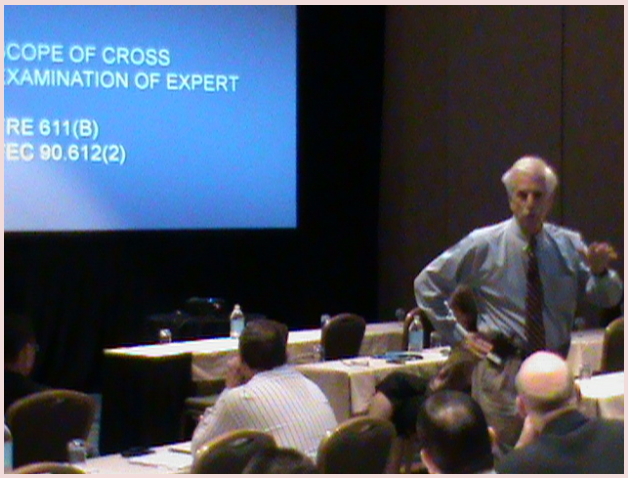
If you missed our college this year, you missed Professors Ehrhardt and Kimberly Papillon, who, for me, were two of our best speakers. For starters, I had never seen the movie or read the book, The Verdict, but I might have to go look for it on Netflicks now. Professor Ehrhardt certainly knows how to illustrate problems in evidence. I have heard Professor Papillon two times now and, aside from wondering how long it took her to learn the names of the various structures of the brain so well that she can just spit them out faster than I can say, "Good morning," she made me stop and think about how my beliefs get programmed into my brain in such a way that I reach conclusions without necessarily basing them on actual evidence. Whether you attended the college or not, you might want to go to https://implicit.harvard.edu/implicit/demo/ and take one of the tests for yourself, just to see what biases/prejudices are lurking in the deep recesses of your brain. The tests are fun (although not as loud as doing one in a group) and short. Go to the site several times over a period of time; the available tests change. Using the web site was as close to Harvard as I am ever going to get.

I wanted to let those of you who were not present know about our Association's new event for next year. For a long time, FWCI (the organization that puts on the main conference) in conjunction with a small, very hard working group of Florida attorneys, has sponsored a moot court devoted to a workers' compensation problem. Over the years that event has evolved and now sees teams from both Florida and non-Florida schools. Starting next year, NAWCJ will be sponsoring the moot court. This will allow our organization to more easily participate by providing judges from all over the country and will emphasize the nationwide aspect of the competition. Here is how you can help: please contact your alma maters (or almae matres, if you prefer) and let them know about the existence of our moot court. AND be sure to tell them the best part: FWCI pays the expenses of the team, including air fare, hotel, per diem for food, and even reimburses the postage for mailing the application! Not to mention the fact, that the teams get a free trip to Orlando. Have any interested schools get in touch with me and I will forward the names on to right people. Also, if you are interested in judging moot court next year, send me an e-mail.

I also wanted to let you know that the Board of NAWCJ voted to establish a foundation to look into securing a permanent financial base for our association. If you are interested in participating with the foundation or know of folks in your state (attorneys, retired judges, businesses with an interest in better educated judges), let me know so that I may contact them over the next few months.

I wanted to thank everyone who helped plan and put on our college this year, particularly Judge Langham, Judge Lazzara and Kathy Shelton. And, thank you, Judge Condry, for feeding the off-site group visiting the VTC facilities in the Orlando office. I also thank my Board of Directors and my Executive Committee for faithfully attending meetings and giving their time to helping set out the future course of our organization. And lastly, I want to thank those of you who were able to ferret me out and tell me how much you enjoyed the college; that made my aching feet and aching head worthwhile. I look forward to seeing each of you next year.

As usual, contact me at Ellen_Lorenzen@DOAH.state.fl.us.



Professor Ehrhardt Lectures on Cross-Examination of Experts

Judge Cohen (NAWCJ Treasurer) and Nat Levine, Medical program Coordinator, listen to the medical presentation Monday afternoon.

Marc Gerber, M.D. Lectures on the Power of Addiction

"Second Fridays" Return Live

September 9, 2011
12:00 Eastern Time

Wage and Hour litigation is increasing, and represents one of the busiest legal practices. Jeff Jacobs, a graduate of the University of Miami School of Law, has practiced law in Florida since 1986. He is familiar with wage and hour litigation, and represents employees in Southeast Florida.

In 2010 40,000 wage/hour complaints were filed, an increase of fifteen percent in one year. The two largest categories of wage and hour litigation are "misclassification" cases and "unpaid overtime" cases. There are also significant volumes of litigation generated by misclassification of workers as "independent contractors," or misclassification of employees as "professional, administrative or executive" categories. These latter misclassification issues impact the payment of overtime at appropriate pay rates. Even for the well informed business owner/manager, these classification issues are a challenge. The two fastest growing geographic areas for these claims are the Southern District and Middle District of Florida.

Wage and hour complaints are relatively inexpensive to litigate, compared to workers' compensation and other labor law claims. There is little need for expert testimony in wage and hour claims, allowing counsel to pursue relief with far lower cost investment by the attorney. Attorneys are further attracted to this field by the relatively ease of certifying a "class" under the Fair Labor Standards Act, which specifically defines "class" and its requirements. Many labor claims are subject to extensive administrative preclusions including the EEOC. Wage and hour claims are not subject to such administrative preclusions.

Damages in wage and hour claims can include back wages, injunctive relief and attorney fees. The liability for these damages is generally first-party, and insurance coverage availability for such claims is rare. Mr. Jacobs will provide an overview of wage and hour liability and litigation, as well as suggesting some strategies for limiting liability. These include accurate and thorough record keeping, documented standardized policies on time keeping and reporting, an internal complaint/grievance procedure, and diligent supervision of non-exempt employees.

Wage and hour litigation will be a challenge for adjudicators. It will complicate litigation of workers' compensation claims. It will challenge adjudicators in their role as team leaders and managers. Tune in this month and enjoy the expert perspective of an exceptionally able attorney who litigates these claims. Dial in for the seminar 888.808.6959, code 889675.

Injured Employees v. "The Unholy Trinity:" A Study of the Challenges To Injured Employees Posed by Three Common Law Defenses and of Their Subsequent Abrogation by Statutory Workers' Compensation

By: Jennifer Hopens*

I. INTRODUCTION

Prior to the advent of workers' compensation laws in the United States in the early 1900s, employees injured in the course of their work largely faced an uncertain future. Though some large private employers, such as Andrew Carnegie's U.S. Steel and Cyrus McCormick's International Harvester[1], instituted compensation schemes for injured employees, the vast majority of American employers did not. Thus, for most injured employees at this time, the avenue to obtain remuneration for workplace injuries ran through the courts – i.e., a private lawsuit against their employers based on a negligence theory of liability.[2] In theory, an injured employee who established that his or her injury was attributable to the negligence of the employer would be entitled to compensation for lost wages, medical expenses, and, possibly, payment for "pain and suffering."[3]

Black's Law Dictionary defines negligence as "the failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation . . ."[4] Negligence litigation at this time posed a challenge for injured employees. In addition to the expense and delay inherent to litigation, employers had three common law "aces" up their sleeve that could be used to defeat recovery by injured employees on the negligence theory – the contributory negligence, assumption of risk, and fellow servant doctrines. The draconian impact of these defenses in practice led a number of legal scholars to dub them the "unholy trinity" of common law defenses.[5]

II. CONTRIBUTORY NEGLIGENCE

Pursuant to the tort-based contributory negligence defense, an injured employee would not be entitled to recover damages where the injury is found by the fact finder (i.e., the judge or jury) to have been attributable, even in part, to the employee's own negligence. Negligence is assessed by the fact finder in terms of a percentage – if an injured employee was found to be one percent (1%) contributorily negligent in the incident leading to his or her injury, the injured employee would be entitled to recover nothing. Though this doctrine was derided as unduly harsh by many legal observers, it tended to be backed by 19th century employers due to its emphasis on personal responsibility.[6] Employers were also emphatic at this time that they should not be held financially responsible for accidents they did not cause.[7] Fortunately, this negligence defense has largely been superseded in the U.S. by the more forgiving comparative negligence doctrine, which, in Texas, allows for a plaintiff to recover damages if his or her own negligence is determined by the fact finder not to exceed 50%.[8] In comparative negligence, the amount of the damage recovery is proportionally reduced based on the percentage of the plaintiff's negligence. For example, if a plaintiff is found to be 20% negligent in an automobile accident, a jury's overall damage award of $100,000.00 to the plaintiff would be reduced by 20%, and the plaintiff would therefore be entitled to recover $80,000.00 in damages. However, if a plaintiff is found to be 50.1% negligent by the fact finder, he or she would be entitled to recover nothing.

III. ASSUMPTION OF RISK

The assumption of risk doctrine, rooted in contract principles, was a defense employers often used to prevent injured employees in particularly hazardous jobs (e.g., construction, coal mining, and railroad work) from recovering damages in negligence cases. Pursuant to this doctrine, also known by the Latin phrase "volenti non fit injuria"[9] (loosely translated as "there is no injury to one who is willing"), employers could shield themselves from negligence liability by arguing that employees in such positions are held to have "assumed" the dangers and risks inherent in their employment when they contracted to work for the employer.

Continued, Page 4

The Unholy Trinity, from Page 3.

Defenders of this doctrine argued that workers in these professions were compensated in the form of higher wages in exchange for accepting the additional risk (a so-called "risk premium").[10] The assumption of risk doctrine as a stand-alone defense to negligence remains alive in some jurisdictions, but not in Texas, where it has been subsumed under comparative negligence.[11]

IV. FELLOW SERVANT RULE

The fellow servant doctrine served to bar recoveries by employees whose injuries stemmed from the negligence of a coworker. The injured employee's remedy in this situation was to pursue a negligence cause of action against the coworker, not the employer. From a practical perspective, such a suit would not be worthwhile due to the likelihood that a coworker would be unable to cover the damages. Thanks to the enactment of workers' compensation laws throughout the U.S., this doctrine has by and large gone the way of the horse and buggy.

V. CHALLENGES AND TRIUMPH: THE ENACTMENT OF WORKERS' COMPENSATION LAWS

Though the negligence liability system was advantageous for employers and burdensome for injured employees, there was enough outcome uncertainty in the negligence system that employers, by the early 1900s, began looking for an alternative. They later settled on workers' compensation, which originated as part of a program of social insurance instituted in Bismarck's Germany in the 1880s.[12] Workers' compensation was revolutionary for its time because it provided benefits for work-related injuries regardless of fault. Business interests in the U.S. worked tirelessly to get these laws passed because the more predictable outcomes of workers' compensation were seen as a way of more effectively managing risk and, thus, controlling business costs. Insurance companies, sensing a potentially large revenue stream, also supported the passage of workers' compensation laws.

Surprisingly, organized labor initially opposed workers' compensation laws and, instead, focused their efforts on reforming the then-existing negligence liability system.[13] This sentiment was fueled largely by concerns that employers would pass along a lot of the costs associated with workers' compensation onto employees in the form of lower real wages.[14] However, labor eventually came aboard and, in 1909, the American Federation of Labor (AFL) reversed its earlier position and began to support the enactment of workers' compensation laws.[15]

Early workers' compensation acts in Maryland (1902), Massachusetts (1908), Montana (1909), and New York (1910) were either too limited to be effective or failed to pass constitutional muster with the courts.[16] The prevailing view among jurists at the dawn of the 20th century was that any "paternalistic" state or local laws infringing upon the activities of commerce and the exercise of free enterprise violated the "freedom of contract," a concept that was believed to emanate from the due process clause of the 14th Amendment of the U.S. Constitution.[17] Wisconsin's 1911 workers' compensation statute was more comprehensive than earlier attempts and survived judicial scrutiny.

Though the key workers' compensation interest groups – business, insurance companies, and labor – widely supported the enactment of workers' compensation laws in the U.S., they differed on the particulars to be included in the legislation.[18] For instance, to assuage moral hazard[19] concerns, employers wanted income benefits capped at two thirds of an injured employee's pre-injury wages.[20] Employers also wanted employees to bear some cost of workers' compensation insurance premiums.[21] Insurance companies lobbied hard to compete in the market for workers' compensation insurance coverage, opposing legislative proposals to institute state-run insurance monopolies to keep private companies out.[22]

Continued, Page 5

NAWCJ
National Association of Worker's Compensation Judiciary
P.O. Box 200, Tallahassee, FL 32302; 850.425.8156 Fax 850.521-0222

The Unholy Trinity, from Page 4.

Injured employees fought for, among other things, higher income benefits, as well as the ability to collect workers' compensation benefits *and* pursue lawsuits against employers for negligence (the "exclusive remedy" doctrine stymied the latter policy goal).[23] Though each side did not get everything it wanted from a policy perspective, workers' compensation laws were eventually passed in all U.S. states and, with their ascension, injured employees were finally freed from the encumbrances of the common law and its "unholy trinity."

---

*Jennifer Hopens received her undergraduate and law degrees from the University of Texas at Austin. She was licensed to practice law in Texas in 2002. In 2007, she joined the Texas Department of Insurance, Division of Workers' Compensation as a Hearing Officer. She has traveled extensively for the Division, holding contested case hearings in workers' compensation matters in the Austin, Bryan/College Station, Dallas, Fort Worth, Lufkin, Missouri City, Houston East, Houston West, San Antonio, and El Paso Field Offices of TDI-DWC. She attended the Judicial College of the National Association of Workers' Compensation Judiciary (NAWCJ) in Orlando, Florida in 2009, 2010, and 2011. In 2010, she was chosen to serve on the NAWCJ Board of Directors. She was previously a Hearing Officer for the Texas Workforce Commission.

In her free time, she enjoys photography, genealogy, and traveling. In September 2010, she enjoyed a 2-week tour of Scandinavia with her family.

---

[1] Price V. Fishback & Shawn Everett Kantor, A Prelude to the Welfare State: The Origins of Workers' Compensation (University of Chicago Press 2006). Kindle version, retrieved from Amazon.com.

[2] The reality, according to Fishback & Kantor, *supra*, is that the vast majority of these negligence claims did not even make it to court, but, rather, were settled for amounts that fell far short of making an injured employee whole.

[3] Fishback & Kantor, *supra* note 1.

[4] Black's Law Dictionary 930 (5th ed. 1979).

[5] Fishback & Kantor, *supra* note 1.

[6] Fishback & Kantor, *supra* note 1.

[7] Fishback & Kantor, *supra* note 1.

[8] Tex. Civ. Prac. & Rem. Code §33.001.

[9] Black's Law Dictionary 113 (5th ed. 1979).

[10] Fishback & Kantor, *supra* note 1.

[11] Tex. Civ. Prac. & Rem. Code §33.003.

[12] Michael Sturmer, The German Empire 34 (Modern Library 2000).

[13] Fishback & Kantor, *supra* note 1.

[14] Fishback & Kantor, *supra* note 1.

[15] Fishback & Kantor, *supra* note 1.

[16] Jack B. Hood, Benjamin A. Hardy, Jr. & Harold S. Lewis, Jr., Workers' Compensation and Employee Protection Laws in a Nutshell 8-11 (2nd ed. 1990).

[17] The "freedom of contract" served as a catalyst in a number of cases for striking down attempts by states to use their police power to pass social welfare legislation. The line of "freedom of contract" cases reached its zenith with the much-maligned U.S. Supreme Court majority opinion authored by Justice Rufus Peckham in Lochner v. New York, 198 U.S. 45 (1905). *See* Bernard Schwartz, A History of the Supreme Court 190-202 (Oxford University Press 1993). In Lochner, the Court struck down a New York public health statute limiting the number of hours that bakers could work on the basis that the law violated an individual's constitutional right to buy and sell his or her labor through contract. *See also* Schwartz, *supra*. The use of "freedom of contract" to hold social legislation unconstitutional remained alive, though not consistently applied, for another three decades after Lochner, but was effectively abandoned by the Court in West Coast Hotel Inc. v. Parrish, 300 U.S. 379 (1937), which affirmed the constitutionality of a Washington state minimum wage law for women.

[18] Fishback & Kantor, *supra* note 1.

[19] Economist Paul Krugman has defined "moral hazard" as "any situation in which one person makes the decision about how much risk to take, while someone else bears the cost if things go badly." *See* Paul Krugman, The Return of Depression Economics and the Crisis of 2008 (W.W. Norton Company Limited 2009).

[20] Fishback & Kantor, *supra* note 1.

[21] Fishback & Kantor, *supra* note 1.

[22] Fishback & Kantor, *supra* note 1.

[23] Fishback & Kantor, *supra* note 1.

National Academy of Social Insurance *Workers' Compensation: Benefits, Coverage and Costs.*

Annually, for the last fourteen years, the National Academy of Social Insurance issues a comprehensive report, titled Workers' Compensation: Benefits, Coverage and Costs. Each report is retrospective; the 2011 report examines data collected during 2009. The analysis and report are funded by the United States Department of Labor as well as the Social Security Administration and the Centers for Medicare and Medicaid Services. Data Sources include the National Council on Compensation Insurance (NCCI) and the National Association of Insurance Commissioners.

The National Academy mission is "to promote understanding of how social insurance contributes to economic security and a vibrant economy."[1] The scope of "social insurance" includes a variety of programs, both state and federal, including "Social Security, Medicare, workers' compensation, and unemployment insurance, related public assistance, and private employee benefits." The Report is authored by John Burton, Jr., Virginia Reno and Ishita Sengupta, who acknowledge the contributions of a "who's who" of workers' compensation professionals and academics, detailed in the report. The report is not specifically focused on litigation or adjudication issues, but provides an overview of the status and trends of workers' compensation generally. It provides an incredibly detailed accounting of various aspects of workers' compensation benefits, coverage options and trends.

Workers' compensation is an economy in itself. In 2009 workers compensation programs in the United States paid fifty-eight billion dollars in benefits, an increase of 0.4 percent over 2008.[3] The Report notes that indemnity payments to injured workers increased more, but those increases were offset by a decrease in medical costs. These annual results for 2009 are an interesting contrast to the trends over the last fifty years. The report notes that in the 1960s "Medical benefits accounted for 33.1 percent to 34.9 percent of all benefit payments," declining thereafter to "a low point of 29.0 percent of benefit payments in 1980." [4] The report documents that medical benefits have increased in the twenty-nine years since that time, reaching "49.6 percent in 2009."[5] The contrast presented in decreasing "cash wage replacement" and "medical care" is evident in Figure 4 of the report, page 27. This graph aptly illustrates the converging trends of indemnity benefit decreasing percentages and medical benefit percentage increases since the late 1980s and early 1990s.

The report also noted that 4.4% fewer workers were covered by workers' compensation in 2009 compared to 2008, and the total wages covered also decreased in 2009. For the same period, employer costs of providing workers' compensation decreased six billion dollars, a decrease of 7.6 percent.[6] Individual state's results are detailed in the report in a variety of tables and charts. The report documents the critical role of workers' compensation, noting that workers' compensation is the third largest "source of support" for disabled workers, surpassed only by Social Security and Medicare.[7]

The monetary size of the United States' workers' compensation system is staggering. The 2009 benefits payments of fifty-eight billion dollars is more than the gross domestic product of over 120 countires.[8] Workers' compensation is capable of being an economy in and of itself. The struggles of various state systems with cost-containment and regulation are not surprising in light of the sheer size of this economy, or are perhaps to be expected in any attempt to manage an economy of such a size.

In his book *The Wal-Mart Effect*, Charles Fishman asserts that "[t]he Wal-Mart effect touches the lives of literally every American every day." Certainly, the same can be said of workers' compensation. The "workers' compensation effect" is at least as pervasive, and likely more so. The business that is workers' compensation has inspired entire industries as modalities or methodologies come into vogue, gain traction and generate revenues. The cycle invariably leads to regulation and restriction of particular modalities, with some states reacting more nimbly than others. Industry and entrepreneurial spirit, not to be frustrated completely, seems invariably ready to lead the marked to the "next" modality moving to the fore.

The report authors note that states are not consistent with each other in their data gathering and reporting. These inconsistencies present challenges with making broad comparisons between various state's programs, expenditures and trends. The Academy response to these challenges is to "piece together data from various sources to develop estimates of benefits paid, costs to employers, and the number of workers covered by workers' compensation."[9]

The report acknowledges that workers' compensation is somewhat unique among social insurance programs. The distinctions are outlined in detail in the "Background" section of the report, but essentially include the variable form of benefits, the timing of benefit delivery, and the duration of benefit entitlement.

Continued, Page 7.

Benefits, Coverage and Costs, from P.6

Similarly, the various states use similar but not identical methods for the calculation of benefits. The report notes that nineteen states utilize an "impairment-based approach," thirteen use a "loss-of-earning-capacity approach," ten states use a "wage-loss approach," and ten states use a "bifurcated approach" for calculation of lost wage benefits.[10]

The complexity of workers' compensation is also illustrated in the variety of approaches to covering losses across the country. The report provides detailed delineation of the "markets" utilized in various states, commercial insurance, self-insurance, state-fund coverage, state coverage of insolvent carriers or self-insured employers, and a variety of "second injury fund" concepts.

The report notes that workers' compensation remains in transition. The authors note that states continue to change specific statutory provisions, court decisions alter interpretations of existing statutes, and rule changes may have some effect on benefit delivery. Additionally, with the economy in flux, there is evidence that the occupation "mix" may have changed. The report explains that this is relevant "because jobs (occupations) differ in their rates of injury and illness."[11] The report continues with explanation of multiple variables which complicate the challenge of distilling the available data into defined "trends." The overall decline in United States economic activity and growth may also be contributing generally to the results of this financial analysis.

The report challenges the relevance of one standardized measure of benefit payments, the "benefits per $100 of payroll." The authors note that "benefits per $100 of payroll are neither a measure of adequacy for workers nor a measure of costs for employers."[12] They challenge the relevance of this measure on three specific bases. They note that some states have a higher proportion of "high-risk" employment such as mining and construction, leading to higher cost per $100 than states with greater percentages of lower risk employment. They further note that the diversity among states in their statutory structure may lead to higher cost per $100 in some states than in others under their respective statutory structure. Finally, the authors note that there is a significant diversity among states regarding the injured workers' cost of litigation, and those costs may reduce the overall benefit amount in some states and not others.

Frequency of injuries declined in 2009. Fatal injuries declined 12.7 percent. The authors note that this is "the lowest number since this data series began in 1992."[13] Table 14 on page 37 of the report outlines the fatality rates over the eighteen years prior to 2009. The report notes that "The frequency of reported non-fatal occupational injuries and illnesses (incidence rates) has declined every year since 1992."[14] The authors expound on the severity of injuries, noting that 3.3 million injuries were reported in 2009, but only one million of these were serious enough that they "required recuperation away from work beyond the day of the incident"[15] Statistics are provided as to the frequency of various types of injuries, with sprains and strains representing the largest segment of the analysis.

Continued, Page 8

Your 2011-12 NAWCJ Board of Directors

Benefits, Coverage and Costs, from P.7

As workers' compensation in the United States celebrates its 100th anniversary in 2011, the report notes that Germany was the first country to adopt this form of social insurance in the 19th century, followed by Britain. Although various states attempted to adopt compensation programs early in the 20th century, the report notes that the "first constitutional state laws were passed in 1911,"[16] and "workers' compensation was the first form of social insurance in the United States."[17] Consider the volumes of information and statistics in the 2011 National Academy of Social Insurance report, and the analysis may put many aspects of workers' compensation into focus.

The full report is available at their website, http://www.nasi.org/, the direct link to the report is here http://www.nasi.org/sites/default/files/research/Workers_Comp_Report_2009.pdf. Access through the main NASI website also provides links for state-specific reports contemporaneously issued for California, Michigan, Oregon, Pennsylvania and Washington

---

1 National Academy of Social Insurance, Workers' Compensation Benefits, Coverage and Costs, 2009; August 2011, p.2.
2 Id.
3 Id., at 11, 26.
4 Id., at 26.
5 Id.
6 Id., at 13.
7 Id., at 12.
8 The International Monetary Fund reports the GDP of 181 countries. The World Bank reports the GDP of 188 countries. The aggregate United States workers' compensation systems would rank 67th on the World Bank list ant 68th on the IMF list using 2010 figures.
9 Id., at 23.
10 Id., at 25.
11 Id., at 30.
12 Id., at 30.
13 Id., at 37.
14 Id.
15 Id.
16 Id., at 14.
17 Id.

Say What?

Lawyer: Do you have any children?

Witness: Yes, I have a son and a daughter.

Lawyer: Are they younger or older?

Witness: Um . . . well, they're younger than me. . .

Upcoming Conferences:

National Workers' Compensation and Disability Conference® & Expo**,** November 9-11, 2011, Las Vegas Convention Center, Las Vegas, NV, $975.00, http://www.wcconference.com/expo_attendee.html

The 2011 Maryland Workers' Compensation Conference, September 18-21; Clarion Resort Ocean City, MD. $275.00. http://mwcea.com/information/2011/geninfo.htm

14th Annual New England Workers' Compensation Educational Conference, September 21-22OceanCliff Hotel, Newport, RI, $325.00, http://www.iwcf.us/images/NewEnglandBrochure2011.pdf

The 16th Annual North Carolina Workers' Compensation Educational Conference will take place on October 19-21, 2011, at the Raleigh Convention Center in Raleigh, NC. $300.00 http://www.ic.nc.gov/ncic/pages/11EdConf.pdf

SAWCA Marriott Waterfront, Annapolis, MD, November 1-4, 2011, $350.00 - $500.00 http://www.sawca.com/updates081911/2011%20ACC%20Postcard%20-%20Annapolis.pdf

The 19th annual Division of Workers' Compensation educational conference, Feb. 23-24, 2012 at the Sheraton Gateway Los Angeles Hotel; March 5-6, 2012 at the Oakland Marriott City Center Hotel http://www.dir.ca.gov/DWC/educonf18/DWC_EducationalConference.html

31st Annual WCA of New Mexico Conference, May 16th - 18th, 2012, $235.00-$315.00, Albuquerque Hard Rock Casino and Resort http://www.wcaofnm.com/Annual_Events-2010_Annual_Conference/c23_28/index.html

These programs are not sponsored or endorsed by the NAWCJ, but are noted here for information.

IAIABC Proves the More Things Change, the More They Stay the Same

Major Protests. Strikes and work stoppages. Business and labor diametrically opposed. A conservative governor dealing with progressive, even socialist elements in the legislature. Wisconsin 2011?

Right state, wrong date. It is Wisconsin, but the year is 1911.

In an extremely unique, very innovative program the IAIABC, in the opening presentation of its 97th Annual Conference in Madison, Wisconsin, "recreated" the story that led to the successful passage of the nation's first constitutionally upheld workers' compensation legislation.

In a 30 minute original play entitled "Justice in the Workplace: a Story for All Time," written by Greg Krohm, a group of actors recreated the actions and discussions that surrounded the successful creation of this landmark legislation. It was an excellent effort, which truly made that seminal moment in history "come alive" for the more than two hundred attendees gathered in the room.

A central theme of this year's conference is the 100 year anniversary of the establishment of workers' compensation within the United States. The day's events included the opening theatrical performance; a "Point - Counter Point" discussion on workers' comp today, featuring International Association of Industrial Accident Boards and Commissions (IAIABC) Director Greg Krohm and well known comp expert John Burton; and a session looking forward, enacting what a new 2015 "Burton" style federal commission may encounter.

What struck me immediately in the opening session performance was the extreme similarity to conditions and issues that we continue to deal with today. The story of deep mistrust between business, labor and the government that represents them could have easily been written for the current time. The struggle for a proper balance, the meeting of basic needs on both sides of the equation, is also a contemporary concern. While we have traveled a tremendous distance over the last hundred years, in some ways we are still right where we started, discussing, negotiating and compromising over the very same issues that brought us here in the first place.

With one glaring exception.

The establishment of the workers' comp system in the US, while far from perfect, brings an "expected consistency" to the equation that had not existed prior. Before workers' comp became the law of the land, rancor and confusion reigned supreme. Occupational injuries prior to 1911 were in a "no man's land" that was ruinous to the injured worker and his family, and businesses faced constant threat from unknown expenses and increasing litigation resulting from workplace accidents. The implementation of workers' compensation placed those risks on a level, predictable platform. That platform may not have eliminated the same cost vs. benefit issues we debate today, but it certainly made the discussion more palatable.

The more things change, the more they stay the same. We are still on the high rope, performing our multi-person pyramid, but it is comforting to know that a safety net is now below us.

Robert Wilson is President & CEO of WorkersCompensation.com, and "From Bob's Cluttered Desk" comes his (often incoherent) thoughts, ramblings, observations and rants - often on workers' comp or employment issues, but occasionally not. Bob has a couple unique personality characteristics. He firmly believes that everyone has the right to his (Bob's) opinion, and while he may not always be right, he is never in doubt.

This article was originally published on WorkersCompensation.com's – "From Bob's Cluttered Desk," and is republished here with permission. Read the original and more at http://www.workerscompensation.com/compnewsnetwork/from-bobs-cluttered-desk/index.1.html.

In Keeping with the NAWCJ mission to facilitate and encourage education, collegiality and interaction for those who adjudicate workers' compensation disputes, the National Association of Workers' Compensation Judiciary is pleased to provide the following information on upcoming meetings of the Southern Association of Workers' Compensation Administrators (SAWCA). You can learn more about SAWCA by visiting their website, *www.sawca.com*

The Southern Association of Workers' Compensation Administrators

The Southern Association of Workers' Compensation Administrators, Inc. (SAWCA) is a cooperative effort of nineteen jurisdictions. The Mission of SAWCA is to make available and present instruction by means of forums, lectures, meetings, and written material regarding the administration of workmen's laws and to provide an avenue by which those interested in workers' compensation may interact with one another to share information and address issues common to the jurisdictions that are members of the association.

2011 All Committee Conference

November 1-4, 2011 Annapolis, Maryland

Conference Outline:

Tuesday November 1

Ex. Committee Meeting 2:00 p.m. -5:00 p.m.
Ex. Committee Dinner 6:30 p.m. -9:00 p.m.

Wednesday November 2

Continental Breakfast 8:00 a.m. - 9:00 a.m.
General Session: Guest Speaker 9:00 a.m. - Noon
Committee Meetings: 2:00 p.m. - 5:00 p.m.
Medical Rehab / Administration & Procedures
President's Reception 6:00 p.m. - 8:00 p.m.

Thursday November 3

Continental Breakfast 8:00 a.m. - 9:00 a.m.
Committee Meetings: 9:00 a.m. - Noon
Self Insurance & Insurance / Claims Administration
Convention Lunch Noon
Committee Meetings: 2:00 p.m. - 5:00 p.m.
Mgmt Info Sys. (MIS) / Adjudicator's Roundtable
Coffee Cordials & Confections 8:30 p.m. - 10:00 p.m.

Friday November 4

Continental Breakfast 8:00 a.m. - 9:00 a.m.
General Session: Guest Speaker 8:00 a.m. - 11:00 a.m.
Committee Reports & Adjourn

Attendees Will Include:

State Regulators & Legislators / Insurance Executives / TPAs / ALJs /Self-Insured & Insured Employers / SI Group Funds / State Guaranty Associations / IT & EDI Professionals / Medicare Compliance Firms / Defense & Plaintiff Attorneys Health Professionals / Claims Adjusters / Occupational Health Nurses / Pharmacy Management / Surveillance & Investigation Professionals

*Marriott Waterfront * Annapolis, Maryland*

Member $350 & Non-Member $500;Spouse-Companion Registration:$100; Hotel Accommodations: $195
For Convention Information Visit www.sawca.com / call Gary Davis - (859) 219-0194

SAWCA Roundtable Roundup

The Southern Association of Workers' Compensation Administrators (SAWCA) recently held a roundtable presentation led by immediate past-president Karl Aumann, Chair of the Maryland Commission of Workers' Compensation. The roundtable was held in conjunction with the Florida Workers' Compensation Institute (FWCI) Educational Conference in Orlando on August 23, 2011, and included administrators and other workers' compensation experts from Georgia, Kentucky, Maryland, Mississippi, Tennessee, and Texas. Their valuable insight on common challenges to regulation of their respective workers' compensation systems was thought- provoking and met with enthusiastic audience response and participation.

Commission Chair Aumann's panel included Gary Davis, SAWCA Executive Director, Rod Bordelon, Texas Commissioner of Workers' Compensation; Deneise Lott, Mississippi Administrative Law Judge; Michele McDonald, Maryland Assistant Attorney General; Michael Alvey, Kentucky Workers' Compensation Commission Chair; Richard Thompson, Georgia Workers' Compensation Commission Chair; and Melody Belcher, Georgia Chief Administrative Law Judge. Among this distinguished panel there was a lively discussion of technology innovation, physician dispensing, and other issues of common concern.

SAWCA's Gary Davis and Past-President Karl Aumann facilitated this informative roundtable, and departed the FWCI venue early the next morning in order to attend the workers' compensation centennial celebration hosted by the International Association of Industrial Accident Boards and Commissions (IAIABC) in Madison, Wisconsin. The SAWCA commitment to participate in both of these events during the same week demonstrates a deep devotion to delivering quality educational opportunities to the workers' compensation community.

The roundtable had progressed barely through introductions of the panel when cellular phones erupted around the room, with attendees and panelists receiving texts, emails, and calls about an earthquake occurring in the mid-Atlantic region. As many endeavored to gather additional specific information as to the safety of offices, coworkers, and loved ones, the roundtable proceeded. Regulators from the represented states each commented briefly upon what each saw as challenges facing their state at this time and in the coming year. Commissioner Aumann then focused the discussion by returning to several recurrent themes expressed in the opening portion of the program.

Physician medication dispensing was a major topic of interest. About as subtly as an earthquake, physician dispensing erupted on the workers' compensation scene early in the 21st century. It has been debated in recent years at most workers' compensation events. Coincidentally, the week before the roundtable, the National Council on Compensation Insurance (NCCI) filed a recommendation for increased workers' compensation premium rates in Florida. One justification for their recommendation of a significant rate increase is the cost of physician dispensed medication. Florida was referred to by one regulator as "the canary in the coal mine." Despite the perception of Florida playing a significant role in the issue of physician dispensing, Florida regulators did not participate on the panel.

The scope of the challenges of physician dispensing were known to few until Texas Workers' Compensation Commissioner Bordelon, Kentucky Workers' Compensation Board Chair Michael Alvey and Maryland Assistant Attorney General Michele McDonald described the intricacies of the situation. Each has very obviously invested significantly in gathering information and addressing the potential for abuse in physician dispensing. Any of these experts might have presented an outstanding solo presentation on this troubling topic, but the combination of their expertise in one room was simply exceptional. In the course of a year of various conferences, seminars and programs, this opportunity was enlightening and unique.

Ms. McDonald explained that many states have tied pharmaceutical reimbursements to the "average wholesale price" or "AWP." These states have described a reimbursement formula for reimbursement that includes this AWP. She said the AWP can be found in a publication that lists pharmaceuticals and provides corresponding pricing information. However, she explained that for many chemical compounds (she used Ibuprofen as an example) there are multiple published AWPs. This is because each manufacturer reports a price for publication, and companies that purchase in bulk and "repackage" the tablets or pills are likewise considered "manufacturers," despite the fact that they do not manufacture or make anything, but merely re-package. These repackaging companies are able to inflate the cost of medication to the ultimate consumer by inflating the AWP they apply to their repackaged medication.

Continued, Page 12.

SAWCA, from P.11

According to the recent Florida rate filing by the National Council on Compensation Insurance (NCCI), the data supports that a repackaged medication may be as much as 679%[1] more expensive than the same medication using the original manufacturer's AWP. Some suggest that Florida leads the nation in the prevalence of physician dispensing.[1]

There are two primary publishers of AWP, and they have come to be known as the "Blue Book" and the "Red Book." Each similarly publishes the pricing information as it is submitted by the "manufacturer" of the respective medications. The "Blue Book" is published by First DataBank, which has announced it will cease publication in September 2011. Their announcement has led various state authorities to announce they will therefore rely upon the "Red Book" published by Thompson Reuters.

Texas Commissioner Bordelon explained his agency's multifaceted approach to regulation of medication repackaging. Their restrictions recognize that the need for physician dispensing may be more acute in rural parts of the state. He noted that the Texas parameters therefore allow physician dispensing in low-population Texas counties. Commissioner Bordelon also described Texas' implementation of formulary parameters, which provides further marketplace guidance on the prescription medication issues. The consensus of attendees perceived Texas as the most proactive regulator of physician dispensing.

Technology changes continue to challenge the marketplace. The roundtable panel offered varying descriptions of their respective state's efforts to leverage technology. Georgia Commission Chair Richard Thompson and Georgia Division Director and Administrative Law Judge (ALJ) Melody Belcher both espoused the virtues of technology and the benefits it brings to their workers' compensation system. They described a robust and functional electronic filing process which is entering its second incarnation in Georgia. The Georgia electronic filing program was described as an expense saver for both the Commission and the attorneys who use it (the Georgia electronic filing system is mandatory for attorneys). They also described Georgia's recent deployment of a Google™ driven system that allows attorneys to search the contents of adjudications, allowing attorneys access to the Georgia ALJ and Commission decisions.

The next opportunity for a roundtable discussion of this magnitude will be the 2011 SAWCA All Committee Conference in Annapolis, Maryland beginning November 1, 2011. For more information, visit their website, www.sawca.com, or download the brochure.

---

1 NCCI Florida Rate Filing, August 19, 2011.

2 The NCCI rate filing in Florida suggests that Florida is the leader in physician dispensed medication, with approximately fifty percent of prescription dollars in Florida being paid to physician dispensers.

"Second Fridays Seminars"

The NAWCJ continues its program of monthly educational seminars, presented on the second Friday of each month at lunchtime program.

This year, the NAWCJ and Florida Office of Judges of Compensation Claims is joined by the Florida Workers' Compensation Institute (FWCI) to present a diverse and interesting 2010-11 program. The schedule for 2010-11 will include programs on wage and hour litigation, challenges of the latest in Medicare's impact on injury claims both workers' compensation and otherwise, the challenges of cultural diversity, expert medical presentations, and effectige people management skills.

These programs are an exceptional opportunity for obtaining continuing education credits. More importantly, these programs keep adjudicators informed and current with current developments. Plan now to join us for these exceptional programs, at no charge to NAWCJ members.

Some Thoughts

"We must remember that we have to make judges out of men, and that by being made judges their prejudices are not diminished and their intelligence is not increased"

Robert Green Ingersoll

"A good judge conceives quickly, judges slowly"

Proverb

"Judges ought to be more learned than witty, more reverent than plausible, and more advised than confident. Above all things, integrity is their portion and proper virtue."

Francis Bacon, Sr.

"Judges must beware of hard constructions and strained inferences, for there is no worse torture than that of laws."

Francis Bacon, Sr.

"The judge weighs the arguments and puts a brave face on the matter, and since there must be a decision, decides as he can, and hopes he has done justice and given satisfaction to the community."

- Ralph Waldo Emerson

"If judges would make their decisions just, they should behold neither plaintiff, defendant, nor pleader, but only the cause itself."

- Brockholst Livingston

10th Anniversary 1999-2009
workcompcentral®
Improving Workers' Compensation Through News and Education

Seven Ex-Players File Class Action against NFL, Citing Concussions

Former Chicago Bears quarterback Jim McMahon and six other retired football players last week filed a class action suit against the National Football League, seeking monetary damages and the imposition of a medical monitoring program on the league.

Attorney Larry E. Coben filed a complaint on behalf of seven retired football players and their wives in the U.S. District Court for the Eastern District of Pennsylvania on Wednesday, in the case of Easterling v. NFL. The plaintiffs include Jim McMahon, Mike Furrey, and Charles Ray Easterling, among others.

The complaint contains similar allegations to one filed by 75 former players last month against the NFL and a helmet manufacturer in Los Angeles. Both suits contend that the league negligently allowed its players to continue to suffer long-term head injuries by intentionally ignoring medical evidence linking concussions to conditions such as Alzheimer's disease and dementia.

On Thursday, NFL spokesman Brian McCarthy told the Associated Press that the league had not seen the lawsuit, but would vigorously dispute the players' claims.

Unlike the lawsuit filed in California, the Easterling suit seeks class-action status and specifically seeks an ongoing program that would monitor the medical status of current and former players who have suffered concussions.

The size of the class could potentially be as large as several thousand players, according to the complaint. Coben proposed five sub-classes of plaintiffs, which would include all former players who sustained a concussion between 1970 and 2011. The sub-classes would group plaintiffs depending upon the years they played, which would arguably make it easier to submit relevant evidence on common issues of fact and law.

Besides seeking monetary damages for the players and their spouses, the plaintiffs are also asking the court to impose a medical monitoring program.

The class who have not yet begun to evidence the long-term physical and mental effects of the defendant's misconduct require specialized testing that is not generally given to the public at large for the early detection of the long-term effects of concussions and subconcussions," Coben wrote. The suit has prompted some media outlets to ponder how the plaintiffs may prove causation.

Michael McCann, a law professor and sports law columnist for Sports Illustrated, wrote in an Aug. 19 column that the league could defend itself by arguing that the players had already increased their risk of lifelong conditions before they ever played in the NFL. Such an argument would question whether the players' time in the NFL actually caused the injury.

"The vast majority of NFL players began playing football at a young age, and then participated in thousands of plays – and thus thousands of collisions – in high school and college games and practices long before they entered the league," McCann wrote. "If a retired NFL player in his 40s or 50s suffers from neurological problems, what's to say it was his time in the NFL that caused those problems?"

McCann also noted that the NFL could argue that the players assumed the risk of concussions by willfully playing the violent sport. He also pointed out that the league may argue that the players' suit is barred by the players' collective bargaining agreement.

In his column, McCann predicted that the NFL will attempt to prevent a trial by filing motions to dismiss early on in the case. If the court denies the motions and were to eventually approve the class, the league would be faced with the prospect of a potentially thorny discovery process, and would likely try to avoid discovery by settling with the players, he wrote.

Continued, Page 14

NFL, from P.13

While Coben's complaint did not cite data comparing NFL players to college players, it did cite an NFL-funded study comparing NFL players to the general population.

Citing Sept. 30, 2009, newspaper accounts, Coben said the NFL study showed "6.1% of retired NFL players age 50 and above reported being diagnosed with dementia, Alzheimer's disease and other memory-related illnesses, compared to 1.2% for all comparably aged U.S. men."

"Despite the findings of this study ... the defendant's agents disputed these findings and continued the mantra in the press that there is no evidence connecting concussions, concussion-like symptoms, NFL football and long term brain illness or injury, including but not limited to chronic traumatic encephalopathy, dementia, etc.," Coben wrote in his brief.

Many have anticipated such a class-action suit, especially since concussion-related injuries began receiving more media attention in 2009.

In February, Slate.com's John Culhane pondered whether the league could survive the fallout of a class-action lawsuit. Culhane's column described two causes of action that are listed in the Easterling suit -- that negligence would be a potential cause of action, and players' wives case for loss of consortium. He also pointed out that players would try to sidestep workers' compensation exclusive remedy by arguing that the NFL committed intentional misconduct.

Attorney Forming Charity to Assist Medicare Set-Aside Beneficiaries

An attorney with a Medicare set-aside consulting firm is forming a nonprofit organization that will provide services to claimants who have set-aside accounts established to provide for their future medical care.

Jennifer Jordon, general counsel for Medval in Columbia, Md., said she established the Medicare Secondary Payer Charitable Foundation (MSPCF), because she has seen "horror stories" involving claimants who have to deal with the Centers for Medicare and Medicaid Services after their future medical set-asides are established. Often, Jordan said, CMS denies medical care for a treatment that is unrelated to the set-aside recipient's settlement, but that the agency contends is related.

Set-aside beneficiaries also need assistance negotiating with medical providers who are often wary of providing services because they are not certain if Medicare will reimburse them for services, or refuse to accept payment at the Medicare fee schedule until the beneficiary's set-aside account is exhausted.

"The foundation will provide much needed post-settlement services to recipients of MSAs in the form of education about their (Medicare Secondary Payer Act) obligations, assist with or subsidize Medicare appeals, and ultimately take over administration of their MSA at no cost to them," Jordan said in an email to WorkCompCentral. In a press release, the charitable foundation said that for-profit administration of set-aside accounts is too expensive for insurers and plaintiffs, while self-administration of set-aside accounts places a tremendous burden on injured beneficiaries.

"By taking the profit motive out of MSA administration, eliminating sales commissions, driving down operating costs through technology and seeking charitable partnerships and willing corporate sponsors of this new business model, I believe MSPCF is poised to permanently shift the way MSA Funds are administered," Jordan stated in a press release.

Jordan said she is in the process of creating a nonprofit corporation under Section 501(c)(3) of the Internal Revenue Service code. Kimberly Wiswell, a former director of CompPartners in Agoura Hills, Calif., and Maryland workers' compensation attorney Frank Lipshutlz are serving with her as board members for the charity.

The organization will serve clients who are disabled, according to Social Security Administration guidelines. The MSPCF is holding a one-hour teleconference at 2 p.m. EDT on Sept. 15 to explain its plan to interested parties. Email info@mspcf.org for more information.

The Foregoing two articles were reprinted with the permission of WorkCompCentral.com. The NAWCJ thanks WorkCompCentral for their support of this newsletter and the ideal of promoting professionalism and collegiality among the nation's workers' compensation adjudicators.

American Bar Association Urges States to Reconsider Recusal and Disqualification Rules

On August 8, 2011 the American Bar Association's House of Delegates passed a resolution calling on states to adopt new rules for judicial disqualification.

There is a perception that judicial campaign finance issues are creating a public perception that judicial decisions are being influenced. The ABA references a report, *Promoting Fair and Impartial Courts through Recusal Reform*, issued by the Brennan Center for Justice in 2008, and recently updated in 2011.

The thesis of the report is "Reforming judicial disqualification practice in the states is necessary to combat mounting threats to public confidence in the judiciary."[1] The report notes that 39 states elect their judges, and that campaign spending in judicial elections continues to increase. The report concludes that reforming disqualification practices in state courts is one way to reassure the public that judges' decisions are not held captive by partisan political concerns or judicial campaign spending. The primary illustration being proffered is Caperton v. A.T. Massey Coal Co., 129 S. Ct 2252 (2009). The facts of Caperton document a judge who received more than three million dollars in campaign support from the leadership of Massey Coal Company. This amount exceeded the aggregate total of campaign funds received from all of the other contributors combined. After being elected, the Judge cast the tie-breaking vote in the appellate decision in which Massey was the defendant. That decision overturned a fifty million dollar damages award against Massey.

The United States Supreme court considered the implications of these facts and then disqualified the judge. They found that there was "a 'serious, objective risk of actual bias' when the judge ruled on his principal benefactor's case."[2] The Court urged that states "would be well served to adopt recusal rules 'more rigorous' than the Constitution requires."[3]

In the updated 2011 report, the Brennan Center notes that "Judicial election spending continues to spiral out of control."[4] The data supports that such spending "in the decade between 2000 and 2009 more than doubled what was seen in the 1990s."[5] In 2010, "runaway spending in judicial elections reached uncontested retention elections in several states, introducing expensive and politically driven electioneering to races that had hitherto avoided the trends affecting contested judicial elections."[6] One "'highly politicized' 2011 supreme court election in Wisconsin shattered records for special interest spending on television advertising in a judicial contest."[7]

Since Caperton, some states have seemingly relaxed recusal standards. Others[8] have enacted rules which the Brennan Center report perceives addressing the campaign finance concerns. The report characterizes as "very promising" efforts in two other states.[9] A summary of these reforms and proposals is on page nine of the Brennan Center Report.

In 1999 the ABA adopted an amendment to their Model Code of Judicial Conduct. The Model now suggests a per se disqualification rule based upon stated thresholds of contribution amounts within a stated period of years prior to the time of considering a disqualification. The Brennan report notes that only two states have adopted the 1999 amendments to the Model Code, and concludes that the Model Rule is not sufficient to address the campaign spending issues which their study perceives.

The ABA will continue to advocate for alterations if the state's recusal and disqualification rules. Some states have specific and specialized administrative law rules regarding disqualification and recusal of workers' compensation adjudicators. Other states have statutorily applied their Code of Judicial Conduct to regulate recusal of workers' compensation adjudicators. As states consider changes in their Codes, in response to these election spending and public perception issues, little focus is likely to be directed to the implications changes may hold for workers' compensation adjudicators who neither raise money or campaign.

The full report is available at http://www.brennancenter.org/.

---

1 *Promoting Fair and Impartial Courts through Recusal Reform, at 1.*
2 Id.
3 Id.
4 Id.
5 Id.
6 Id. at 2.
7 Id.
8 Arizona, California, Iowa, Michigan, Missouri, New York, Oklahoma, Utah, and Washington. Id at 9.
9 Georgia and Tennessee, Id.

THE NATIONAL ASSOCIATION OF WORKERS' COMPENSATION JUDICIARY
APPLICATION FOR MEMBERSHIP

THE NAWCJ MEMBERSHIP YEAR IS A FOR 12 MONTHS FROM YOUR APPLICATION MONTH. MEMBERSHIP DUES ARE $75 PER YEAR OR $195 FOR 3 YEARS. IF 5 OR MORE APPLICANTS FROM THE SAME ORGANIZATION, AGENCY OR TRIBUNAL JOIN AT THE SAME TIME, ANNUAL DUES ARE REDUCED TO $60 PER YEAR PER APPLICANT.

NAME: _____ **DATE:** ____/____/____

OFFICIAL TITLE: _____

Organization: _____

PROFESSIONAL ADDRESS: _____

_____

PROFESSIONAL E-MAIL: _____

ALTERNATE E-MAIL: _____

PROFESSIONAL TELEPHONE: _____Fax:_____

YEAR FIRST APPOINTED OR ELECTED? _____

CURRENT TERM EXPIRES: _____

HOW DID YOU LEARN ABOUT NAWCJ? _____

_____

DESCRIPTION OF JOB DUTIES / QUALIFICATIONS FOR MEMBERSHIP:

_____

_____

IN WHAT WAY WOULD YOU BE MOST INTERESTED IN SERVING THE NAWCJ:

_____

_____

_____

Mail your application and check to:

Kathy Shelton
P.O. Box 200
Tallahassee, FL 32302
850.425.8156
Email: kathy@fwciweb.org

THE NATIONAL ASSOCIATION OF WORKERS' COMPENSATION JUDICIARY
APPLICATION FOR ASSOCIATE MEMBERSHIP

THE NAWCJ ASSOCIATE MEMBERSHIP YEAR IS A FOR 12 MONTHS FROM YOUR APPLICATION MONTH. ASSOCIATE MEMBERSHIP DUES ARE $250 PER YEAR.

NAME: _____ **DATE:** ____/____/____

Firm or Business: _____

PROFESSIONAL ADDRESS: _____

_____

PROFESSIONAL E-MAIL: _____

ALTERNATE E-MAIL: _____

PROFESSIONAL TELEPHONE: _____Fax:_____

HOW DID YOU LEARN ABOUT NAWCJ? _____

Mail your application and check to:

Kathy Shelton
P.O. Box 200
Tallahassee, FL 32302
850.425.8156
Email: kathy@fwciweb.org

Judiciary College 2012

Just two weeks since Judiciary College 2011 concluded, and it is time to begin planning for 2012. The venue is set in Orlando in conjunction with the largest workers' compensation conference in the country. The dates are set, August 19-22, 2012. Our attendance at Judiciary College 2011 was the best in our history. Eighty Judges from sixteen jurisdictions attended this program, which provided unprecedented educational and collegiality opportunities specific to workers' compensation adjudicators. As the NAWCJ looks to the fourth annual Judiciary College in 2012, we look to you for ideas, suggestions, and support.

If you have suggestions for topics or specific speakers, please forward them to Judge Lorenzen (ellen_lorenzen@doah.state.fl.us). Planning for the Judiciary College is an intensive process. We must identify and obtain commitments from all of our speakers by early January. Between January and March we will work to obtain the accreditation for the scheduled speakers and programs, to accommodate continuing education credit in the many states whose adjudicators will attend. By April 2012 our finalized program will be in the hands of the printers and distributors. While it seems a long time away, experience has taught us that the next four months will come and go in a flash.

The time to contribute your talent, ideas, and expertise is now. Volunteer to participate in the curriculum committee for judiciary College 2012. Please contact President Lorenzen today.

Judiciary College 2012