Lex and Verum

The National Association of Workers' Compensation Judiciary

Number XLI, January 2013

Hon. David Torrey

President's Page

By Hon. David Torrey, President, NAWCJ

Greetings from the National Association of Workers' Compensation Judiciary as we enter 2013. I am pleased to succeed Judge Lorenzen as President of the group! I'm looking forward to working with the officers and Board members and our partner organization, the Workers' Compensation Institute (WCI), to ensure that we continue with our mission of education about workers' compensation adjudication.

I was recruited for the NAWCJ by Judge Lazzara (Tallahassee, FL), who I heard speak, and then met, at the 2009 ABA workers' compensation conference in New Orleans. Since then, I have attended all of the College sessions in Orlando. They have all been great and, as a result, I've become a more able and world-wise judge.

I have been active with International Association of Industrial Accident Boards and Commissions (IAIABC) and the American Bar Association (ABA), and have taught comparative workers' compensation law at Pitt Law School since 1996. These experiences have all been invaluable. Still, consistent participation in the NAWCJ has been foremost, educationally, among my forays outside my own Pennsylvania system. Involvement with the group has, in this regard, given me unique access to information, opinions, personal contacts – and the "inside scoop" about how agencies throughout the country operate – that are simply unavailable elsewhere.

It's also great fun.

I encourage *Lex and Verum* readers, if you have not already done so, to join the group formally (an application accompanies this newsletter as an appendix), so that all can similarly enjoy these experiences!

An initiative that we have started, and that you will read about in *Lex and Verum* in the months to come, is comparative study and compilation of state litigation and adjudication practices. Such an activity has long been an interest and occasional occupation of mine. As a consequence, I was pleased that, coincidentally, WCI Board Member Gerry Rosenthal suggested to me that the NAWCJ could play the role of "think tank."

Comparative analysis of state workers' compensation programs is, of course, a time-honored tradition, and is currently undertaken by the WCRI (in partnership with the IAIABC), the U.S Chamber of Commerce, and private companies like the International Risk Management Institute (IRMI). All of these comparisons focus, for the most part, on the *substantive* and *cost* aspects of workers' compensation programs. What is not undertaken in these studies is a cataloging of *procedural* aspects of the law and the nuances of *litigation* and *adjudication.*

The NAWCJ initiative will be to research, organize, tabulate, and then keep updated information on all workers' compensation programs relative to procedure, litigation, and adjudication. Our plan is to feature this research as a supplement to *Lex and Verum* and then post – and update – the same on our website.

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"President's Page," from page 1.

The workers' compensation community, and those who seek access to it, will find this type of reference invaluable. I can say so from experience. On three occasions, in the foreshadowing, or wake of, reform, the agency for which I work asked me to research and report on the laws of other states on the issues of the fact-finding power of first-level workers' compensation judges (1995); the presumptive admissibility of medical reports (2001); and mediation practices (2005 and other dates.) For the state bar association, meanwhile, I undertook a fifty-state survey of compromise settlement practices once we allowed such resolutions in 1996.

These projects were all enthralling, and I don't for a minute regret the hours I spent at Pitt Law Library. Still, I would have enjoyed finding a group like NAWCJ that might have provided me with some guidance!

By undertaking this effort, notably, we can better vindicate our commitment to judicial education by sharing our knowledge, and research, with the wider public. We will also vindicate the professional ethic of "giving back" by sharing this information freely with all. I already have volunteers to help with this project, but if I can enlist you, please write me at dtorrey@pa.gov.

Once again, greetings. And, as always, enjoy the *Lex and Verum*.

Some Thoughts

Justice has nothing to do with what goes on in a courtroom; Justice is what comes out of a courtroom.

Clarence Darrow

It's very important not to lose your temper in a courtroom, or in anything else you're doing.

Warren Christopher

There is a higher court than courts of justice and that is the court of conscience. It supercedes all other courts.

Mahatma Gandhi

There is no such thing as justice - in or out of court.

Clarence Darrow

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The Nation's Workers' Compensation Regulators Weigh in on Irving "Prime" Tanning Appeal

By Hon. David Langham

The International Association of Industrial Accident Boards and Commissions (IAIABC) and the Southern Association of Workers' Compensation Administrators (SAWCA) filed an Amici Curiae brief in the bankruptcy of Irving Tanning Company (a course of litigation that has garnered significant attention these last few years, and which has been referred to at times as the Prime Tanning case). These two organizations are referred to herein collectively as "the administrators."

In the Irving case, the self-insured employer declared bankruptcy. The company and its subsidiaries sought to reorganize, and began marshalling assets in support of their plan to emerge from bankruptcy reorganized and fit to do business. One category of the assets that Irving seeks to marshal, however, are financial assets which it had pledged as security for payment of its workers' compensation liabilities. Essentially, when businesses elect self-insured status, the states in which they do business require posting of security. The security, whether cash, bonds, or letters of credit from lenders, are held by the various states as collateral. These assets can be used to pay injured workers benefits if a self-insured employer fails to pay for whatever reason. Irving argues, in this bankruptcy, that they should be able to utilize these pledged funds as part of their plan to emerge and do business.

The Bankruptcy Court denied Irving the use of these funds. In doing so, the Bankruptcy Court concluded that United States bankruptcy law does not preempt the state laws and regulations that both call for the deposit of these reserve assets, and control when and how those assets are used and/or eventually returned to the self-insured employer. Thus, much of the discussion in court filings deals with this topic or "preemption." Irving appealed the decision to the Bankrupcy Appellate Panel, or BAP, of the First Circuit Court of the United States. The Amici brief is overly formal and a difficult read. It makes the relevant points, however, when the hyperbole is peeled-away.

Self-insurance in workers' compensation is no small part of the market. The brief notes that forty-eight states permit the practice of self-insurance, and that individual self-insurance is a large component of this practice. Individual self-insurance is essentially for very large businesses that can afford to insure their losses themselves. Another method of self-insurance involves smaller businesses banding together and forming "funds" to which they contribute, and which then collectively manage their losses. The brief notes that in many states, these self-insured funds comprise a large portion of the self-insured market. Some states attribute half of their insurance premiums (Maine) or half of their benefits paid (Alabama) to self-insurance. Other states demonstrate a lower, but still significant percentage. Self-insurance accounts for over 30% of workers' compensation benefits paid in Arkansas, Florida, Montana and New Mexico; it accounts for more than 20% in Nebraska, Pennsylvania, and South Carolina. The point is clearly made: self-insurance is a significant portion of the workers' compensation marketplace across the country. Because of this market percentage, the decision of the BAP will have far-reaching impact.

The brief argues that a detrimental decision in the Irving Tanning case would eliminate self-insurance from the marketplace. Recognizing the importance of this insurance alternative, the brief asserts that "the unnecessary disruption and undoing of the self-insurance alternative in workers' compensation throughout the United States would be ludicrous." The IAIABC and SAWCA argue that historically, the state agencies responsible for administering workers' compensation (the members of these two organizations) considered it "unthinkable that such Self Insurance Funds could be property of a bankruptcy estate upon the filing of bankruptcy by a self-insured employer." Thus, the major argument against preemption is that no one ever contemplated this application, and as such application of preemption in this setting will upset the predictability of the marketplace.

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"Irving Tanning," from page 3.

The administrators recognize that there is significant risk in the workers' compensation marketplace. They have accepted that there is always a risk that securities will lose value. Likewise, it is always possible that the cost of cumulative claims will exceed the value of the security assets posted by the self-insured employer, in the best of circumstances. However, the administrators insist, that once self-insured collateral is deposited with the regulators, there must be absolute certainty "that such funds will be there to cover each and every claim, directly or indirectly, until such Funds are exhausted at the careful direction and permission of state regulators." In short, there is sufficient risk already in the processes and systems administered across the country. To this, the administrators assert, adding the wild-card risk of preemption is an unwarranted, and unpredicted, additional risk.

The brief is founded primarily on the predictability of the marketplace. The administrators argue that the proposed use of these security assets has never been considered. Therefore, if the Bankruptcy Appeal Panel allowed this use of the security funds,

> the impact across the United States would be dramatic. Regulators charged with safeguarding the certainty of the availability of insurance benefits for the integrity of the entire systems, would not wait for careful expositions by legal scholars or their own assistant attorneys general. Instead, the message would be clear: The money we thought was sacrosanct is now up for grabs.

In fact, the administrators argue, such a decision would mean the immediate and precipitous elimination of self-insurance for workers' compensation. This prediction is based upon the attempts of Irving to reclaim their pledged assets, but the administrators argue that the impact is far broader. They argue that

> there is no telling what other courts will do in other cases once the unthinkable is thinkable, meaning there is no telling how far further the arm of preemption will reach into self-insurance laws and regulations once there is a crack (in the present rule that such securities are absolute).

Workers' compensation claims are sufficiently complex as it is, they argue. The very nature of the exposure renders effective reserving of claims complex. The administrators note that claims may be open and active for ten to thirty years, or more. This aspect of compensation claims certainly a marked distinction compared to most risks.

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"Irving Tanning," from Page 5

A liability claim or contract claim in the civil litigation setting is certainly much shorter in duration, usually much more amenable to valuation, and therefore more predictable. During the comparatively longer compensation claim life-span, the cost of medical procedures may increase with inflation, or with the novelty of such care. Likewise, costs may decrease as available generics or economies of scale affect particular modalities. The changing costs are not the critical element, though the challenge of predicting them is.

The administrators argue that these uncertainties alone are difficult to manage. They assert that the security invasion, through preemption, sought by Irving, if approved by the appellate court, would do nothing but cast further doubt and uncertainty on the self-insured marketplace, regulators, and state policies. The brief threatens that the reversal of the Bankruptcy Court will result forthwith in the demise of self-insurance. On this point, the Amici brief is clear:

> regulators across the United States will immediately take all steps legally and practically available to them to shut down self-insurance as a means of securing payment of workers' compensation benefits.

The brief argues that these dire results must be considered as counterweight to the desires of the debtors in Irving, who seek to attach these self-insurance assets. Essentially, the downside of a BAP reversal would be nothing short of dire.

This dire downside must be focused through examination of the benefit that Irving seeks. The administrators argue that there is little enough to sustain that the Debtors have standing to appeal the Bankruptcy decision. They note that "The direct pecuniary interest of the Debtors in the outcome of this appeal is not readily discernible" and that the Debtor's arguments for expanding the doctrine of "preemption" should be viewed by the Appellate Court through the filter of this minimalistic standing. In other words, they argue, the interests of the debtors is razor thin, the damage to the workers' compensation market is beyond significant, and the only rational outcome is to affirm the Bankruptcy Judge's determination that preemption by federal law is not appropriate in this setting.

This simple analysis, argue the administrators, leads inexorably to the conclusion that the appeal should be denied and the Court's denial of preemption sustained. However, the administrators note, there is yet more support for this outcome. The administrators note that Irving's Amended Plan for reorganization can "be implemented without the turnover of the Self Insurance Funds." On this point, everyone seems to be in agreement, including the Debtors. As such, the administrators effectively argue that the inclusion of the self-insured funds is effectively moot. They state

> It is senseless, and contrary to law, to preempt key provisions of such a vital regulatory scheme (state self-insurance laws) when, as here, it is unnecessary to do so, and when doing so will undermine workers' compensation self-insurance in the United States.

The administrators argue that the purpose of the bankruptcy code is not to "to preempt state public health and welfare laws" such as workers' compensation. Because that is not the purpose of the law, they argue, the application of the bankruptcy code must carefully consider any such effect which occurs tangentially through the application of the code to its purpose of alleviating the effect of crippling debt and allowing reorganization of the company.

Because the reorganization plan can be implemented without the self-insured funds, the appeal should fail. Because the Debtors lack standing to pursue the appeal, it should fail. Perhaps most persuasive though, because the reversal of the Bankruptcy Judge would wreak havoc on significant portions of the workers' compensation marketplace in virtually every state, the appeal should fail. This case will continue to draw attention and stimulate discussion among regulators, business, state fund administrators, state administrators and more.

Elizabeth Gobeil Appointed a Director of Georgia Board of Workers' Compensation

In November, Governor Nathan Deal appointed Elizabeth D. Gobeil to Georgia's State Board of Worker's Compensation. Along with Chairman Richard S. Thompson and Judge Stephen B. Farrow, Elizabeth serves as a Director of the agency and serves as a judge within the Appellate Division.

Prior to joining the Board, Elizabeth served as senior counsel to two global pharmaceutical companies (UCB, Inc. and also Solvay Pharmaceuticals, which subsequently was acquired by Abbott). She also served as the Hiring Partner at the Atlanta office of Thompson Hine LLP, a mid-sized national business law firm, where she was part of the life sciences and corporate practice groups. Her legal experience includes substantial regulatory and general counsel support across a range of clients and disciplines.

Regarding examples of specific work experience, Elizabeth participated in a multi-million dollar commercial arbitration involving contract rights, negotiated a settlement with OSHA regarding significant workplace safety allegations, managed a client's employment litigation and investigations portfolio, and led due diligence efforts for multiple commercial transactions. On the health care/life sciences front, Elizabeth helped lead the implementation of a Corporate Integrity Agreement issued by the US Department of Justice, served as lead clinical research, medical affairs and product support counsel, and developed and implemented a company-wide corporate compliance program.

Elizabeth also brings significant experience in policy and government affairs, having served as an aide to the late U.S. Senator Paul Coverdell (including judicial, health care, and insurance issues), a private sector government affairs professional, and as a staffer to the Federalist Society of Law and Public Policy. This experience includes developing policy, drafting legislation and Public Comment, organizing grassroots activities, and lobbying.

In addition to her judicial role, Elizabeth plans to apply her experience to the operations and policy work of the Agency. She is looking forward to working with her colleagues, government representatives and advisory council members on legislative, medical and other issues.

Elizabeth received her B.A. in 1991 from Emory University and her J.D. in 1995 from the University of Georgia School of Law. A native of Thomaston, Georgia, she and her husband, Bart, live in Atlanta, Georgia. When not working, Elizabeth enjoys reading biographies and fiction, entertaining, traveling and spending time outdoors.

Did you Know?

The fifty states were ranked by *Wall Street 24/7* based upon their management. The report notes that such a comparison is difficult because the states are so diverse. The study notes that some have booming industries, some struggle with population growth, and some are more rural. The study looked at debt, credit score, use of resources, crime and education. Based on their criteria, the results:

Best Run States

1. Wyoming
2. Nebraska
3. North Dakota
4. Minnesota
5. Iowa
6. Utah
7. Vermont
8. Virginia
9. Kansas
10. South Dakota

Worst Run States

50. California
49. Illinois
48. Michigan
47. Arizona
46. Nevada
45. South Carolina
44. Kentucky
43. Rhode Island
42. Louisiana
41. New Mexico

http://finance.yahoo.com/news/best-and-worst-run-states-in-america.html?page=1

What do *workers' comp judges* do all day?

Full quarter case characteristics Of a Pennsylvania WC Judge

By: Hon. David Torrey

I. Introduction

If workers' compensation, with its operative principle of no-fault liability, was intended to take industrial injury claims out of litigation, why is there a "workers' compensation court" or, as in Pennsylvania, an Office of Adjudication? Exactly what types of disputes arise that require a hearing before and/or adjudication from a workers' compensation judge?

These inquiries are, at once, both innocent – and reasonable.

The question is *innocent* in the sense that workers' compensation as conceived in the U.S. is still an adversarial system, with two private parties (for the most part) vying with one another over contested property rights. To be reductionist, the claimant wants the employer's money and the latter wants to keep it. Familiar American notions of due process command that some forum exist for consideration of these disputes. This has been so, at this point, for a hundred years. Litigation has always been present in the system, and no one ever thought it would be totally eliminated.

The question is *reasonable* in the sense that surely no-fault should reduce the number of disputes. And it does, no doubt by the tens of thousands every year. This is particularly so in Pennsylvania, where behavior-based affirmative defenses are few. (In a number of states, an employee's knowing failure to follow a safety rule may be grounds for a denial and court dispute.) Indeed, reference to employee or employer negligence at a Pennsylvania workers' compensation hearing will provoke outrage from, and general alarum among, all parties.

What, then, occupies the time of the Pennsylvania WCJ? On this topic, there are many experts, and about ninety – those donning the judicial silk – are intimate experts. The Office of Adjudication, meanwhile, compiles and reports significant data about WCJ activity, including the number and types of petitions assigned, how many adjudications are issued per month, and fairly detailed analyses of C&R Agreement (settlement) adjudications. As a result, anecdote and data do exist surrounding the undertakings of the Pennsylvania WCJ.

This present C&R scene is particularly intriguing. In Pennsylvania, the compromise settlement (allowed since 1996) is now very popular. A common trope among lawyers is that compensation is now a "settlement practice." *See generally* Torrey, "Compromise Settlements Under State Workers' Compensation Acts: Law, Policy, Practice and Ten Years of the Pennsylvania Experience," 16 *Widener Law Journal* 199 (2007).

Still, the Pennsylvania WCJ issues a considerable number of adjudications on the merits. Not every case settles. This assertion leads to the inquiry: what percentage of contested cases resolves by C&R, and what percentage requires adjudication? Estimates are tossed around, but hard numbers are difficult to come by.

Yet another related inquiry – one that is more subjective – is why cases do not settle and, instead, require adjudication. This writer has heard one leader in the field (not a practicing lawyer) posit, "We don't know why cases don't settle." But shouldn't we?

II. A Thumbnail Study of Cases

In an attempt to assess these, and other inquiries as well, this writer kept data on all of his cases decided for the first quarter of 2012. I inserted the data relative to these sixty cases into a spreadsheet, and have sorted and filtered the same. The resulting data should answer the inquiry as to how WCJs occupy their time with some hard evidence to supplement the anecdote and available L&I data as to the questions. Of all sixty adjudicated cases:

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Upcoming Conferences:

These programs are not sponsored or endorsed by the NAWCJ, but are noted here for everyone's consideration.

California Department of Industrial Relations Educational Conference: February 28-March 1, 2013, Sheraton Gateway Hotel, Los Angeles, CA, $325.00.
http://www.dir.ca.gov/dwc/EduConf20/AnnualConference_flyer.pdf

SEAK, 33rd Annual National Workers' Compensation and Occupational Medicine Conference The Resort and Conference Center at Hyannis, Hyannis, Cape Cod, Massachusetts July 16–18, 2013 Hyannis, MA, $975.00
http://store.seak.com/content/July2013.pdf

17th Annual Workplace Safety and Health Conference, Doubletree Hotel, Austin, TX, May 14-16, 2013 $275.00.
https://wwwapps.tdi.state.tx.us/inter/perlroot/sasweb9/cgibin/broker.exe?_service=wcExt&_program=progext.semreg_secure.sas&mode=3&schedule_id=1432

5th Annual Illinois Chamber of Commerce Workers' Compensation Conference, Hilton Lisle, October 29, 2013
http://ilchamber.org/illinois-chambers-4th-annual-workers-compensation-conference/

The 2013 Iowa Workers' ompensation Advisory Committee, Inc.'s 51st Annual Symposium, June 13-14, 2013 Downtown Marriott, Des Moines, Iowa
http://www.iowaworkforce.org/wc/education.htm

"What do Judges Do?" from Page 8.

(1) What were the original petition types?
(2) How many petitions with bona fide disputes, whatever their petition origin, concluded with (a) adjudication of a controverted issue, (b) adjudication (usually approval) of a compromise settlement agreement, or (c) discontinuance and withdrawal?
(3) How many petitions were subject to mediation or voluntary settlement conference?
(4) For each, how many hearings were actually convened?
(5) Of those still-controverted cases that I actually decided, what was the critical issue that required adjudication?
(6) Of those still-controverted cases that I actually decided, how many were appealed to the Workers' Compensation Appeal Board?

The other data I collected included, for each claimant, his or her occupation, and his or injury, including body part and how the accident occurred. I also sought to determine, for each case, the charge for the claimant's expert's report(s) and/or trial deposition. Also, I kept data on the nature of all the C&Rs I approved (I denied none during the first quarter). Finally, I sought to identify certain patterns of party conduct that are common in contemporary proceedings.

Although I filed sixty adjudications, fifty-seven claimants were involved in these cases. In this regard, not infrequently multiple petitions, requiring discrete adjudications, are involved with a single injured worker.

III. Findings

I will recount here only a portion of my findings. In the next issue of this newsletter, I will discuss why I believe some cases in the workers' compensation system do not settle, the precise nature of the first quarter settlements that did unfold, and patterns of party conduct.

A. ***Some demographics.*** Of the sixty cases (fifty-seven claimants) adjudicated by this writer, forty-four claimants were men and thirteen were women. As can be seen from the table that follows this discussion as an appendix, all but three of the claimant injuries were musculoskeletal. The exceptions were one case of hernia, another of a recurrent, disabling cyst, and a third implicated a deep toe laceration with permanent nerve damage. In yet another case, the original injury was musculoskeletal, but a claim of consequential depression was one of the controverted items for litigation.

B. ***Petition type.*** These sixty cases had their genesis in a variety of different petitions:

- Fourteen (14) began as Petitions seeking Approval of a Compromise and Release Agreement.

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"What do Judges Do?" from Page 9

- Fourteen (14) were Claim petitions, though one (1) of these involved an accepted claim, with the claimant seeking a specific loss of a body part.
- Seven (7) were claimant Reinstatement Petitions.
- Seven (7) were employer Suspension or Suspension/Modification Petitions.
- Five (5) were "straight" Employer Termination Petitions.
- Three (3) were Claimant Penalty Petitions.
- Three (3) were Employer Compel Vocational Examination Petitions.
- Two (2) were Employer Compel Physical Examination Petitions
- Two (2) were Employer Suspension/Termination Petitions.
- Two (2) were Claimant Review Petitions.
- One (1) was an Employer Modification Petition in the form of a claim for credit for overpayment.

These original petitions numbers show that of 46 contested cases, 56% (26) were commenced as claimant petitions, and 44% (20) as employer petitions. This distribution is perhaps at odds with the common understanding of what unfolds in workers' compensation proceedings every day – it is not a relentless series of original claim petitions being contested by employers; instead, it is employers that file a significant minority of petitions to effectuate the back-end adjustment of cases.

C. ***Adjudication type.*** Of the sixty cases adjudicated during the First Quarter of 2012:

- Seventeen (17) were controverted petitions which, during the litigation, resolved and were subject to approval of a C&R.
- Seventeen (17) meanwhile, were petitions, all but one controverted, that were discontinued and withdrawn during the proceedings.
- Thirteen (13) were controverted cases that required adjudication. One (1) of these, however, reflected an employer hoping to secure Supersedeas Fund reimbursement after having gone to C&R on the underlying case, and two (2) were adjudications based on stipulations. (The former required as much decision-preparation time and effort as a regular adjudication, but the latter two were pro forma.)
- Thirteen (13) of my adjudications, finally, were approvals of C&R agreements that did not arise out of controverted cases. These were non-adversarial proceedings.

D. ***Mediation.*** Of the eleven (11) cases that went to non-stipulated adjudication, four (4) had been mediated without (obviously) any C&R being produced. Of the nineteen (19) cases which were at first controverted, but then were settled, eleven (11) were mediated with C&R resulting. Of these, two (2) were mediated with no C&R at the conclusion of the session, but with the deal unfolding fairly promptly thereafter.

Overall, thirty (30) cases which were controverted at the outset went to adjudication of C&R in the first quarter. Of these, fifteen (15) were mediated. As noted above, in four (4) there was no C&R and in eleven (11) there was a C&R. Thus, we may posit that mediation had a 74% success rate in bringing about or contributing to settlement.

E. ***Number of hearings.*** In the cases that were controverted and went to adjudication, the number of hearings ranged from one (two instances) to five (one instance). The average number of hearings was approximately three (2.69 to be exact).

F. ***Time, petition to adjudication.*** In the cases that were controverted and went to adjudication, the time it took from petition to adjudication ranged from approximately two months (one instance) to approximately fourteen (one instance). The average time for a petition to get to adjudication was nine months (8.9 to be exact.)

G. ***Claimant expert medical deposition fees.*** In six cases the parties adduced expert medical depositions. The fees for these depositions were (1) $800.00, (2) $2,000.00, (3) $2,500.00, (4) $2,500.00, and (5) $3,000.00. In a sixth case, the claimant (to my dismay) adduced her expert deposition, that of the treating shoulder surgeon, three times. The fees in that case were (a) $2,995.00; (b) $2,995.00; and (c) $2,000.00.

The latter case, and three others, went to C&R. The other two were among the adjudicated cases. The deposition fees of employer experts are not, notably, revealed on the record systematically, as are the fees of claimant's physicians. Thus, this writer did not collect such data.

H. ***Controverted Adjudicated cases: Issue for adjudication***. The table that follows sets forth the critical controverted issue that existed in the eleven cases that did not settle and required adjudication.

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"What do Judges Do?" from Page 10

Claimant	Injury	Petition type	Issue	Decision for	Time, Petition to Adjudication
1	Shoulder	Reinstatement	Was claimant's recurrent loss of earnings attributable to injury or, instead, a fault discharge?	CL	14 mos.
2	Back	Termination	Was claimant fully recovered from his back injury, with any continuing complaints attributable to degenerative changes?	ER	7 mos.
3	Back	Claimant	Did claimant, whose injury was admitted, demonstrate continuing loss of earning power?	Split	8 mos.
4	Cyst	Claim	Was claimant's injury medically related to his employment?	ER	8 mos.
5	Finger	Claim	Did claimant, whose injury was admitted, demonstrate entitlement to partial disability?	CL	5 mos.
6	Finger	Suspension	Was employer entitled to suspension of benefits, in light of claimant's return to work?	ER	2 mos.
7	Knee	Termination	Was claimant fully recovered from her knee injury, with any continuing complaints attributable to degenerative changes?	ER	10 mos.
8	Neck and Back	Claim	Did claimant prove that she sustained a work injury and needed ongoing medical treatment for the same?	CL	10 mos.
9	Neck and Back	Termination	Was claimant fully recovered from her injury?	ER	9 mos.
10	Neck and Back	Claim	Did claimant prove that he sustained a work injury, was disabled, and needed ongoing medical treatment for the same?	CL	5 mos.
11	Toe	Claim (sp. loss)	Was claimant's injured toe (accepted injury) so impaired that he had suffered a specific loss?	ER	8 mos.

I. ***Appeals.*** Of the eleven (11) cases that were controverted cases going to non-stipulated-to adjudication, two (2) were appealed.

Appendix is printed on Page 12, et seq.

DAVID B. TORREY, a native of Alexandria, VA, has been a Workers' Compensation Judge with the Pennsylvania Department of Labor & Industry since 1993. He is Adjunct Professor of Law, University of Pittsburgh School of Law (1996-present). He is also the Editor of the Pennsylvania Bar Association Workers' Compensation Newsletter (1988-present). He received his A.B., 1982, from West Virginia University; and his J.D., 1985, from Duquesne University School of Law. While in law school, he was Editor-in-Chief of the Duquesne Law Review (Volume 23, 1984-85). In 2010 he was elected to membership in the National Academy of Social Insurance. He is the President of the National Association of Workers' Compensation Judiciary; and a Fellow of the College of Workers' Compensation Lawyers, an American Bar Association affiliate. In 2008, he published the Third Edition of his treatise, Torrey & Greenberg, Pennsylvania Workers' Compensation: Law & Practice (4 Volumes: Thomson-Reuters 3rd ed. 2008 & Supp. 2012). He also served in the U.S. Army (1976-1979), and in the West Virginia Army National Guard (1979-1982).

The foregoing was originally published by the Pennsylvania Bar Association Workers' Compensation Law Section *Newsletter*, Volume VII, No. 113 (December 2012), and is republished here with permission of the author.

Continued, Page 12

"What do Judges Do?" from Page 11

APPENDIX: TABLE

Claimants Of WCJ Torrey With Cases Adjudicated,
1st Quarter 2012: Occupation And Injury

Claimant	Occupation	Injury
A	Bus Driver	Cyst, chronic; sedentary work duties.
B	Carpenter/Plumber	Toe laceration: employee cut his left second toe with a saw.
C	Convenience Store Worker	Back (L): lifting cases of soda pop, heard pop in back.
D	Cook	Forearm and wrist, burn: "I was taking a tray of bacon out of the oven – when I did so grease from bacon exploded onto my arm."
E	Corrections Officer	Shoulder (L); lifting a "cambro."
F	Counselor (Employment)	Neck and Back: claimant fell off chair.
G	Daycare Supervisor	Knee (L) and leg (L): stepped in a hole at playground while disciplining unruly children.
H	Deliveryman (Sales and services, uniforms)	Arm: torn triceps tendon: felt a pop in his elbow, experienced instant pain.
I	Driver (refuse truck)	Knee (L) medial meniscus tear: "twisted left knee while lifting a drum to place in garbage truck."
J	Education Coordinator	Elbow (R): lifting a ream of paper from a cupboard, "something pulled" in right elbow.
K	Electrician	Leg, ankle, and foot: slipped while walking up a hill.
L	Executive Chef	Head and shoulder: While supervising unloading of trucks returning from catering job, "I stepped back and when I stepped back the dock wasn't there and I fell backwards. I reached back with my left arm to brace myself…."
M	Floor Cleaner (Itinerant)	Elbow and wrist (L): loading a buffer into a van.
N	Grocery Store Worker	Back (L): lifting a tray of meat.
O	Housekeeping	Shoulder (L): fell while mopping.
P	Insurance Claims Field Appraiser	Back (L) sprain: rear-ended in MVA.
Q	Janitor	Head, face, leg (R); near catastrophic; multiple compound fractures to leg and lacerations to head, face, neck: One block from premises, on smoke break, was run down while in cross-walk.
R	Laborer	Shoulder (R): foot slipped while putting coils in basket, pulled shoulder trying to stop fall.
S	Laborer (gym eqt. set-up & delivery crew)	Neck and back: Single vehicle crash – claimant drove work truck off road into hillside.
T	Laborer (Asphalt Crew)	Ankle (L); stepped onto large rock and twisted ankle
U	Laborer (landscape)	Back (L)
V	Laborer (landscape)	Ankle (R) turn: "Stepped off retaining wall, turned right ankle."
W	Laborer (Municipal)	Back (L), with surgery; later development of adjustment disorder; lifting bags of cement.
X	Laborer (newspaper distribution)	Neck and shoulder: picked up bundle of newspapers that was heavier than he thought; it pulled his right arm.
Y	Laborer (Dept. Store Unloader)	Back (L), with surgery: pallet broke and food got caught, twisted him and hurt back.
Z	LPN	Knee (R)

Continued, Page 13

"What do Judges Do?" from Page 11

APPENDIX: TABLE (CONTINUED)

AA	Machinist	Back (L): pulling steel out of a 25 foot pit – worker and co-worker leaned over railing to pull it out, hurt back.
BB	Mechanic (auto)	Shoulder (R): "taking a transmission out." Hands, elbow affected.
CC	Nurse's aide	Knee (R): tripped and fell on a wire.
DD	Nurse's Aide	Finger; left thumb: hurt thumb while restraining a patient.
EE	Nutrition Aide	Back (L): claimant was lifting food tray out of refrigerator.
FF	Painter (Industrial)	Back (L): man-lift fell 12-15 feet, hurting back.
GG	Painter/Handyman	Back (L): claimant was moving a stove down the stairs.
HH	Painter/Handyman	Back (L): claimant was moving a stove down the stairs.
II	Police Officer	Neck: while working light duty for a back injury, he was sitting in a chair which collapsed, thereby injuring his neck.
JJ	Police Officer	Finger; left ring finger: making an arrest, claimant injured left ring finger.
KK	Press Operator	Finger; crushed right ring finger: right hand was pulled between two steel rollers and crushed.
LL	Production Worker	Finger; right middle finger: finger crushed while retrieving metal piece on floor, while working in melt shop.
MM	Restaurant Crew Trainer	Back (L): At PGH Airport McDonald's, walking to restroom - mopped floor, but no signs; had grease on shoe – slip and fall.
NN	Retail Hardware	Neck and shoulder (L): strained shoulder while sorting lumber.
OO	RN	Hand (R): claimant's right hand was lacerated in the O.R. when struck with blade; digital nerve contused.
PP	RN	Back (L): lifting patient in bed; hurt back.
QQ	RN	Ankle and foot (L): tripped over cord lying across floor.
RR	RN	Back (L)
SS	School Bus Driver	Shoulder (R): slipped and fell.
TT	Service tech (HVAC)	Shoulder: carrying tub up residence stairs, awkwardly, lost balance.
UU	Service Tech. (Med. eqt.)	Back (L): unloading 195 lb "liquid tanks" out of van, hurt back.
VV	Supervisor of Asphalt Plant	Hand (R): hand trapped between edge of the "bucket" of a bobcat loader and edge of the trash collector. #5 and #4 fingers amputated.
WW	Teacher (home for delinquents)	Knee (L) ligament tear: standing on chair; as she stepped down, chair rolled forward and she lost her balance, twisted, fell on knee.
XX	Truck driver	Shoulder (R)
YY	Truck Driver ("Package Car Driver")	Neck and Back: tanker truck rear-ended him out on State 51.
ZZ	Truck Driver (18-Wheel OTR)	Shoulder; left shoulder, surgery for torn RC: cranking down the landing gear on the trailer onto the 5th wheel/trailer connector.
AAA	Research Director	Neck and back: MVA – sStruck by truck causing car to spin-out.
BBB	UNK	Shoulder (R); UNK cause
CCC	UNK	UNK cause
DDD	UNK	Back; UNK cause

Continued, Page 14

"What do Judges Do?" from Page 13

APPENDIX: TABLE (CONTINUED)

EEE	UNK	UNK cause
FFF	Utility Worker	Finger: got finger caught while unloading fire hydrant from truck.
GGG	Warehouseman	Arm (R): took box off conveyor belt, pushed it into his courier van, felt sharp pain in arm.
HHH	Welder/Laborer	Hernia (inguinal): while moving steel plates, incurred hernia.

Commissioner Scott Beck Appointed Chair of South Carolina Commission

On December 5, 2012, Governor Nikki Haley appointed T. Scott Beck to serve as Chair of the South Carolina Commission. Commissioner Beck is a former member of the S.C. House of Representatives from North Augusta. He has served on the Workers' Compensation Commission since 2008. Previously, he served as Assistant Attorney General in the Medicaid Fraud Control Unit of the S.C. Attorney General's office. Commissioner Beck has been serving as interim Chair for almost two years. Commissioner Beck is a 1981 graduate of Penn State University. He served in various law enforcement positions, and returned to school at University of South Carolina School of law, graduating in 1999.

Commissioner Beck has described the Chair's role as that of chief executive officer of any company. His leadership is credited with markedly decreasing delays in claim administration in South Carolina. Governor Haley noted at a press conference that the number of days required for claim resolution has dropped from over 200 days to about 83 days under Beck's leadership. Noting that this reduction is significant, Beck also noted that there is a corresponding savings in financial resources that results.

The Governor also announced reappointment of Andrea C. Roche to the Commission. Commissioner Roche previously served as Chair of the Commission.

Aisha Grant Taylor was also appointed to the Commission. Formerly, a senior associate at Collins & Lacy, P.C., and a former Judicial Law Clerk in the office of The Honorable Brooks P. Goldsmith, Circuit Court Judge for 6th Judicial Circuit, Taylor was a captain of the 2002 NCAA National Championship Women's Track & Field Team at the University of South Carolina and a four-year SEC Scholar Athlete.

Seven commissioners, appointed by the governor with the advice and consent of the S.C. Senate, serve on the South Carolina Commission. Commissioners serve terms of six years each. The governor designates one commissioner to serve as chairman for a term of two years. For more information regarding the WCC, visit: http://www.wcc.sc.gov

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Traffic Accidents Declining but Remain Serious Threat to Worker Safety

By Michael Whiteley, Eastern Bureau Chief

Work-related traffic accidents declined significantly during the recession beginning in mid-2007 but remain a leading cause of high-severity injuries and multiple claims, according to the National Council on Compensation Insurance (NCCI). The Boca Raton, Fla.-based rate maker last week reported in an updated study of traffic safety first published in December 2006 that work-related highway fatalities declined by 25% between 1989 and 2010, and declined even more sharply between 2007 and 2009.

NCCI matched data from the National Highway Traffic Safety Administration, the U.S. Bureau of Labor Statistic and reports from carriers across 36 states for which the rating agency compiles data. Researchers examined data spanning from 1966 to 2011 and concluded the nation's highways are safer, but still remain deadly for workers. While the number of miles driven between 1966 and 2011 jumped from 926 billion to 3 trillion, the number of traffic deaths declined by more than 18,500 – or 37%.

NCCI reported that the miles traveled declined by 2.5% between December 2007 and June 2009, during a period when fewer people drove to work because of unemployment, businesses shipped less commercial good and drivers carpooled to cut fuel costs. Harry Shuford, NCCI's chief economist, said the study also shows that recessions have a significant impact on traffic safety. "It does appear that traffic accidents do respond dramatically to major changes in economic activity," Shuford said. "Our recent, so-called Great Recession clearly had what one would call the silver lining of a favorable impact on both truck and passenger vehicle accidents."

At the same time, Shuford said NCCI found traffic accidents result in the most severe injuries – those to the head, neck and spine. "They're very costly to individuals in terms of the severity of the injuries themselves, and they prove more costly to employers in terms of the duration of claims and indemnity benefits," Shuford said.

The NCCI study found:

- Motor vehicle accidents are more likely than other work-related accidents to result in multiple claims. About 12.3% of traffic accidents studied by NCCI for accidents occurring between 2002 and 2008 resulted in multiple claims – compared to 5.7% of accidents involving all causes.
- More than a third of motor vehicle claims – 38.1% – resulted in lost time from work, while 22.8% of total claims resulted in lost time from the job between accident years 2002 and 2008.
- Workers involved in motor vehicle accidents were killed or permanently disabled at a far greater rate than those involved in other types of accidents. NCCI reported that about 2.8% of the claims involving motor vehicles resulted in permanent partial, permanent total or fatality claims. That compares to permanent injuries or fatalities in 0.3% of all claims.
- Claims involving motor vehicle accidents are far more likely to trigger subrogation. For claims with 60 months of maturity, NCCI found that nearly one-fourth involved subrogation. About 1% of all claims with 60 months of maturity are subrogated.

NCCI also noted what researchers called "a surprisingly high exposure" to accidents among workers with clerical jobs. Workers classified as sales people and collectors filed 20,484 motor vehicle accident-related claims between 2002 and 2008 – the highest number of any job classifications. Clerical workers ranked second with 19,885 claims.

Continued, Page 16

Traffic Accidents, from Page 15.

By comparison, messengers and chauffeurs filed 17,699 claims between 2002 and 2008, and long-haul truckers filed 13,639 claims. Shuford said the share of sales people and clerical workers may reflect that truck drivers are better trained. He said they may also be the first to get advanced technology, such as anti-lock brakes and stability controls. "The best reason for the decline overall is technology," Shuford said. "You may see the technology appear first in trucks and high-end luxury cars. But, in general, vehicles are getting safer, and that's showing up in the statistics."

NCCI also found that a 2007 change in the way the Federal Highway Administration breaks down the miles traveled by type of vehicle put fatalities for accidents involving large trucks on par with deaths associated with passenger vehicles. Although the Highway Administration estimated fatalities for larger trucks were significantly higher from 1975 to 2007, the death rate for both large trucks and passenger vehicles dropped to a little more than one fatality per 100 million miles traveled in 2009 and 2010. "A key point is that the rate of fatalities for both truckers and private passenger vehicles has been falling fairly steadily over many, many years. Now that federal authorities have changed their method of calculations, it looks like there is no significant difference between trucks and private passenger cars for fatal accidents," Shuford said.

NCCI also found that speeding was the primary cause of crashes involving both large trucks and passenger vehicles. But, while driver distraction was the second-most common factor for large truck crashes, driver impairment because of alcohol, drugs or illness ranked second among drivers involved in passenger vehicle crashes. "Employers can play a big part in encouraging safe practices and procedures," the NCCI study concluded.

Ohio Industrial Commission Revises 'Block Out' Docketing Policy

The Industrial Commission of Ohio has amended its administrative hearing policies involving the docketing of claims and scheduling of hearings effective Dec. 31. The commission announced on Dec. 19 that it has rescinded Commission Resolution R12-1-02 and enacted Commission Resolution R12-1-03 effective for requests for hearing blocks and requests to continue hearings filed on or after Dec. 31, 2012. Commission Chairman Karen Gillmor said that prior to 2011, the commission utilized a "kaizen process" to solicit input from customers regarding the Commission's docketing process.

"Kaizen," Japanese for "to break for the better," is a way for workers to evaluate efficiency and make improvements for a better use of people, machines and materials. The kaizen group's intent was to reduce the number of continuances by implementing a docketing policy founded with a heavy emphasis on hearing dates that were "blocked out" in advance by the authorized representatives to ensure that hearings were not scheduled for those dates, Gilmor said. "When the commission last revised its policy for scheduling hearings, the Commission indicated that it would review and evaluate the policy by Dec. 31, 2012.

The Commission completed the review process," Gillmor said. Gillmor said the commission found the block-out dates "have virtually no effect on the number of continuances requested and granted." In addition, Gillmor said, "the vast majority of authorized representatives used far fewer than the number of block-out dates allowed." For those reasons, the commission is changing its rules to provide that authorized representatives of parties may request that the commission not schedule hearings for particular dates, or a series of dates, as long as the commission receives notice at least 15 state business days prior to the requested block-out dates subject to certain limitations.

The commission says the ability of parties and representatives to block-out hearing days "is relied on by the commission's frequent customers to manage their business practices." "The concern of the commission's customers' business practices, however, must be balanced with the ability of the commission to adjudicate claims in a timely manner," the commission said.

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NAWCJ
National Association of Worker's Compensation Judiciary
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SMART Act Passes Senate by Unanimous Consent

The Medicare Advocacy Recovery Coalition (MARC) today applauded the United States Senate for passage of The Strengthening Medicare and Repaying Taxpayers (SMART) Act – H.R. 1063, now renumbered as H.R. 1845. Senators Ron Wyden (D-Or) and Rob Portman (R-Oh) introduced the legislation in the fall of 2011, and have been leading the bipartisan effort to make the Medicare Secondary Payer (MSP) Program more efficient and cost effective to taxpayers. The SMART Act, which gathered 23 co-sponsors during its consideration by the Senate, was passed by the House of Representatives by a margin of 401-3 on December 19, 2012. The Senate this evening passed the legislation by Unanimous Consent.

The legislation will significantly improve the efficiency of the current Medicare Secondary Payer (MSP) system and speed repayment of amounts owed from Medicare beneficiary claims directly to the Medicare Trust Fund. "We are delighted that the Senate has approved the legislation," said Roy Franco, Co-Chair of MARC, and Chief Legal Officer of Franco Signor, representing the MSP efforts of Safeway. "We particularly appreciate the leadership of Senators Wyden and Portman on this legislation, which will streamline the Medicare process for tens of thousands of Medicare beneficiaries, and will restore millions to the Medicare Trust Fund faster," he stated.

The SMART Act was estimated by the Congressional Budget office to save taxpayers $45 million over 10 years. As part of the procedural effort to move the bill to the House floor, it was included within H.R. 1845, addressing a Medicare demonstration program. The Senate, by Unanimous Consent, considered the bill following House passage.

Dean Pappas, Co-Chair of MARC and Vice President & Assistant General Counsel for Federal Affairs with Allstate Insurance Company, also applauded Senate action today. "The Senate vote today is a huge advance in MSP reform, and will eliminate considerable fraud waste for the government. The bi-partisan leadership shown by Senators Wyden and Portman in passing the SMART Act will be of huge assistance in bringing good government to the MSP repayment process. Medicare recipients, businesses large and small, and the Medicare Trust Fund will all benefit as a result," said Pappas.

The SMART Act enjoys strong, bipartisan support, and has been endorsed by a broad variety of stakeholders, including the U.S. Chamber of Commerce, the National League of Cities, the nation's leading insurers, and retailers and other businesses large and small nationwide. The SMART Act now goes to the President for signature.

About MARC: The Medicare Advocacy Recovery Coalition (MARC) advocates for the improvement of the Medicare Secondary Payer (MSP) program for beneficiaries and affected companies. The Coalition collaborates and develops strategic alliances with Congressional leaders and government agencies to focus on implementation of MSP reporting and on the broader issue of MSP reform. MARC's membership represents virtually every sector of the MSP regulated community including attorneys, brokers, insureds, insurers, insurance and trade associations, self-insureds and third-party administrators. For more information on MARC, please visit www.marccoalition.com.

Latest Unemployment Statistics from the U.S. Department of Labor

Rank	State	Rate		Rank	State	Rate
1	NORTH DAKOTA	3.1		27	MAINE	7.2
2	NEBRASKA	3.7		28	WEST VIRGINIA	7.3
3	SOUTH DAKOTA	4.4		29	ALABAMA	7.5
4	IOWA	4.9		30	TENNESSEE	7.6
5	UTAH	5.1		31	COLORADO	7.7
5	WYOMING	5.1		32	ARIZONA	7.8
7	OKLAHOMA	5.2		32	PENNSYLVANIA	7.8
7	VERMONT	5.2		32	WASHINGTON	7.8
9	HAWAII	5.3		35	INDIANA	8
10	KANSAS	5.4		36	FLORIDA	8.1
11	NEW HAMPSHIRE	5.6		37	KENTUCKY	8.2
11	VIRGINIA	5.6		38	NEW YORK	8.3
13	MINNESOTA	5.7		38	SOUTH CAROLINA	8.3
14	LOUISIANA	5.8		40	DISTRICT OF COLUMBIA	8.4
14	MONTANA	5.8		40	OREGON	8.4
16	NEW MEXICO	6.2		42	GEORGIA	8.5
16	TEXAS	6.2		42	MISSISSIPPI	8.5
18	MARYLAND	6.6		44	ILLINOIS	8.7
18	MASSACHUSETTS	6.6		45	CONNECTICUT	8.8
20	DELAWARE	6.7		46	MICHIGAN	8.9
20	MISSOURI	6.7		47	NORTH CAROLINA	9.1
20	WISCONSIN	6.7		48	NEW JERSEY	9.6
23	ALASKA	6.8		49	CALIFORNIA	9.8
23	IDAHO	6.8		50	RHODE ISLAND	10.4
23	OHIO	6.8		51	NEVADA	10.8
26	ARKANSAS	7				

Governor Fallin Appoints Taylor as New Oklahoma Worker's Comp Judge

Gov. Mary Fallin has appointed a Tulsa judge as the new presiding judge of the Oklahoma Workers' Compensation Court. Fallin announced that Judge L. Brad Taylor will replace Judge Michael Harkey as the presiding judge of the court. Taylor had been appointed to the Workers' Compensation Court earlier this year. A bill approved by the Legislature in 2011 requires the governor to appoint a new presiding judge to a two-year term beginning Jan. 1.

Fallin cited Taylor's experience representing both employers and employees has made him "an effective and impartial member" of the Workers' Compensation Court. Before being appointed to the court, Taylor was an associate at a Tulsa law firm and primarily practiced workers' compensation law.

Leadership Changes at the NAWCJ!

January brings a new year for the National Association of Workers' Compensation Judiciary. It is appropriate to pause and recognize our first two NAWCJ presidents, and then introduce our new Officers and Board.

Our second President, Hon. Ellen Lorenzen, assumes the best job in any organization, past president. The leadership and spirit which she has demonstrated over these last two years as President, and prior to that as a member of the NAWCJ Board has been inspirational. She has presided over significant growth in this organization. Judge Lorenzen served as NAWCJ President from January 2011 through December 2012. Judge Lorenzen has experienced workers' compensation as an adjuster, as staff counsel for Continental Insurance and Travelers, representing injured workers, representing self-insured employers, and as a Certified Civil Mediator.

Our inaugural President, Hon. John Lazzara, served from our incorporation in March 2009 through December 2010. With Judge Lorenzen's passing of the torch, Judge Lazzara is no longer our "immediate past president." Judge Lazzara practiced in Tampa, Florida, for over 23 years. He entered the mediation practice early, and has been a Certified Mediator since 1989. He was appointed to the bench in 1990, and is in the midst of his sixth term as Judge of Compensation Claims in Tallahassee, Florida.

Additionally, we recognize the contributions of other past board members including Hon. Paul Hawkes and Hon. James Wolf, of the Florida First District Court of Appeal. Other Notable past Board members are Hon. Jennifer Hopens (TX), Hon. David Imahara(GA), Hon. Karl Aumann (MD), Hon. Michael Alvey (KY), Hon. David Torrey (PA) and Hon. Melody Belcher (GA).

Our new President is Hon. David Torrey. Judge Torrey presides in Pittsburgh, Pennsylvania. He is a prolific author on the subject of workers' compensation. He writes and edits the Pennsylvania Bar Association Workers' Compensation Newsletter (since 1988), and is the publisher of his treatise, Torrey & Greenberg, Pennsylvania Workers' Compensation: Law & Practice. Judge Torrey is also Adjunct Professor of Law, University of Pittsburgh School of Law, since 1996.

Our President-elect is the Hon. Michael Alvey, Chair of the Kentucky Workers' Compensation Board. Chair Alvey practiced primarily workers' compensation defense since he was admitted to the Kentucky Bar in 1988. In 2009, he was appointed to serve as Chairman of the Kentucky Workers' Compensation Board. Judge Alvey is also retired from the Kentucky Army National Guard.

Our Secretary is the Hon. Jennifer Hopens, hearing officer with the State of Texas. Judge Hopens has been with the Texas Division of Workers' Compensation since 2007. She travels a circuit through Austin, Beaumont, Bryan/College Station, Corpus Christi, Dallas, Fort Worth, Lufkin, Missouri City, Houston East, Houston West, San Antonio, Uvalde, Victoria, and El Paso Field Offices of TDI-DWC. She has served on the NAWCJ Board since 2010.

Our Treasurer is Judge Robert Cohen, Florida. Judge Cohen is the Chief Administrative Law Judge in Florida.

Our 2013 Board of Directors is comprised of the officers noted above, the immediate past president, and the following: R. Karl Aumann, is the Chair of the Maryland Workers' Compensation Commission. David Imahara is an administrative law judge with the Georgia State Board of Workers' Compensation. Sheral Keller is the Chief Judge of the Louisiana Workforce Commission. John J. Lazzara, is the Judge of Compensation Claims in Tallahassee, Florida, and a past President of the NAWCJ. Jim Szablewicz is the Chief Deputy Commissioner of the Virginia Workers' Compensation Commission and has been in that position since April 2004. T. Kent Wetherell, II, is a judge on the Florida First District Court of Appeal.

Future editions of the Lex will feature biographies and photographs of the officers and Board.

My short-term memory is not as sharp as it used to be.
Also, my short-term memory's not as sharp as it used to be.

In just two days from now,
Tomorrow will be yesterday.

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.

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THE NATIONAL ASSOCIATION OF WORKERS' COMPENSATION JUDICIARY
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THE NATIONAL ASSOCIATION OF WORKERS' COMPENSATION JUDICIARY

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