

Tennessee Attorneys Memo and Tennessee Employment Law Letter present the 11th Annual **Tennessee Workers' Comp Conference**

Nashville: Wednesday-Friday,
November 8-10, 2017

New Location: Nashville Hilton Airport

Learn from--and network with--judges from the Workers' Compensation Appeals Board and the Court of Workers' Compensation Claims, leading workers' comp attorneys, representatives from the Bureau of Workers' Compensation, and other key players in the workers' comp system.

HIGHLIGHTS

- Insight from judges on the Court of Workers' Compensation Claims and the Workers' Compensation Appeals Board
- A panel discussion with attorneys and physicians on the medical and legal determinations of causation in a workers' comp case
- Challenges faced by employers when dealing with social media in the workplace
- Tips on how to avoid the imposition of penalties
- A doctor's perspective on the opioid epidemic
- Interplay between workers' comp, the ADA, and the FMLA
- Termination and retaliation issues
- Attorney track:
 - What's new with Medicare set-asides
 - Ethical issues arising during mediation
 - Medical issues in a workers' comp claim
 - The settlement process
 - Hot topics from the plaintiff's perspective
 - Defense and plaintiff's attorneys panel
- Employer track:
 - Claims management from start to finish
 - The role of handbooks, policies, and training
 - Accident investigations and responding to fraudulent claims
 - Third party work injury claims
 - Effective surveillance
 - Scope of employment issues
 - Preventing workplace injuries
 - Handling the medical aspects of a claim
- Review of the latest cases from the Workers' Compensation Appeals Panels, Workers' Compensation Appeals Board, and Court of Workers' Compensation Claims

This three-day conference is perfect for employers, insurance adjusters, self-insurers, third party administrators, safety and Human Resources managers, plaintiff and defense attorneys, health care providers, mediators, and medical and vocational rehabilitation providers.

Call **800-727-5257** to register risk-free
or visit **mleesmith.com/TWCC**

**EARN
CLE
CREDIT
HOURS**



**SHRM
RE-CERTIFICATION
PROVIDER
2017**

WHERE

Nashville Hilton Airport—

2200 Elm Hill Pike,
Nashville, TN 37214

FREE PARKING



FREE WI-FI



For complete directions, visit mleesmith.com/TWCC

WHEN

Wednesday, Thursday, & Friday, November 8-10

Discounted room at Nashville Hilton Airport: \$155

For reservations call: 1-844-886-4136. To obtain conference discount for hotel room, mention Tennessee Workers' Comp Conference or group code BLRTN1.

Full program is 15 hours — Day 1 (4 hours), Day 2 (7.5 hours), and Day 3 (3.5 hours). Simultaneous tracks, one for employers and one for attorneys on Thursday. Joint tracks (for both groups) on Wednesday afternoon and Friday morning. CLE Credit: 15 hours of CLE (14 hours of general and 1 hour of dual)

Schedule:

Wednesday, November 8

Registration: 12:00 p.m.

Conference: 1:00 p.m. - 5:15 p.m.

Thursday, November 9

8:00 a.m. -- 5:00 p.m. (lunch is included)

Friday, November 10

8:00 a.m. -- 11:45 a.m.

BONUS: Attendees will be provided with a notebook of materials during the conference and will have the ability to download the materials electronically after the conference.

Conference fees:

\$547 (full program), \$477 (full program for additional attendees or subscribers to the *Tennessee Workers' Comp Reporter* or the *Tennessee Employment Law Letter*) \$347 (Thursday only), \$247 (materials only)

\$50 early bird discount until October 6

JOINT SESSIONS – DAY ONE
(WEDNESDAY AFTERNOON, November 8)

Tennessee's Court of Workers' Compensation
Claims: Practices & Procedures

1:00 P.M. TO 2:30 P.M.

Chief Judge Ken Switzer, Court of Workers' Compensation Claims
Judge Pamela Johnson, Court of Workers' Compensation Claims

The creation of the Court of Workers' Compensation Claims was a significant part of the 2013 reforms. Since that time, the number of trial judges has expanded to twelve, statutes, regulations, and rules have been tweaked a couple of times, and cases are now moving steadily through the trial system. This session will provide an update on the trial procedures and practices, including tips from the bench on trial practice, settlement approvals and closing medical benefits, what you can and cannot do by rule in the Court, and highlight some pitfalls to avoid.

- Petition for benefit determination
- Mediation requirements
- Dispute certification notice
- Initial hearings
- Catastrophic injury
- Expedited hearings
- Discovery
- Time requirements
- Settlements

2:30 P.M. TO 2:45 P.M. AFTERNOON BREAK

Causation: Medical or Legal Determination,
Panel and Case Law Discussions

2:45 P.M. TO 4:00 P.M.

Kitty Boyte, Constangy, Brooks, Smith & Prophete, LLP, along with a panel of other attorneys and physicians

Causation is a key concept in Tennessee Workers' Compensation Law that consists of both medical and legal components. Understanding what medical facts need to be expressed by the physician to support the application of the legal standard by attorneys and judges for medical causation will be the focus of a panel discussion. The panel, which will be led by Ms. Boyte and will include other attorneys and physicians, will explore situations such as work injuries that are the primary cause for a need for medical treatment but an underlying pathology already existed. The panel will discuss what findings must be present in an individual's medical record to support a conclusion that factors other than work activity caused an injury or a need for treatment.

Social Media and the Workplace

4:00 P.M. TO 4:45 P.M.

Catherine Dugan, Peterson White

Ms. Dugan will discuss some of the unique challenges faced by employers in dealing with social media in the workplace.

- Best methods to obtain social media evidence
- How to use and authenticate social media evidence
- Privacy and evidentiary challenges

Penalties and How to Avoid Them

4:45 P.M. TO 5:15 P.M.

Troy Haley, Director of Penalty Program

Mr. Haley will discuss the penalty rules, give examples of penalty-worthy offenses, and offer tips on how to avoid the imposition of penalties.

EMPLOYER TRACK – DAY TWO
(THURSDAY, November 9)

Claims Management Tips for Employers

8:00 A.M. TO 9:00 A.M.

Leslie Bishop, Lewis, Thomason, King, Krieg, & Waldrop, P.C.

Effective workers' compensation claims management saves employers time, money and grief. Best practices in cost control strategies, plan design and program development positively impact the bottom line. Ms. Bishop will give an overview of how to manage a workers' comp claim from start to finish and offer tips on how best to handle some issues that arise.

The Role of Handbooks, Policies, and Training

9:00 A.M. TO 9:30 A.M.

Mallory Schneider Ricci, Constangy, Brooks, Smith & Prophete, LLP

- Proper form and content
- How to handle updates and policy revisions
- Training supervisors and management to handle issues as they arise
- What not to include

Conducting Investigations and Responding to
Fraudulent Claims

9:30 A.M. TO 10:00 A.M.

Mallory Schneider Ricci, Constangy, Brooks, Smith & Prophete, LLP

- Call-in and sick leave policies
- Information acquired from questionable sources, e.g., social media, office gossip, etc.

- How to know when there is reasonable suspicion to launch an investigation
- What not to include

10:00 A.M. TO 10:15 A.M. MORNING BREAK

Workers' Comp Update

10:15 A.M. TO 11:00 A.M.

Fred Baker, Wimberly Lawson Wright Daves & Jones PLLC

Mr. Baker will review the latest decisions from the Workers' Compensation Appeals Panels, the Workers' Compensation Appeals Board, and the Court of Workers' Compensation Claims.

Third Party Work Injury Claims

11:00 A.M. TO 11:30 A.M.

Dawn Trojan-Randle, Claim Specialist, Brentwood Services Administrators, Inc.

If an employee is injured on the job and the employee's injury was caused in whole or in part by the negligence of a third party, the employee may still seek and recover workers' compensation from the employer. Let Ms. Randle explain how a workers' comp claim is affected when a third party is involved in causing the accident and injury.

Conducting Effective Surveillance

11:30 A.M. TO 12:00 P.M.

Dawn Trojan-Randle, Claim Specialist, Brentwood Services Administrators, Inc.

The use of surveillance in workers' comp cases is an effective tool in the employer's arsenal which may help employers to leverage settlements or get physicians to reconsider restrictions placed on injured workers. What's new in the surveillance landscape is the social component of surveillance, which includes investigating an injured worker's Facebook, Instagram, and other social media accounts. Let Ms. Randle walk you through some ways to use surveillance to your advantage.

12:00 P.M. TO 1:00 P.M. LUNCH
*(LUNCH IS INCLUDED WITH REGISTRATION)

Workers' Comp Claims: From Initial Report to
Initial ADR

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

Lynn C. Peterson, Lewis, Thomason, King, Krieg & Waldrop, P.C.

Let Ms. Peterson guide you through a typical workers' comp case and offer you tips on handling the case – from the initial report of injury to the mediation hearing.

Scope of Employment Issues

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

Kenneth D. Veit, Leitner, Williams, Dooley & Napolitan PLLC

Mr. Veit will review the scope of employer liability issues, including who is covered under workers' compensation and what injuries are compensable.

- Idiopathic injuries
- Injuries occurring on the way to work or on the way home from work
- Injuries occurring as the result of the actions or conduct of a third party

3:00 P.M. TO 3:15 P.M. AFTERNOON BREAK

Preventing Workplace Injuries

3:15 P.M. TO 4:00 P.M.

Wendy Fisher, Safety Compliance Manager, Tennessee OSHA

Creating and maintaining a safe and healthful workplace is an opportunity to "make" money. The costs associated with workplace accidents are many and not as obvious as

one might believe. Ms. Fisher will offer tips on preventing workplace injuries before they happen.

Practical Considerations for Handling the Medical Aspects of Your Claim

4:00 P.M. TO 5:00 P.M.

Mary Dee Allen, Wimberly Lawson Wright Daves & Jones PLLC

Ms. Allen will offer tips on handling the medical aspects of a workers' comp claim.

- Physician panels
- Causation opinions
- Ratings
- Communicating with the medical provider

ATTORNEY TRACK – DAY TWO (THURSDAY, November 9)

Navigating the Workers' Compensation Appeals Board

8:00 A.M. TO 9:15 A.M.

Judge Marshall Davidson, Presiding Judge, Workers' Compensation Appeals Board

The reforms to Tennessee's Workers' Compensation Act that took effect July 1, 2014, included the creation of the Workers' Compensation Appeals Board. Now, three years later, the Appeals Board has rendered numerous decisions, initiated changes in legislation and regulations, and continually updated its Practices and Procedures. In this session, Judge Davidson, the presiding judge of the Appeals Board, will discuss the proper procedure for appealing a decision of the Court of Workers' Compensation Claims and provide some practical advice for brief writing and oral argument, all of which is designed to help attorneys more easily and successfully navigate the appeals process.

Workers' Comp Update

9:15 A.M. TO 10:00 A.M.

Fred Baker, Wimberly Lawson Wright Daves & Jones PLLC

Mr. Baker will review the latest decisions from the Workers' Compensation Appeals Panels, the Workers' Compensation Appeals Board, and the Court of Workers' Compensation Claims.

10:00 A.M. TO 10:15 A.M. MORNING BREAK

Medicare Set-Asides in Workers' Comp: What's New?

10:15 A.M. TO 11:00 A.M.

Steven N. Snyder, Jr., McAngus Goudelock & Courie

- The Medicare Secondary Payer Statute
- When is approval required – CMS published thresholds
- Why obtain approval from CMS
- What if a case does not meet Medicare's threshold amounts
- Allocating settlement funds when a settlement does not meet the threshold amount
- Use of rated age in an MSA
- Use of an annuity for MSA funding
- Terms of the MSA account
- Administration of a MSA account
- Medicare's enforcement rights

Mediation Ethics: Ethical Practices During ADR

11:00 A.M. TO 12:00 P.M.

Steven L. Shields, Jackson, Shields, Yeiser & Holt

Mr. Shields will discuss ethical considerations in workers' compensation practice faced by mediators and attorneys during an alternative dispute resolution proceeding.



- Potential sources of bias, including prior relationships, the reaction to parties' conduct during mediation, and bias in favor of a party or an outcome
- Conduct that undermines self-determination
- Distinguishing between providing legal information and giving legal advice

12:00 P.M. TO 1:00 P.M. LUNCH
*(LUNCH IS INCLUDED WITH REGISTRATION)

Medical Issues and Their Role in a Workers' Comp Claim

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

Frank Gallina, Parker, Lawrence, Cantrell & Smith

- Psychiatric and mental injuries
- Occupational stress claims
 - Establishing stress claims
 - Proving compensability
 - Benefits available for stress claims
 - Injury fund claims
- Work-related aggravations of pre-existing conditions
- Repetitive motion and related injuries
- Vocational rehabilitation
 - Impact of injury upon the worker and "suitable gainful employment"
 - Effective tools for dealing with injured workers
 - Cost-effective rehabilitation
 - The role of physical therapy

The Workers' Comp Settlement Process

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

Rocky King, Egerton, McAfee, Armistead & Davis, P.C.

- Determining the settlement range
- Types of settlements
- Settlement agreements
 - What should be included?
 - Period of time for which benefits are paid
 - Critical language
- Pitfalls to avoid when settling cases
- Post-settlement issues

3:00 P.M. TO 3:15 P.M. AFTERNOON BREAK

Hot Topics in Workers' Comp: The Plaintiff's Perspective

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

Marshall McClarnon, Ponce Law

Mr. McClarnon will discuss some "hot" topics which plaintiff's attorneys are dealing with under the current workers' comp system.

Panel Discussion on New Law and Procedures

4:15 P.M. TO 5:00 P.M.

Fred Baker, Wimberly Lawson Wright Daves & Jones PLLC, moderator
Kitty Boyte, Constangy, Brooks, Smith & Prophete LLP
Frank Gallina, Parker, Lawrence, Cantrell & Smith
Rocky King, Egerton, McAfee, Armistead & Davis, P.C.
Marshall McClarnon, Ponce Law

The panel will discuss and entertain questions regarding the new court system and the changes which became effective in 2014.

JOINT SESSIONS – DAY THREE (FRIDAY MORNING, November 10)

Why Do Opioids Not Work Long Term?

8:00 A.M. TO 9:15 A.M.

Dr. Jeffrey Hazlewood, Board Certified in Physical Medicine and Rehabilitation, subspecialty Board Certification in Pain Medicine

Opioids have been around since the 1950s and have been prescribed for multiple conditions—to suppress cough,

diarrhea, treat addiction, and most notably pain. Now, they have become the most addictive, most prescribed and most illegally used drugs in the United States. They aren't even that effective long term. This session will look at possible reasons why long term opioids don't usually work in terms of improving quality of life and function. In addition to updating "the opioid crisis," this session will explore possible reasons for failure: Opioid hyperalgesia and central effects of opioids; why opioids especially don't work in many injured workers; the lack of anatomical pain generators in many of these patients; and the psychological basis of pain and resulting opioid failure. Dr. Hazlewood will look at two case studies of opioid failure in work-related injuries and will look at research data on problems with long term usage.

9:15 A.M. TO 9:30 A.M. BREAK

Interplay Between FMLA, ADA, and Workers' Compensation

9:30 A.M. TO 10:45 A.M.

Howard M. Kastrinsky, King & Ballow

Mr. Kastrinsky will discuss how workers' comp laws interact and affect two other employment-related areas—the Americans with Disabilities Act and the Family and Medical Leave Act—and will offer tips on how to comply with the unique requirements of each law.

- Overlapping benefits
- Transitioning between benefits
- Keeping good records
- Common pitfalls in eligibility verification

Termination and Retaliation Issues

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

Chuck Mataya, Bradley Arant Boult Cummings LLP

- Recent case law
- Whistleblowers
- When is termination a legal option?
 - Available leave?
 - Unrelated employee conduct or policy violation
 - Dealing with RIFs
 - Wrongful termination



EARN CLE CREDIT HOURS

This program has been approved by the Tennessee Commission on Continuing Legal Education for a maximum of 15 hours of CLE (14 hours of GENERAL and 1 hour of DUAL).

15 recertification credit hours through the HR certification Institute and Professional Development Credits through SHRM.



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

☒ **Yes!** I want to learn about the very latest Tennessee workers' comp management, defense, and compliance developments, all while networking with the state's workers' comp judges, representatives from the Bureau of Workers' Compensation, and leading workers' comp attorneys. Please register me for the **2017 Tennessee Workers' Comp Conference**, the comprehensive immersion in critical issues. My registration fee includes all conference materials, morning and afternoon breaks and lunch (on Thursday). If I am in any way dissatisfied, I am entitled to a complete refund.

- ☐ Full Conference: 15-hour program (joint sessions on Wed. afternoon and Fri. morning/dual tracks all day Thursday) (\$547). *Tennessee Workers' Comp Reporter* or *Tennessee Employment Law Letter* subscribers and additional attendees from same firm/company (\$477)
- ☐ Thursday Only: 7.5 hours (\$347)
- ☐ Materials Only: \$247

\$50 early bird discount until October 6 (Full program only)

- ☐ Payment enclosed ☐ Bill us ☐ VISA ☐ MASTERCARD ☐ AMEX

Card #: _____ Exp. date: _____ Signature: _____

Name: _____

Title: _____ Firm/Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ E-mail: _____

Offer Code: WEB

WE MAKE REGISTERING EASY!

ON THE WEB:
mleesmith.com/TWCC

BY PHONE:
800-727-5257

BY E-MAIL:
service@blr.com

BY MAIL:
Detach form and mail

BY FAX:
800-785-9212

M. Lee Smith®
PUBLISHERS
a division of BLR

100 Winners Circle, Suite 300,
Brentwood, TN 37027

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/HR INFORMATION

This program has been approved by the Tennessee Commission on Continuing Legal Education for a maximum of 15 hours of credit (14 hours of GENERAL and 1 hour of DUAL).

**15 recertification credit hours through the HR certification Institute and Professional Development Credits through SHRM.*

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.

38882

WHAT MAKES THIS SEMINAR UNIQUE?

- You'll hear from Chief Judge Ken Switzer and Judge Pamela Johnson, with the Court of Workers' Compensation Claims, as well as Judge Marshall Davidson, presiding judge of the Workers' Compensation Appeals Board.
- You'll gain insight on causation issues under the new law from a panel of attorneys and physicians.
- You'll discover when it is legal to fire an employee who has filed a workers' comp claim.
- You'll receive a comparison of how workers' comp interacts with two employment-related laws, i.e., the ADA and the FMLA.
- You'll learn about the unique challenges employers face in dealing with social media in the workplace.
- You'll get an update on the latest rulings from the Workers' Compensation Appeals Panels, the Workers' Compensation Appeals Board, and the Court of Workers' Compensation Claims.
- You'll hear from a Bureau of Workers' Compensation representative on how to avoid the imposition of penalties in the workers' comp arena.
- You'll hear from a pain management specialist about the long term impact of opioid use on employers, employees, and society in general.
- Employers will get up to date on relevant issues, such as managing claims under the new law, traps to avoid when investigating an accident or responding to a fraudulent claim, the use of the social component of surveillance as an effective tool in the employer's arsenal, third party work injuries, compensability of a claim when an employee is traveling to or from work, handling the medical aspects of a claim, and preventing workplace injuries.
- Attorneys will get up to date on complex issues, such as Medicare set-asides, the role of medical issues in a workers' comp claim, pitfalls to avoid when settling cases, "hot topics" from the plaintiff's perspective, and ethical issues arising during ADR.
- On Thursday, attendees may choose to attend a track designed for attorneys or one designed for employers and others – or you may mix the tracks to better serve your needs.
- You get an interactive program, including panel discussions – the speakers welcome your questions and feedback.

YOUR CONFERENCE FACULTY

Workers' Comp Judges
Judge Marshall Davidson
Judge Pamela Johnson
Chief Judge Ken Switzer

Bureau of Workers' Compensation
Troy Haley

Workers' Comp/Employment Law Attorneys

Mary Dee Allen, Wimberly Lawson Wright Daves & Jones PLLC

Fred Baker, Wimberly Lawson Wright Daves & Jones PLLC

Leslie Bishop, Lewis, Thomason, King, Krieg, & Waldrop, P.C.

Kitty Boyte, Constangy, Brooks, Smith & Prophete, LLP

Catherine Dugan, Peterson White

Frank Gallina, Parker, Lawrence, Cantrell & Smith

Howard M. Kastrinsky, King & Ballow

Rockforde (Rocky) D. King, Egerton, McAfee, Armistead & Davis, P.C.

Charles (Chuck) J. Mataya, Bradley Arant Boult Cummings LLP

Marshall McClarnon, Ponce Law

Lynn C. Peterson, Lewis, Thomason, King, Krieg & Waldrop, P.C.

Mallory Schneider Ricci, Constangy, Brooks, Smith & Prophete, LLP

Steven L. Shields, Jackson, Shields, Yeiser & Holt

Steven N. Snyder, Jr., McAngus Goudelock & Courie

Kenneth D. Veit, Leitner, Williams, Dooley & Neapolitan PLLC

Others

Wendy Fisher, Safety Compliance Manager with Tennessee OSHA

Dr. Jeffrey Hazlewood, Board Certified in Physical Medicine and Rehabilitation, subspecialty Board Certification in Pain Medicine

Dawn Trojan-Randle, Claim Specialist at Brentwood Services

HERE'S WHAT YOUR COLLEAGUES SAID ABOUT LAST YEAR'S TENNESSEE WORKERS' COMP CONFERENCE:

"This is by far the best workers' compensation seminar in the state."

"Topics were great and really diverse. I appreciate how the course materials covered all aspects of a workers' compensation claim."

"Very knowledgeable group of speakers. I really appreciated the fact that all the speakers were willing to answer questions and engage with the audience!"

"The information was timely, interesting, and very well presented."

"Loved the notebook of materials I received!! Awesome as always!!"