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2016 CWCDA WINTER CONFERENCE



2016 WINTER CONFERENCE
THE ISLAND HOTEL NEWPORT BEACH
NEWPORT BEACH, CA
NOVEMBER 17-20, 2016

WORKING AGENDA

Session titles, times, presenters, descriptions and MCLE are subject to change.

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THURSDAY, NOVEMBER 17, 2016

2:00-5:00 PM **REGISTRATION**
Location: Ballroom Pre-Function Space

3:30 - 5:00 PM **LEGISLATIVE AND REGULATION UPDATE**
Location: General Session Room
MCLE: 1.5 hours of MCLE credit
Presented by: [Scott Davenport](#)
Session Handout: [Download Session 1 Handouts](#)

Session Description: This session will provide practitioners an update on recent and pending legislation, including a discussion on new and pending regulations in Workers' Compensation.

Key Learning Objectives

1. The practitioner will learn about the pending regulation updates and how they will affect daily practice and what to look out for related to day to day claims handling that may need to be imparted to our clients.
2. The practitioners will learn about pending legislation and how it is likely going to affect the practice and how that legislation may affect pending and potential new regulatory changes.
3. Finally, the practitioner will learn how to find the pending regulations and pending legislation for comment by both their firms and client and how to present this information to their clients so that they too may comment on same.

FRIDAY, NOVEMBER 18, 2016

7:30 AM **REGISTRATION**
Location: Ballroom Pre-Function Space

7:30-8:30 AM **CONTINENTAL BREAKFAST**
Location: Exhibit Hall

- 8:30-9:30 AM** **NAVIGATING WORKERS' COMPENSATION "SUBROGATION"**
Location: General Session Room
MCLE: 1 hour of MCLE credit
Presented by: [John Parente](#), Moderator, [Vince Scotto](#) & [David Hughes](#)
Session Handout: [Download Session 2 Handouts](#)
- Session Description:** This session will provide practitioners with an understanding of the critical principles of litigating claims pursuant to Labor Code section 3852, et seq., best practices in drafting and negotiating waivers, credit and other pitfalls.
- Key Learning Objectives**
1. This session will aid the practitioners in determining when there is a potential 3rd party to subrogate against (factual identification) and when to file a lien vs. when to file a Complaint & Intervention (legal tactics for recovery which may limit expense) by asking the right questions early on in the case related to policy limits etc.
 2. The attendees will learn not only about credit issues and how to take them but about setoffs and recent Court of Appeals case law affecting subrogation rights.
 3. Finally, the practitioner will learn how to participate in 3rd party Mediation and draft documents including Third Party Compromise & Release forms to aid in Global Settlement of both the Workers' Compensation Action and the Third Party Action.
- 9:30-10:00 AM** **EXHIBITOR NETWORKING BREAK**
Location: Exhibit Hall
- 10:00-11:00 AM** **PERMANENT TOTAL DISABILITY: CALCULATION, RESERVING AND SETTLEMENT**
Location: General Session Room
MCLE: 1 hour of MCLE credit
Presented by: [Robert Rassp](#) and [Yvonne Lang](#)
Session Handout: [Download Session 3 Handouts](#)
- Session Description:** This session will discuss issues involving permanent and total disability, with tips and practical advice on calculations, reserves, COLA, benefits payments and issues relating to these claims.
- Key Learning Objectives**
1. This session will focus on seeing the 100% case before it gets there, in order to advise clients on issues such as reserving, MSA's and potential structured settlements.
 2. The session will aid the practitioner in finding resources that can aid in calculations related to the PTD case – whether that be the DEU or an outside rater and how to determine "present value."
 3. Finally, the practitioner will learn ways to settle the 100% case and be given tips on drafting those very precise settlement documents.
- 11:00-12:00 PM** **USE OF A PETITION INSTEAD OF A LIEN TO LITIGATE MEDICAL-LEGAL EXPENSES, CCR 10451.1.**
Location: General Session Room
MCLE: 1 hour of MCLE credit
Presented by: [Judge Cliff Levy](#)
Session Handout: [Download Session 4 Handouts](#)
- Session Description:** For medical-legal expenses incurred on or after 1/1/13, medical-legal providers are no longer required to file a lien claim. If the only dispute is how much should be paid for the medical-legal expense in accordance with a fee schedule, the issue is resolved using IBR. Either party may file an appeal from the IBR decision at the WCAB, and file a Petition for Reconsideration thereafter, all without a lien claim needing to be filed. HOWEVER:
- If liability for a medical-legal expense is denied for ANY OTHER REASON, the DEFENDANT must file a Petition and DOR to litigate the dispute, or potentially the defendant waives any objection. This is catching the defense community completely off-guard. This is the topic I would like to address, as we are seeing some gaming of the system by opportunistic providers.
- 12:00-1:30 PM** **LUNCH**
Location: TBD
- 1:30-3:00 PM** **CASE LAW UPDATE**
Location: General Session Room
MCLE: 1.5 hours of MCLE credit
Presented by: [James Pettibone](#) and [Barry Lesch](#)
Session Handout: [Download Session 5 Handouts](#)
- Session Description:** Update of current cases relevant to the Workers' Compensation Attorney.
- 3:00-3:30 PM** **EXHIBITOR NETWORKING BREAK**
Location: Exhibit Hall
- 3:30-4:30 PM** **INSURANCE COVERAGES AND WHAT THEY MEAN TO US**
Location: General Session Room
MCLE: 1 hour of MCLE credit
Presented by: [Joe Patrico](#) Sub: [Sean Hermanson](#)
Session Handout: [Download Session 6 Handouts](#)

Session Description: This session will provide practitioners with an analysis and discussion of different types of coverage for workers' compensation benefits in California, understanding rules and obligations in representing multiple clients in the context of workers' compensation claims and properly identifying clients.

Key Learning Objectives

1. This session will focus on different coverage types, self-insurance, and high retentions issues.
2. The session will aide the practitioner in identifying conflicts that may arise when different benefits are sought, creating/avoiding inadvertent multiple party representation.
3. Finally, the practitioner will learn special rules for workers' compensation cases and real life consequences of improperly identifying clients.

4:30 - 5:30 PM BREAKING DOWN & SCRUTINIZING ORTHO TESTS FROM A DEFENSE PERSPECTIVE

Location: General Session Room

MCLE: 1 hour of MCLE credit

Presented by: [Dr. Gary Brazina](#)

Session Handout: [Download Session 7 Handouts](#)

Session Description: Dr. Brazina will discuss and demonstrate Common Orthopedic test performed during Physical examinations and their significance. He will discuss common diagnostic tests their usage, relevance and abuses. Review and discuss how to analyze these tests.

Key Learning Objectives

1. To identify most important diagnostic tests on PE
2. To be able to identify meaningful laboratory tests and their significance
3. To "read between the lines" in the conclusion of QME reports to identify correct and incorrect interpretation of orthopedic tests

6:00 - 7:00 PM HOSTED COCKTAIL RECEPTION

Location: Cabana/Terrace

Notes: Guests over 21 welcome

SATURDAY, NOVEMBER 19, 2016

7:00 AM FREE MORNING

12:30 PM REGISTRATION
Location: TBD

1:00-3:00 PM ELIMINATION OF BIAS & SEXUAL HARASSMENT
Location: General Session Room
MCLE: 1 hour of MCLE credit
Presented by: [Jessica Jorgenson](#)
Session Handout: [Download Session 8 Handouts](#)

Session Description: This 2 hour session will cover two topics that have been very prominently discussed in the media recently, Elimination of Bias and Sexual Harassment, looking into the history of women in the legal profession and current ethical issues. As this is a 2 hour session, we will take a quick break at the top of the hour.

Key Learning Objectives

1. Current look at statistics of gender/race makeup of law schools, with a historical look at the history of women lawyers
2. Current ethical issues from the ABA in terms of terms that are no longer to be used
3. Sexual Harassment is still alive...examples

3:00-3:30 PM EXHIBITOR NETWORKING BREAK
Location: Exhibit Hall

3:30-5:00 PM CLAIM INVESTIGATIONS & TECHNOLOGY; FINDING A BALANCE BETWEEN WHAT WE CAN DO AND WHAT WE NEED TO DO
Location: General Session Room
MCLE: 1.5 hour of MCLE credit
Presented by: [Judge Cliff Levy](#), [JoAnna Nardulli](#) and [Garrett McGinn](#)
Session Handout: [Download Session 9 Handouts](#)

Session Description: This session will debate the merits and boundaries of investigative practices, tools and adequate claim investigations, as well as address issues and strategies raised by employees for bad faith denials and crossing the line when investigating claims.

SUNDAY, NOVEMBER 20, 2016

7:30-8:30 AM CONTINENTAL BREAKFAST
Location: Exhibit Hall

8:30-10:00 AM AOE/COE – THE COMPLEX CLAIMS**Location:** General Session Room**MCLE:** 1.5 hours of MCLE credit**Presented by:** David Speyer**Session Handout:** [Download Session 10 Handouts](#)

Session Description: This session will discuss defense strategies involving causation issues relating to complex claims of injuries involving communicable diseases, aggravation of pre-existing conditions, going and coming issues, intoxication, employee serious and willful misconduct and other rare claims.

Key Learning Objectives

1. This session will focus on those Complex medical and legal issues related to communicable diseases and aggravations of pre-existing conditions so that the practitioner can identify them.
2. Once the practitioner has been given the tools for identifying those complex medical issues they will learn how to prove that there is no aggravation of the pre-existing conditions and/or how that particular communicable disease is not work related ever. The session will discuss recent case law on "blood born diseases" and what the WCAB has said about same related to "special types of employees."
3. Finally, the practitioner will be able to identify the "real" serious and willful misconduct and other rare add-ons to a case and how to defend against them.

10:00-10:15 AM NETWORKING BREAK**Location:** Exhibit Hall

**SESSION
CANCELLED
BY
SPEAKER**

OSHA CITATIONS**Location:** General Session Room**MCLE:** 1 hour of MCLE credit**Presented by:** Ron Peters**Session Handout:**

Session Description: Ron Peters will provide a legal update on new California OSHA regulations as well as recent trends in Division enforcement. Mr. Peters will speak on the interrelationship between OSHA and workers' compensation, addressing how OSHA claims can affect claims for serious and willful misconduct, workers' compensation subrogation and more. Mr. Peters will describe how an OSHA matter is litigated and how employers and their advisors can draft and enforce safety policies to minimize injuries and related claims.

10:15-11:45 PM RAINMAKING: THE STRATEGY IS EASY. THE EXECUTION IS CRUCIAL. MAKING THE STRATEGY AND EXECUTION A HABIT WILL DETERMINE YOUR CAREER.**Location:** General Session Room**MCLE:** 1.5 hourS of MCLE credit**Presented by:** [Erwin Nepomuceno](#)**Session Handout:** [Download Session 12 Handouts](#)

Session Description: Law schools do not teach the business of law but an attorney soon learns that the business side of the law practice is something that cannot be ignored. On the workers' compensation defense side, attorneys who "just want to practice law" are or will likely be forever looking to be assigned cases by someone else. Lawyers who accept the fact that each communication with their client is an opportunity to get both a positive result in a case and a positive conscious and subconscious message to a client will reap the rewards of increased value to both the firm and themselves. This session will provide the basic strategy to develop current clients, as well as, finding, "landing", keeping clients that you have not met yet.

CWCDAA

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**QUICK LINKS**

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