



2015 CWCDA WINTER CONFERENCE AGENDA

2015 CWCDA ANNUAL WINTER CONFERENCE
DISNEY'S GRAND CALIFORNIAN HOTEL AND SPA
ANAHEIM, CA
NOVEMBER 5-8, 2015

FINAL AGENDA

EVENT LINKS

[UPCOMING EVENTS](#)
[PAST EVENTS](#)

THURSDAY, NOVEMBER 5, 2015

NOON **CWCDA BOARD MEETING**
Location: Will be emailed to Board Members
Note: The Board Meeting is by invitation only

2:00-5:00 PM **REGISTRATION**
Location: Sequoia Foyer

3:30-5:00 PM **WHEN AND HOW TO UTILIZE THE ALMARAZ GUZMAN LINE OF CASES, AND WHAT CONSTITUTES A "COMPLEX OR EXTRAORDINARY" INJURY**
Location: General Session Room
MCLE: 1 MCLE Unit
Presented by: Dr. Bruce Fishman
Session Handout: [Download Handouts](#)

Session Description: Learn when it is appropriate to utilize the Almaraz Guzman line of cases when the AMA Guides to the Evaluation of Permanent Impairment, 5th Ed. whole person impairment rating determination does not accurately reflect the complexity of the orthopedic injuries. Tables, figures, charts, and commentary from the guides will be used to help attorneys understand how an orthopedist should interpret the guides, and what criterion can be used to determine "complex and extraordinary cases" appropriate for Almaraz Guzman rating that is legally correct. This talk will assist attorneys with preparing for depositions.

FRIDAY, NOVEMBER 6, 2015

7:00 AM **REGISTRATION**
Location: Sequoia Foyer

7:00-8:00 AM **CONTINENTAL BREAKFAST**
Location: Exhibit Hall

8:00-8:15 AM **PRESIDENT'S WELCOME**
Location: General Session Room<
MCLE: No handouts or MCLE credit for this session

8:15-9:30 AM **APPLICANT ATTORNEY PERSPECTIVE ON REBUTTING THE PDRS POST 1/1/13**
Location: General Session Room
MCLE: 1.25 hours MCLE credit
Presented by: Dirk Stemerman & Joanna Sacavitch
Session Handout: [Download Handouts](#)

Session Description: This session will attempt to dispel myths that vocational experts are no longer permitted to address whether the PDRS has been rebutted in cases involving injuries after January 1, 2013. SB863 eliminated explicit DFEC consideration from Labor Code 4660.1 and replaced it with a 1.4 modifier but through examination of case law and the principal that the PDRS is mere prima facie evidence, this panel will discuss how the PDRS is therefore still rebuttable (and rightfully so) in furtherance of obtaining the most accurate disability rating. Cases to be discussed will include LeBoeuf; Ogilvie; Almaraz/Guzman; Livitsanos; Montana; Brodie and Dahl.

9:30-10:00 AM EXHIBITOR NETWORKING BREAK**Location:** Exhibit Hall**10:00-11:00 AM AVOIDING CATASTROPHE: HOW TO CHALLENGE AND DEFEND AGAINST NEUROPSYCHOLOGICAL AND PSYCHOLOGICAL CLAIMS OF DISABILITY THROUGH UNDERSTANDING THE NATURE OF EVIDENCE IN THESE FIELDS – WHAT AN ATTORNEY NEEDS TO KNOW****Location:** General Session Room**MCLE:** 1 MCLE credit**Presented by:** Dr. Mark Levine**Session Handout:** [Download Handouts](#)

Session Description: Medical legal reports in the fields of neuropsychology and psychology, rating based upon both Chapters 13 and 14 of the AMA Guides, often contain seriously flawed assertions and unsubstantiated evidence, leading to unfounded permanent disability ratings. This lecture explains how to identify fallacies, and to critically analyze neuropsychological and psychological reports and medical records, to enable attorneys to identify unfounded conclusions and ratings. This presentation provides attorneys with powerful tools to challenge reports and to depose doctors, and as well provides critical information regarding how to select responsible medical legal experts. Topics covered include: 1.) Conditions that may appear to be serious and labor disabling, that are actually minor and easily treatable conditions. 2.) Pre-existing conditions that are obfuscated and not apportioned, as they should be, to non – industrial factors. 3.) Short term and affordable treatment and rehabilitation resources that can restore function and avoid long term or permanent disability. 4.) Subtleties of selection of appropriate vs. inappropriate specialists and experts and why this is crucial to avoiding invalid and costly medical legal ratings and conclusions.

11:00-12:30 PM CASE LAW UPDATE**Location:** General Session Room**MCLE:** 1.5 MCLE credit**Presented by:** Yvonne Lang & Meline Sirounian**Session Handout:** [Download Handouts](#)

Session Description: You don't want to miss the Case Law Update. Meline Sirounian and Yvonne Lang will impart their thoughts on 17 of the HOTTEST cases fresh off the press from May 2015 to the present including the Dahl case with a Roadmap of what really does rebut the 2005 PDRS and a discussion of what the up to the minute decisions are on IMR appeals and where we think the case law is headed.

12:30-1:30 PM LUNCH**Location:** Brisa Courtyard**1:30-2:30 PM DAHL AND SB863 WHERE ARE WE?****Location:** General Session Room**MCLE:** 1 MCLE credit**Presented by:** Jessica Jorgenson and Gregory Ginsburg**Session Handout:** [Download Handouts](#)

Session Description: Taking a look at the changes SB863 brought us, and where we are in terms of two of the changes. First rating without the DFEC, is it rebuttable using Ogilvie? and Second adding Psych, where is it appropriate, if at all?

2:30-3:45 PM VIEW FROM THE 9TH FLOOR**Location:** General Session Room**MCLE:** 1.25 MCLE credit**Presented by:** WCAB Chairwoman Ronnie Caplene, Martin Guzman and Roberto Gonzalez**Session Handout:** There will be no Session Handouts for this session

Session Description: View from the 9th Floor" will provide your semi-annual update into the happenings of the Workers' Compensation Appeals Board through the eyes of Chairwoman Ronnie Caplene. Moderated by Martin Guzman and Roberto Gonzalez, Chairwoman Caplene will provide an overview as to the recent trends and decisions issued by the WCAB.

3:45-4:15 PM EXHIBITOR NETWORKING BREAK**Location:** Exhibit Hall**4:15-5:30 PM DECREASING PD RATINGS USING CASE LAW, THE AMA GUIDES AND THE PHYSICIAN DEPOSITION****Location:** General Session Room**MCLE:** 1.25 MCLE credit**Presented by:** Kenneth Kingdon**Session Handout:** [Download Handouts](#)

Session Description: This session will address what issues should and should not be raised at a doctor deposition, correcting misinformation about apportionment and Almaraz/Guzman, and overlooked significant requirements in the AME Guides.

SATURDAY, NOVEMBER 7, 2015

- 7:00 AM** **REGISTRATION**
Location: Sequoia Foyer
- 7:00-8:00 AM** **CONTINENTAL BREAKFAST**
Location: Exhibit Hall
- 8:00-9:00 AM** **NON-DISCRIMINATION AND THE 132A: A SURVEY OF CASE LAW AND PRACTICE TIPS TO THE DISCRIMINATING ATTORNEY**
Location: General Session Room
MCLE: 1 MCLE credit
Presented by: Michael G. McDonald
Session Handout: [Download Handouts](#)
- Session Description:** This program will feature an examination of case law applying Labor Code §132a, practice tips and related issues such as the Interactive Process. Practitioners will have an opportunity to review and discuss their own experiences during the presentation.
- 9:00-10:00 AM** **VOCATIONAL EXPERT REPORTS: WHAT CONSTITUTES SUBSTANTIAL EVIDENCE AND HOW TO FORTIFY YOUR REPORT TO REBUT APPLICANT'S EXPERT**
Location: General Session Room
MCLE: 1 MCLE credit
Presented by: Ani Baghdassarian & Robert Liebman
Session Handout: [Download Handouts](#)
- Session Description:** The speakers will provide a brief background on Ogilvie and LaBoeuf, as well as commentary on the recent Dahl Court of Appeal decision. This topic will focus on: substantial evidence requirements of vocational expert reports, including the interview process, transferable skills analysis, vocational feasibility, legal reporting requirements and the applicable case law to fortify a defendant's vocational expert report and to recognize potential deficiencies of applicant's expert reporting. The speakers will also discuss the effect of apportionment and the recent wave of case law. Cross-examination of an expert will also be discussed. Sample vocational expert reports will be provided to highlight strengths and weaknesses.
- 10:00-10:30 AM** **EXHIBITOR NETWORKING BREAK**
Location: Exhibit Hall
- 10:30-12:00 PM** **DEALING WITH "RUNAWAY JURISTS"**
Location: General Session Room
MCLE: 1.5 MCLE credit
Presented by: Scott Davenport
Session Handout: Scott will have handouts onsite and has asked that his PowerPoint not be posted before the session.
- Session Description:** We have all heard of "Runaway Juries" in the civil context. But what happens when you have a "Runaway Jurist" in the Comp setting? This session will discuss the Three R's for challenging a WCJ's decision: Removals, Reconsiderations and Review at the Court of Appeal and Supreme Court.

SUNDAY, NOVEMBER 8, 2015

- 8:00-9:00 AM** **CONTINENTAL BREAKFAST**
Location: Exhibit Hall
- 9:00-10:00 AM** **SUBSTANCE ABUSE AND THE LEGAL PROFESSION: PREVENTION, DETECTION AND TREATMENT"**
Location: General Session Room
MCLE: 1 MCLE credit, Substance Abuse
Presented by: David Mann
Session Handout: [Download Handouts](#)
- Session Description:** In this presentation, Mr. Mann provides a review of the brain chemistry of addiction and alcoholism, as well as a discussion of the behavioral and health consequences of the disease. Insights are offered into the personality traits of attorneys and the qualities of the legal profession that combine to make lawyers significantly more susceptible to addiction, and more difficult to treat, than the general population. The presentation includes a case study of an addict attorney, as well as a self-diagnosis exercise for attorneys to utilize if they are concerned that they may have a problem which needs to be addressed. Concluding remarks are directed towards both systemic and individual solutions to the problem, with references to specific strategies and resources available to attorneys. Mr. Mann approaches this very serious topic in a manner that incorporates humor and irony and invites attorneys to engage in a bit of sometimes much-needed self reflection.
- 10:00-10:15 AM** **EXHIBITOR NETWORKING BREAK**
Location: Exhibit Hall
- 10:15-11:15 AM** **"WALK THE WALK": ELIMINATION OF BIAS PRESENTATION**
Location: General Session Room
MCLE: 1 MCLE credit, Elimination of Bias
Presented by: Camille Townsend

Session Handout: [Download Handouts](#)

Session Description: Excerpt from "Bar Leader Magazine" September, 2015

By Marilyn Cavicchia, American Bar Association, Bar Services Department

A seasoned African American lawyer, widely thought to be the logical choice for an important leadership position, is passed up in favor of a less qualified white lawyer—and is then expected to mentor him. A baby boomer-aged female managing partner confides that throughout her career, she’s known that any small lapse in judgment, of the kind that would be no problem for a male lawyer, would spell disaster for her. After a hiring interview, a partner refuses to discuss the qualifications of a candidate who is transgender, instead cracking jokes about whether she is actually a man. All of these scenarios and more take place at a law firm that, on paper, is deeply committed to diversity. All are fictionalized—appearing in a new film called "Walk the Walk"—but were drawn from numerous interviews with a number of lawyers working in house, in the public sector and public interest settings, and in large and small firms. "Walk the Walk" is a follow-up, 20 years later, to a series of films on diversity in the profession that were produced by filmmaker Abby Ginzberg and writer and appellate attorney AJ Kutchins. In order to assess how much progress had been made since then, the two—with the encouragement and support of the State Bar of California—conducted interviews that were then used as material for fictionalized scenes and dialogue. After viewing the film, the audience will have the opportunity to dialogue about examples of bias portrayed in the video.

11:15-12:15 PM LEGAL ETHICS AND QUANDARIES FOR TODAY’S WORKERS’ COMPENSATION DEFENSE ATTORNEYS

Location: General Session Room

MCLE: 1 MCLE credit, Ethics

Presented by: Matthew Kearn & Tamara Darweesh

Session Handout: [Download Handouts](#)

Session Description: This presentation will explore the application of the California Rules of Professional Conduct and the ABA Model rules to workers' compensation defense practice. Ethical issues to be covered include: who is your client (the employer or carrier), duties to clients, adverse interests between the carrier and employer, client entertaining, termination of representation, and communications on social media.

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QUICK LINKS

EVENTS
ASSOCIATION MANAGEMENT
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CONTACT OUR EVENT MANAGER, [STAGEONE EVENTS](#)

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