National Trends and Emerging Issues in Workers’ Compensation

Co-sponsored by WILG
The College of Workers’ Compensation
The National Conference of the Administrative Law Judiciary

March 4–6, 2010
Pointe Hilton at Tapatio Cliffs Resort
Phoenix, AZ

Uniting Plaintiff,
Defense, Insurance,
And Corporate
Counsel to Advance
The Civil Justice
System
Dear Friends and Colleagues:

Don’t miss this National Program on National Trends and Emerging Issues affecting all State Workers’ Compensation Laws. Please be sure to set aside March 4, 5, & 6, 2010 for this event. The program will take place at the newly renovated Pointe Hilton Tapatio Cliffs Resort in Phoenix, Arizona. Having recently received the distinctive AAA Four-Diamond Award, guests can expect an experience made special through quality accommodations and superior service. The seminar will begin Thursday afternoon to allow for morning travel. Friday afternoon will be free and can be used for the resort’s expansive water feature; unique dining experiences; championship golf; relaxing spa and salon services; and an array of shopping options.

During this three day program the topics to be discussed involve currently emerging legal and medical issues, many of which are of national importance, not only to practicing lawyers in the field of workers’ compensation (and related areas of the law), but to virtually all state legislative bodies, including the United States Congress.

We are very excited about this program since we have assembled some of the Nation’s best legal practitioners in the field of workers’ compensation. The quality and notoriety of the speakers who have agreed to present at this event are truly second to none.

If you practice workers’ compensation law, employment law, represent injured employees, defend insurance companies, self-insured employers, governmental agencies, adjust claims, or practice medicine you cannot afford to miss this program.

Topics to be covered include;
- Erosion of the Exclusive Remedy Doctrine. This panel features one of the defense lawyers in the Brown v. Cassens Transport RICO case
- Ethical Issues
- Mediation Strategies and Negotiating Tactics
- Examination of an Orthopedic Surgeon
- ADA/FMLA/WC
- Workers’ Compensation Fraud
- Tri-Partied Relationships
- The Affirmative Defense of Intoxication
- Discovery Issues
- New Definitions for Physical Injury

In addition to the excellent substance of this program, the annual College of Workers’ Compensation Lawyers Fellows’ Induction Dinner will be held Saturday night. This is a ticketed event and by invitation only.

This program is a once in a lifetime event which will be attended by workers’ compensation attorneys for both plaintiffs and defendants, judges, and many others whose areas of practice are impacted by workers’ compensation claims. The atmosphere is always collegial; the discussions intriguing and often spirited. It’s bound to be a great event, attended by great people, in a great venue. So mark your calendars for March 4, 5 & 6, 2010. You won’t be disappointed!

As Judge E. R. Mills stated in Singletary v. Mangham Construction, 418 So.2d 1138 (Fla. 1st DCA, 1982), “Workers’ compensation is a very important field of the law, if not the most important. It touches more lives than any other field of the law. It involves the payments of huge sums of money. The welfare of human beings, the success of business, and the pocketbooks of consumers are affected daily by it.”

Mike Fish, Chair
ABA TIPS Workers’ Compensation & Employers’ Liability Committee
John R. Tarpley  
TIPS Section Chair  
Lewis-King  
Nashville, TN

Nora L. Macey  
LEL Section Chair  
Macey Swanson and Allman  
Indianapolis, IN

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Program Co-Chair  
Fish Nelson, P.C.  
Birmingham, AL

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Program Co-Chair  
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Cedar Rapids, IA

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Bridgestone Retail Operations  
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Scheldrup Blades  
Omaha, NE

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Conant Mediation Center  
Fort Myers, FL and Prescott, AZ

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Gilliland & Hayes PA  
Wichita, KS

Michael Cunningham  
Senior Vice President  
Claims Legal  
Zenith Insurance Company  
Woodland Hills, CA

Dr. James Davidson  
Canyon Orthopaedic Surgeons  
Phoenix, AZ

Thomas Domer  
Domer Law  
Milwaukee, WI

Douglas Feldman  
Lindner & Marsack, S.C.  
Milwaukee, WI

John H. Geaney  
Capehart, Scatchard  
Mt. Laurel, NJ

Rob Grace  
Stiles, Taylor & Grace, P.A.  
Tampa, FL

Allison Hanson  
The ALARIS Group, Inc.  
Cedarburg, WI

Jodi Harris  
Regional Manager  
Blue Eagle Investigations  
Overland Park, KS

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Executive Vice President  
VIAM Mfg. Inc.  
Manchester, TN

Danial J. Hébert  
Charfoos Reiter Peterson Jones Dorland & Hébert, P.C.  
Farmington Hills, MI

Robert G. Heywood  
Law Offices of Robert G. Heywood  
Oakland, CA

Honorable Valencia L. Jarvis  
Workers’ Compensation Board of Magistrates  
Detroit, MI

Leonard T. Jernigan, Jr.  
The Jernigan Law Firm  
Raleigh, NC

Doug Jones  
Jones, Dietz & Swisher  
Florence, KY

Deborah G. Kohl  
Law Offices of Deborah G. Kohl  
Fall River, MA

Janet E. Lanyon  
Dean & Fulkerson  
Troy, MI

Dorothy Leggett  
Staff Counsel at State Compensation Insurance Fund  
Los Angeles, CA

Anthony J. MacAuley  
Hanna, Brophy, MacLean, McAfee & Jensen, LLP  
Los Angeles, CA

Robert Meyers  
Kiesewetter, Wise, Kaplan, Prather, PLC  
Memphis, TN

Kara Miller  
Franklin & Prokopik, P.C.  
Easton, MD

Lindsey E. Mills  
Scheldrup Blades  
Omaha, NE

Leonard Y. Nason  
The Law Office of Leonard Y. Nason, P.C.  
Bedford, MA

Mary Jo O’Neill  
EEOC Regional Attorney  
Phoenix, AZ

Alan Pierce  
Alan S. Pierce & Associates  
Salem, MA

Greg Presmanes  
Bovis, Kyle & Burch, LLC  
Atlanta, GA

James A. Reiter  
Charfoos Reiter Peterson Jones Dorland & Hébert, P.C.  
Farmington Hills, MI

William L. S. Ross  
Calfee, Halter & Griswold LLP  
Cleveland, OH

Matthew B. Schiff  
Schiff & Hulbert  
Chicago, IL

The Honorable Todd B. Seelig  
Commonwealth of Pennsylvania Department of Labor and Industry  
Philadelphia, PA

Karen Smithson-Hughes  
Nestle  
Glendale, CA

John Sullivan, Jr., Ph.D.  
University of Arizona Health Science Center  
Phoenix, AZ

Chester Tennyson, Jr.  
The Tennyson Law Offices  
Brockton, MA

Honorable David B. Torrey  
Pennsylvania Bureau of Workers’ Compensation  
Pittsburg, PA

Honorable Harriet Turney  
Chief Administrative Law Judge  
Industrial Commission of Arizona  
Phoenix, AZ

Charlene Usher  
Usher Law Group P.C.  
Pomona, CA

Mark Zientz  
Law Offices of Mark L. Zientz  
Miami, FL
THURSDAY, MARCH 4, 2010

11:00 a.m.–5:15 p.m. REGISTRATION

1:00 p.m.–1:10 p.m. INTRODUCTION/WELCOME REMARKS
Chris J. Scheldrup
Program Co-Chair
Scheldrup Blades
Cedar Rapids, IA

1:10 p.m.–1:25 p.m. SECTION UPDATES FROM LABOR AND EMPLOYMENT LAW (LEL) & TORT TRIAL & INSURANCE PRACTICE SECTION (TIPS)
Nora L. Macey
LEL Section Chair
Macey Swanson and Allman
Indianapolis, IN
John R. Tarpley
TIPS Section Chair
Lewis-King
Nashville, TN

1:30 p.m.–2:45 p.m. EROSION OF THE EXCLUSIVE REMEDY DOCTRINE
Whether it is through the use of RICO, Bad Faith, or claims of outrageous conduct, the Exclusive Remedy Doctrine continues to be eroded. This panel will address several fact patterns from the perspective of 4 different states. The panel also features one of the defense lawyers in the *Brown v. Cassens Transport* RICO case.
Moderator:
James A. Reiter
Charfoos Reiter Peterson Jones Dorland & Hébert, P.C.
Farmington Hills, MI

Speakers:
Janet E. Lanyon
Dean & Fulkerson
Troy, MI
Chester Tennyson, Jr.
The Tennyson Law Offices
Rockland, MA
Mark Zientz
Law Offices of Mark L. Zientz
Miami, FL
William L. S. Ross
Calfee, Halter & Griswold LLP
Cleveland, OH

2:45 p.m.–3:00 p.m. BREAK

3:00 p.m.–4:10 p.m. ETHICAL ISSUES IN WORKERS’ COMPENSATION PRACTICE
This interactive session will include a discussion of current ethical issues faced by workers’ compensation practitioners. The panel will use hypothetical examples to illustrate some of the difficult ethical dilemmas that arise in the practice.

Moderator:
Dorothy Leggett
Staff Counsel at State Compensation Insurance Fund
Los Angeles, CA

Speakers:
Thomas Domer
Domer Law
Milwaukee, WI
Rob Grace
Stiles, Taylor & Grace, P.A.
Tampa, FL
The Honorable Todd Seelig
Judge at Pennsylvania Department of Labor & Industry
Philadelphia, PA
4:15 p.m.–5:15 p.m.  MEDIATION STRATEGIES AND NEGOTIATING TACTICS
Since most claims resolve by agreement, the art of negotiation plays a huge role in the successful outcome of a case. Learn from some of the best in the business as they discuss good and bad negotiation habits and provide ideas for a successful outcome at mediation.

Moderator:
Anthony J. MacAuley
Hanna, Brophy, MacLean, McAleer & Jensen, LLP
Los Angeles, CA

Speakers:
Jonathan D. Conant
Conant Mediation Center
Fort Myers, FL and Prescott, AZ

Robert G. Heywood
Law Offices of Robert G. Heywood
Oakland, CA

6:00 p.m.–7:30 p.m.  NETWORKING RECEPTION

FRIDAY, MARCH 5, 2010
7:00 a.m.–12:00 p.m.  REGISTRATION
7:15 a.m.–8:15 a.m.  CONTINENTAL BREAKFAST
8:15 a.m.–9:45 a.m.  EXAMINATION OF AN ORTHOPEDIC SURGEON
In this presentation, a local surgeon will describe a test, explain his report, and then submit to a direct and cross examination. This part of the program should prove to be a crowd favorite as a physician and two skilled advocates teach and entertain at the same time.

Moderator:
Kara Miller
Franklin & Prokopik, P.C.
Easton, MD

Speakers:
Dr. James Davidson
Canyon Orthopaedic Surgeons
Phoenix, AZ

Alan S. Pierce
Alan S. Pierce & Associates
Salem, MA

Danial J. Hébert
Charfoos Reiter Peterson Jones Dorland & Hébert, P.C.
Farmington Hills, MI

Honorable Valencia L. Jarvis
Workers’ Compensation Board of Magistrates
Detroit, MI

9:45 a.m.–10:30 a.m.  ADA/FMLA/WC. HOW HAS THE BERMUDA TRIANGLE BEEN AFFECTED BY THE ADAAA AND THE OVER 750 PAGES OF REVISED FMLA REGULATIONS?
This panel of experts will explore the relationship between workers’ compensation laws, the recently passed ADA Amendatory Act, and the newly released 750 pages of FMLA revised regulations. It is impossible to be an effective workers’ compensation practitioner without at least a basic understanding of this Bermuda Triangle of laws.

Moderator:
Robert Meyers
Kiesewetter, Wise, Kaplan, Prather, PLC
Memphis, TN

Speakers:
Raymond R. Aranza
Scheldrup Blades
Omaha, NE

John H. Geaney
Capehart, Scatchard
Mt. Laurel, NJ
Keith R. Hayes  
Executive Vice President  
VIAM Mfg. Inc.  
Manchester, TN

Mary Jo O’Neill  
EEOC Regional Attorney  
Phoenix, AZ

10:30 a.m.–10:45 a.m.  
BREAK

10:45 a.m.–12:00 p.m.  
FRAUD—EVERYBODY IS DOING IT. WHAT IS THE COST? HOW DO YOU SPOT IT?  

In this panel discussion, you will learn about the many different types of workers’ compensation fraud, the involved cost, how to spot it, and how it is punished.  

**Moderator:**  
Charlene Usher  
Usher Law Group P.C.  
Pomona, CA

**Speakers:**  
Michael Cunningham  
Senior Vice President, Claims Legal  
Zenith Insurance Company  
Woodland Hills, CA

Leonard T. Jernigan, Jr.  
The Jernigan Law Firm  
Raleigh, NC

Karen Smithson-Hughes  
Nestle  
Glendale, CA

Jodi Harris  
Regional Manager  
Blue Eagle Investigations  
Overland Park, KS

6:00 p.m.–7:30 p.m.  
NETWORKING RECEPTION

**SATURDAY, MARCH 6, 2010**

7:30 a.m.–8:00 a.m.  
REGISTRATION

7:30 a.m.–8:20 a.m.  
CONTINENTAL BREAKFAST

8:30 a.m.–9:30 a.m.  
THE FOUR SIDES OF THE TRI-PARTIED RELATIONSHIP  
The defense attorney must be careful when navigating the ethical issues involved with representing the employer and getting paid by the insurer. Listen and learn as these panel members explain what pitfalls to avoid and how the plaintiff and plaintiff’s attorney are affected.  

**Moderator:**  
Leonard Y. Nason  
Law Offices of Leonard Y. Nason, PC  
Bedford, MA

**Speakers:**  
Ron Anderson  
Loss Prevention Manager  
Bridgestone Retail Operations  
Woodridge, IL

Allison Hanson  
The ALARIS Group, Inc.  
Cedarburg, WI

Matthew B. Schiff  
Schiff & Hulbert  
Chicago, IL

Deborah G. Kohl  
Law Offices of Deborah G. Kohl  
Fall River, MA
9:30 a.m.–10:15 a.m.  THE AFFIRMATIVE DEFENSE OF INTOXICATION. HOW DO DIFFERENT STATES HANDLE THE DEFENSE?
This panel discussion will provide a look into the defense of intoxication across various jurisdictions, including trends in workers’ compensation cases, from a practitioner’s and toxicologist’s perspective.

Moderator:
Lindsey E. Mills
Scheldrup Blades
Omaha, NE

Speakers:
John Sullivan, Jr., Ph.D.
University of Arizona Health Science Center
Phoenix, AZ
Greg Presmanes
Bovis, Kyle & Burch, LLC
Atlanta, GA
Kendall R. Cunningham
Gilliland & Hayes PA
Wichita, KS

10:15 a.m.–10:30 a.m.  BREAK

10:30 a.m.–11:30 a.m.  TO DISCOVER OR NOT DISCOVER? WHO BENEFITS THE MOST?
A panel of experts will discuss how different jurisdictions handle discovery and how the availability of discovery can have both positive and negative consequences.

Moderator:
Doug Jones
Jones, Dietz & Swisher
Florence, KY

Speakers:
Honorable Harriet Turney
Chief Administrative Law Judge
Industrial Commission of Arizona
Phoenix, AZ
Douglas Feldman
Lindner & Marsack, S.C.
Milwaukee, WI

11:30 a.m.–12:30 p.m.  WHAT IS A PHYSICAL INJURY?
Can a mere change in the size of the hypothalamus qualify as a physical injury? What about hormonal, electrical, chemical, or even molecular changes? Should Post Traumatic Stress Disorder be considered a physical injury where such changes can be demonstrated? What about Post Traumatic Emhitterment Disorder?

Moderator:
Michael Fish
Fish Nelson, LLC
Birmingham, AL

Speakers:
Leslie M. Altman
Littler Mendelson, PC
Minneapolis, MN
Honorable David B. Torrey
Pennsylvania Bureau of Workers’ Compensation
Pittsburg, PA

12:30 p.m.–1:30 p.m.  GROUP PLANNING MEETING FOR MIDWINTER 2011

7:00 p.m.  THE COLLEGE OF WORKERS’ COMPENSATION LAWYERS INDUCTION CEREMONY AND DINNER (THIS IS A TICKETED EVENT—BY INVITATION ONLY)
REGISTRATION DEADLINE: FEBRUARY 12, 2010

ADVANCE REGISTRATION
Visit the TIPS National Trends and Emerging Issues in Workers’ Compensation website to register at www.abanet.org/tips, or complete the registration form included in this brochure.

The registration fee includes admission to the program, course materials, continental breakfast, breaks, and reception. If you wish to have your name appear on the pre-registration list distributed at the program, ALL registration forms must be received no later than the registration deadline of February 12, 2010. Registration reservations will be confirmed in writing within 10 business days.

ON-SITE REGISTRATION
On-site registrations will be accepted if space is available. Call Donald Quarles at 312/988-5708 or email quarlesd@staff.abanet.org, 72 hours prior to the program to confirm that space is available. On-site registrants must pay the program fee by credit card or check made payable to the American Bar Association. A $25 fee will be charged to individuals registering on-site.

CANCELLATION POLICY
No registration fee refunds will be granted for cancellations received after February 12, 2010. In order to receive a refund (less a $100 administrative fee, the ABA must receive written cancellation by February 12, 2010. Registrants who are unable to attend may send a substitute or will receive course materials in lieu of a refund.

HOTEL INFORMATION
For Reservations call 800/876-4683 OR 602/866-7500
A limited number of rooms have been blocked for program registrants of the ABA TIPS Workers’ Compensation National Program at the Pointe Hilton at Tapatio Cliffs Resort, 11111 North 7th Street, Phoenix, AZ 85020 for a hotel room rate of $189.00 single/double plus 12.27% tax. For reservations, please call the hotel directly at 800/876-4683 OR 602/866-7500. The room block will be held until exhausted or until Wednesday, February 10, 2010 at 5:00 p.m. (CST).

AIRLINE INFORMATION
Discounted airfares are available from American and United Airlines. To book online, go to www.abanet.org/travel > click under the Orbitz For Business logo at the top of the page > click on the appropriate link in the Self Paid Travel box. For assistance with online or offline reservations, call toll free 1-877-222-4185.

SCHOLARSHIPS AVAILABLE!
ATTENTION TIPS MEMBERS: Scholarships are available for all Section activities, courtesy of the TIPS Scholarship Fund. The Fund, established with the International Risk Management Institute (“IRMI”) and supported by subscriptions to the IRMI CGL reporter, is intended to increase membership involvement in TIPS’ activities among minorities, solo and small firm practitioners, government attorneys, women, and young lawyers by providing financial support to those who would otherwise be unable to participate. To request an application or receive additional information, visit www.abanet.org/tips/scholarship.html or contact Linda Wiley at 312-988-5673.
1. REGISTRANT: (Please print or type one form per person; photocopy this form for additional registrants)

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NAME AS YOU WISH IT TO APPEAR ON YOUR BADGE

FIRM/COMPANY

WHAT STATE(S) ARE YOU LICENSED IN?

ADDRESS

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(AREA CODE) BUSINESS TELEPHONE

E-MAIL ADDRESS

SPOUSE OR GUEST (PRINT AS YOU WISH NAMES TO APPEAR ON NAME BADGE)

Are you attending your first Workers' Compensation National Program?  ____Yes  ____No

3. TOTAL PAYMENT

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PAYMENT INFORMATION

_____Check (made payable to the ABA)  _____American Express  _____MasterCard  _____VISA

Credit Card Number_________________________ Expiration Date ____________

Signature______________________________________________________________

THREE WAYS TO REGISTER

1. ONLINE: www.abanet.org/tips
2. MAIL:  Workers' Compensation National Program
          American Bar Association
          321 North Clark Street
          18th Floor
          Chicago, IL  60654
3. FAX:  312/988-6230

REGISTRATION DEADLINE: FEBRUARY 12, 2010  HOTEL DEADLINE: FEBRUARY 10, 2010