

Alabama  
Law Weekly

presents

# 2017 Alabama Workers' Comp Conference

**WHEN** Friday, September 29, 2017

**WHERE** Embassy Suites by Hilton  
Birmingham

On May 8, a circuit court judge found fault with two provisions of the Alabama Workers' Compensation Act, a ruling that, if upheld, would render the entire act unconstitutional. He found unconstitutional a provision capping recovery for workers permanently but not totally disabled at \$220 a week and a provision capping attorney fees at 15 percent. Get the latest on *Clower v. CVS Caremark Corp.* and other recent developments in Alabama's workers' compensation laws.

## HIGHLIGHTS

### Attorneys, employers, and others will learn:

- Constitutionality of the Alabama Workers' Compensation Act
- Return to work issues, including what happens before and after the injured employee reaches maximum medical improvement, what duty the employer has to rehire, and what are the ADA/EEO implications
- Other suits arising out of the employment relationship – retaliatory discharge, other wrongful terminations, co-employee cases, third-party liability, and dangerous products
- Latest on the standard for medical causation in workers' compensation cases
- What kind of discovery to conduct and how to get the most out of the discovery process
- Recent developments in the definition of a “special employer” under Alabama’s Workers’ Compensation Act
- A look at resolving a case without trial through informal settlement negotiations and mediation
- Update from the Department of Labor
- The appeals process in a workers' compensation case
- Ethical obligations, including contacts with doctors and rehabilitation personnel and the interaction between attorneys and third party administrators

**BONUS:** Attendees will receive a binder of materials during the conference and will be able to download the materials after the seminar.

*This conference features an Alabama appellate court judge, Alabama defense and plaintiffs' attorneys, and a representative from the Alabama Department of Labor.*

## SPEAKERS

**Charley M. Drummond**  
Fish Nelson & Holden LLC, Birmingham

**J. Douglas (Doug) Fields, Jr.**  
Fields Law Firm, LLC, Vestavia Hills

**Todd Hamilton**  
Smith, Spires, Peddy, Hamilton & Coleman, P.C., Birmingham

**Donald M. (Don) Harrison, III**  
Alabama Department of Labor, Birmingham

**Donald B. (Bo) Kirkpatrick, II**  
Carr Allison, Birmingham

**Judge Terry Moore**  
Alabama Court of Civil Appeals, Montgomery

**Karen Berhow Southard**  
Porter Porter & Hassinger, PC, Birmingham

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CLE  
CREDIT  
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Employers: 7 recertification hours  
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and Professional Development Credits  
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## WHERE

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[www.mleesmith.com/al-wc](http://www.mleesmith.com/al-wc)

## WHEN

**Friday, September 29, 2017**

8:30 A.M. TO 5:15 P.M.

Registration begins at 8:00 a.m. The conference begins at 8:30 a.m. and concludes at 5:15 p.m.

(There will be morning and afternoon breaks, and attendees will have 1 hour and 15 minutes for lunch on their own)

### CLE: 7 hours of CLE

(6 hours of general and 1 hour of ethics)

Employers: 7 recertification credit hours through the HR Certification Institute and Professional Development Credits through SHRM.

Price: \$337 for program, \$257 for additional attendees from the same firm, \$147 for materials only.

**Register by August 18 and save \$50.**

## WHO SHOULD ATTEND?

- Employers
- Insurance adjusters
- Third party administrators
- Safety and Human Resources managers
- Plaintiffs' and defense attorneys
- In-house counsel

## WHAT MAKES THIS SEMINAR UNIQUE?

- **Judicial perspective.** Your faculty includes Judge Terry Moore of the Alabama Court of Civil Appeals.
- **Insider's perspective.** Attendees will hear from Don Harrison from the Alabama Department of Labor.
- **Balance.** You'll hear from both plaintiffs' and defense attorneys.
- **Valuable update.** A top authority, Bo Kirkpatrick, will update attendees on recent case law developments in workers' compensation, including the latest on the constitutionality of the Workers' Compensation Act.
- **Return to work issues.** You'll learn about return to work issues, such as ADA/EEO implications.
- **Defending a claim.** A leading defense attorney gives a roadmap for defending a case, covering discovery, pleadings, resolution without trial, and the trial itself.
- **Related suits.** You'll get an overview of other types of suits that can arise out of the employee-employer relationship, such as a retaliatory discharge action or a suit arising from the use of dangerous products.
- **Settlement.** You'll get the latest on lump sum settlements, Social Security offsets, and the employer's prosecution of third party claims.
- **Useful resource.** You'll receive a notebook of materials to take back to the office with you for future reference. And you'll be able to download the materials after the conference.
- **CLE.** Attorneys can earn 7 hours of CLE credit, including 1 hour of ethics.

# 2017 Alabama Workers' Comp Conference

## PROGRAM AGENDA

### Case Law Update

**8:30 A.M. TO 9:30 A.M.**

Bo Kirkpatrick  
*Carr Allison*

- Recent developments in the definition of a "special employer" under the Workers' Compensation Act of Alabama
- Recent developments in Alabama courts asserting jurisdiction over workers' compensation claims in Alabama, as well as new decisions on venue issues
- Recent developments with regard to the standard for medical causation in workers' compensation cases in Alabama
- The constitutionality of the Alabama Workers' Compensation Act

### Ethical Obligations in the Workers' Compensation Area

ETHICS  
CREDIT

**9:30 A.M. TO 10:30 A.M.**

Karen Berhow Southard  
*Porter Porter & Hassinger, PC*

- Rules of Professional Conduct
- Contacts with doctors and rehabilitation personnel
- Interaction between attorneys and third party administrators
- Attorney fees
- Lawyer liability

**Morning Break**  
**10:30 a.m. to 10:45 a.m.**

### Settlements and Return to Work Issues

**10:45 A.M. TO 11:45 A.M.**

Todd Hamilton  
*Smith, Spires, Peddy, Hamilton & Coleman, P.C.*

- Settlements: History and applicability
  - ▶ Negotiation strategies

- ▶ Lump sum settlements, if applicable
- ▶ Social Security offset
- ▶ Right to reimbursement
- ▶ Employer's prosecution of third party claims
- ▶ Medicare

- Return to work issues
  - ▶ Before Maximum Medical Improvement (MMI): Same employer and different employer
  - ▶ After MMI/duty to rehire
  - ▶ ADA/EEO implications

**LUNCH 11:45 a.m. to 1:00 p.m.**  
**(on your own)**

### Defending a Workers' Compensation Action

**1:00 P.M. TO 2:00 P.M.**

Charley M. Drummond  
*Fish Nelson & Holden, LLC*

- Discovery: What kind of discovery to conduct and how to get the most out of the discovery process
  - ▶ Informal discovery
  - ▶ Written discovery
  - ▶ Subpoenas, depositions, and other discovery
- Pleadings and motions: Narrowing the issues through pleadings and motions
  - ▶ Answers and defenses
  - ▶ Dispositive motions
  - ▶ Protective orders
  - ▶ Responding to motions to compel and other motions
- Resolution without trial
  - ▶ Informal settlement negotiations
  - ▶ Mediation
- Trial and trial preparation
  - ▶ What to expect at trial
  - ▶ Getting the evidence you need
  - ▶ Getting the evidence you have admitted at trial

## Department of Labor Update

**2:00 P.M. TO 3:00 P.M.**

Don Harrison  
*Alabama Department of Labor*

- Updates from the DOL
- Ombudsmen/mediation process

**Afternoon Break**  
**3:00 p.m. to 3:15 p.m.**

## The Appeal Process in a Workers' Compensation Case

**3:15 P.M. TO 4:15 P.M.**

Judge Terry Moore  
*Alabama Court of Civil Appeals*

- Appeal vs. mandamus: The proper method of review of workers' compensation orders
- The standard of review of findings of fact: Scintilla of evidence vs. substantial evidence under the *ore tenus* rule
- Appellate mediation and attorney fees

## Other Cases Arising Out of the Employment Relationship

**4:15 P.M. TO 5:15 P.M.**

J. Douglas (Doug) Fields, Jr.  
*Fields Law Firm LLC*

- Retaliatory discharge and other wrongful terminations
- Co-employee cases
- Third-party liability
- Dangerous products and safety in the workplace
- Employer's right of subrogation

in various leadership roles on the national level with the Workers' Compensation and Employer's Liability Committee. In addition to being an adjunct professor of Alabama workers' compensation law at the Birmingham School of Law, he frequently speaks at conferences and seminars for other attorneys, judges, insurance adjusters, and employer representatives.



**J. Douglas (Doug) Fields, Jr.**, created Fields Law Firm, LLC, in Vestavia Hills to offer a different approach to serving clients

– focusing on warmth, compassion, and care and connecting with clients as people, not cases. He is a frequent lecturer in Continuing Legal Education courses, teaches classes in his areas of practice, has contributed to and been featured in various articles and publications, and has made appearances on *LawCall*, a live call-in show broadcasted on Alabama Public Television as a service to many Alabamians with legal questions who may not otherwise have access to an attorney.



**Todd Hamilton** is a senior partner of Smith, Spires, Peddy, Hamilton & Coleman, P.C. in Birmingham. His practice

areas include the defense of employers and workers' compensation and wrongful discharge claims, as well as trucking litigation, medical/pharmacy malpractice, products liability, premises liability, and other complex litigation cases. In 2016, he was recognized by the American Institute of Personal Injury Attorneys in its Ten Best Client Satisfaction Awards.

practice focuses primarily on workers' compensation and related litigation, including retaliatory discharge and other employment matters. He advises self-insured clients, third party administrators and insurance carriers with respect to workers' compensation issues. He has handled litigation statewide for Fortune 500 Companies and has extensive trial experience throughout Alabama. He has been selected to the *Alabama Super Lawyers*® list since 2008 as well as *Best Lawyers in America*® since 2012.



**Judge Terry A. Moore** entered private practice following graduation from law school in the Mobile office of Adams & Reese

where he specialized in workers' compensation and civil litigation. In 1998, he became a partner in the Mobile law firm of Vickers, Riis, Murray & Curran, LLC. In 2004, Judge Moore co-founded Austill, Lewis, Pipkin & Moore, P.C., where he served as a member until his election to the Alabama Court of Civil Appeals in 2006. In 1998, West Publishing issued *Alabama Workers' Compensation*, a two-volume treatise that was written by Judge Moore between 1992 and 1997. That treatise is now considered the leading authority on its subject by the appellate courts of Alabama.



**Karen Berhow Southard** is an attorney with Porter, Porter & Hassinger, PC, in Birmingham, where she has been practicing in the

areas of workers' compensation defense, personal injury defense, and insurance defense litigation for over 14 years, specializing in representing employers. She is a member of the Medical Liaison Committee of the Birmingham Bar Association and currently serves as the President of the Women's Leadership Council for the Department of Neurosurgery at the University of Alabama at Birmingham.

## Your Distinguished Faculty:



**Charley M. Drummond** is an attorney in the Birmingham insurance defense firm of Fish Nelson & Holden, LLC. He

currently serves as the Vice President of the Birmingham Bar Association Workers' Compensation Section, and he is also active in the American Bar Association's Tort Trial and Insurance Practice Section, where he has served



**Donald M. (Don) Harrison, III**, is Deputy General Counsel with the Alabama Department of Labor. He represents and

advises the various divisions of the Department, including the Workers' Compensation, Unemployment, and Mining and Reclamation Divisions.



**Donald B. (Bo) Kirkpatrick** is a senior shareholder and a founding member of Carr Allison in Birmingham. His

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# REGISTRATION FORM. FOR ASSISTANCE, CALL 800-727-5257.

**Yes!** I want to get the latest information on changes, developments, and trends in Alabama workers' comp law, all while gaining CLE/HRCI/PDC credit. Please reserve my seat at the **2017 Alabama Workers' Comp Conference**. My registration includes the one-day conference, pages of valuable course materials, morning and afternoon refreshments (lunch is not included) and 7 hours of CLE/HRCI/PDC credit. If I am dissatisfied, I am entitled to a 100% refund. Fee: \$337 for program, (\$287 before August 18), \$257 for additional attendees from the same firm or company, \$147 for materials only.

Make check payable to BLR  Materials only (\$147)

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## 100% GUARANTEE

If you are not completely satisfied after attending an M. Lee Smith event, let us know, and we will refund 100% of your registration fee—no questions asked.

## CLE INFORMATION

This program has been approved by the Mandatory Continuing Legal Education Commission of Alabama for a maximum of 7 hours' credit, including 1 hour of ethics.

*7 recertification credit hours through the HR Certification Institute and Professional Development Credits through SHRM.*

*BLR is recognized by SHRM to offer Professional Development Credits (PDCs) for the SHRM-CPSM or SHRM-SCPSM.*

*The use of HRCI seal is not an endorsement by HRCI of the quality of the program. It means that this program has met HRCI's criteria to be pre-approved for recertification credit.*

## FEES

\$337 for program

\$287 when registered by August 18

\$257 for additional attendees from the same firm or company

\$147 for materials only

## Cancellation Policy

- A \$50 processing fee applies to ALL conference cancellations.
- Registrants are responsible for the entire program fee for a cancellation made after 5:00 p.m. three weeks prior to the event (whether or not you attend the program or fail to cancel).
- An alternate may attend in place of the original registrant.

## WE MAKE REGISTERING EASY!

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## DYNAMIC INTERACTION

Unlike other one-way presentations, you'll be encouraged to ask questions and present your own situations for discussion, while interacting with both the speakers and your peers.

## QUALITY PRESENTERS

Your presenters are all authorities in Alabama workers' compensation law. Their experience, skill, and familiarity with issues of specific concern to Alabama attorneys and employers make this the perfect learning event for plaintiffs' and defense attorneys, in-house counsel, employers, insurance adjusters, third party administrators, and safety and Human Resources managers.

## RELEVANT TOPICS

We will cover topics essential to navigating the Alabama workers' compensation system:

- Constitutionality of the Workers' Compensation Act
- Settlement of workers' compensation claims
- Keys to defending a workers' compensation case
- Other suits growing out of the employment relationship
- Appeals process in a workers' compensation case
- Update from the Department of Labor
- Review of significant workers' compensation cases

## WHAT YOUR COLLEAGUES SAID ABOUT LAST YEAR'S SEMINAR:

*“The speakers were very knowledgeable and helpful with questions.”*

*“The seminar was very helpful. Good materials”*

*“I received a lot of valuable information.”*

*“I enjoyed the range of topics.”*

*“Great seminar.”*