

# *Lex and Verum*

## **The National Association of Workers' Compensation Judiciary**

Number VI, 0210

### **NAWCJ Announces 2010 College!**



NAWCJ President John Lazzara announced that the program for the 2010 Judicial College is complete. Judge Lazzara noted that “the feedback from last year told us we would have a challenge surpassing the 2009 Judicial College Curriculum. However, we are confident we have done it.” Florida Workers Compensation Institute (FWCI) Program Chairman Steven Rissman, and a NAWCJ Associate Member, has been involved with the preparation and accreditation of educational programs for decades, and the NAWCJ has been fortunate to have his assistance and guidance. After review of the 2010 proposed curriculum agenda, he says “the program is excellent and poised to exceed last year’s expectations.”

Judge Lazzara recognized that the program this year is the result of the dedicated efforts and time of our curriculum committee including Judge Jennifer Hopens (TX), Deputy Chief Judge David Imahara (GA), Judge Ellen Lorenzen (FL), Judge Donna Remsnyder (FL), Judge David Torrey (PA), and NAWCJ Associate Member Steven Rissman (FL).

The NAWCJ Judicial College program this year will again feature live surgery demonstrations. The procedure will consist of shoulder surgery and knee surgeries performed live, with simultaneous narration by an orthopedic surgeon. The program will also include national experts in judicial writing, evidence for judges, dealing with pro-se litigants, and the Code of Judicial Conduct. The NAWCJ Judicial College also introduces a multi-jurisdictional workers’ compensation comparative law program

with a panel of senior judges from multiple states hosting an interactive discussion of topics and points that make our adjudicatory responsibilities either similar or unique.

The 2010 NAWCJ Judicial College will be held in Florida on August 16, 17 & 18, 2010 at the Orlando World Center Marriott in conjunction with the FWCI Annual Workers’ Compensation Conference,” which is presented for all varieties of workers’ compensation professionals and practitioners by the FWCI and the Florida Safety and Health Institute (FSHI). 2010 will mark the 65<sup>th</sup> Annual FWCI and the 22<sup>nd</sup> Annual FSHI gatherings. President Lazzara and the NAWCJ Board are excited about the 2010 curricula. This program will offer unprecedented opportunities for judicial education and continuing educational credits, as well as collegial interaction with judges from a variety of state workers’ compensation adjudication programs and venues. We look forward to seeing you there.

# A VIEW FROM THE OTHER

## SIDE OF THE BENCH

Richard S. Thompson, Esq. and Michael Cunningham, Esq.

There have been many articles written by judges, and many bar bench meetings conducted, wherein the bench tells the bar about their “pet peeves” and other complaints with the bar. However, we rarely see an article which lets the judges know what the bar is thinking.

The purpose of this article is to provide this feedback to judges. It will serve as a gentle reminder of the challenges faced by practicing attorneys and how the judge’s behavior can significantly impact the attorneys’ ability to do his or her job in an effective and efficient manner.

The suggestions and observations in this article were developed by talking to numerous attorneys and asking them for their war stories about appearing before Workers’ Compensation judges. Every lawyer had a story – and some were beauties! We have edited out the salacious details of the stories, but tried to retain the lessons learned from those experiences.

The lessons learned fall in to three categories: Judicial demeanor; delays and inefficiencies in the pre-trial process; and trial practices.

### **Judicial demeanor**

A great deal has been written about judicial demeanor. The topic is frequently discussed at judge’s conferences and by attorneys among themselves. Nevertheless, a not insignificant number of judges continue to display behavior that is unbecoming of the bench. While the suggestions below seem to many to be “common sense,” the practicing lawyer knows that often the ideals expressed in this article are less than “common.”

The first suggestion to the judge is simply this: remember your roots. You were once a practicing lawyer, likely in these very same halls. While you are now at the top of the food chain, keep in mind that you were once a new lawyer unsure of court procedure or protocol; you were once a lawyer who got caught in traffic trying to make it to an appearance; you were once a lawyer who simply wanted a judge to listen to your argument rather than pre-judging the situation. Keeping these things in mind will prove invaluable as you deal with the inevitable frustrations that are a part of your day.

Along the same lines, and perhaps most important of all, is be professional. The word “professionalism” means different things to different people, so let us define it in the context of a Workers’ Compensation judge: Being professional means:

- Follow the golden rule: Treat everyone that enters your courtroom as you would want to be treated; with respect, dignity, and fairness.
- Hold yourself to the same standards as you hold attorneys. This means showing up on time, starting hearings on time, and understanding that everyone’s time is a precious commodity that should be respected.
- Leave your bias at the door. There is no denying that we are all biased one way or another based on our work and life experiences. While it is natural to have a bias, the best judges set aside that bias when they put on the robe and rule straight down the middle, in accordance with the law, regardless of their personal feelings on the subject. Too often attorneys on both sides of the bench can easily categorize judges as “applicant/claimant oriented” or “defense oriented.” One of the highest compliments a judge can receive is to fall in to neither of these categories.
- Wield authority in a manner that commands and demonstrates respect. Remember the sage advice of William Shakespeare:  
Oh, it is excellent  
To have a giant’s strength, but it is tyrannous  
To use it like a giant.

*Continued page 3*

- Remember that social niceties matter. Be friendly, ask about our children, show interest in who we are outside the courtroom. You will be rewarded by a much better and stronger relationship with all members of the bar.

Think back to before you were a judge. Remember the “good” judges and the “bad” judges. Chances are that the good judges all share the traits set out above. Model your conduct similarly and you will someday be remembered as a “good” judge.

### **Pretrial procedure and process**

Much of the dissatisfaction attorneys have towards some judges arise out of their pretrial procedures. A judge’s handling of pre-trial procedures can dramatically impact a lawyer’s ability to receive a timely, fair and just result. The following are the most often cited complaints practicing attorneys have about pretrial procedures:

- Failure to rule timely. This is another aspect of professionalism. Some judges will hold attorneys to very strict timelines, with severe sanctions for non-compliance. These same judges will apply a different standard to their own work; often making the parties wait for months before issuing a ruling. The oft-cited maxim, “justice delayed is justice denied,” is true. The substantive rights of the parties are impacted by long delays in ruling.
- Unnecessary or burdensome pretrial rules and procedures. Attorneys who appear before you typically appear in numerous other jurisdictions as well. While local rules are certainly necessary at times, voluminous rules relating to virtually every aspect of court procedures complicates matters. Even worse, contradictory rules in sister courts creates confusion and inefficiency. It is difficult for an attorney, and the attorney’s support staff, to have to adopt different practices in different jurisdictions. Another consideration involves the sanctioning or punishment of a party who fails to follow the rules. When fashioning a sanction, it is suggested that the judge should try to tailor the sanction so as to only affect the offending party, and not all parties. While attorneys generally support the sanctioning of attorneys who fail to follow the rules (unless it is them!), many times the non-offending party is inadvertently punished by the sanction imposed by the judge.

*Continued Page 5.*

## Meet Your Directors



Ellen Lorenzen was originally from Los Angeles, CA. but grew up in Baton Rouge, LA. She received her B.A. from Emory University, Atlanta, GA in 1971 and moved to Florida. She began working as an all-lines adjuster until she attended Stetson College of Law where she graduated in 1978. After admission to the Bar, she became employed as staff counsel for Continental Insurance in Tampa, practicing primarily in the area of personal injury defense with some workers’ compensation cases. In 1985 Ms. Lorenzen became employed with the firm of Morris & Rosen where she represented injured employees. In 1986 she was hired by Travelers Insurance as a staff attorney where she was responsible for a mix of workers’ compensation and personal injury cases until 1990. At that time she became the managing attorney of the office. In 1994 Ms. Lorenzen became associated with the firm of Barr, Murman, Tonelli in Tampa and became a non-equity partner there in 1997. In 1998 Ms. Lorenzen opened her own firm handling workers’ compensation defense on behalf of several self-insured employers. Judge Lorenzen was appointed a Judge of Compensation Claims by Governor Bush and reappointed by Governor Crist in 2008. She became the administrative judge in the Tampa office in 2009. She has been Board Certified in Workers’ Compensation since 1988. Judge Lorenzen serves on the board of Tampa Jewish Family Services, a non-profit social services agency providing mental health counseling and food bank assistance to those in need in the Tampa area irrespective of race or religion. She assists in the selection of scholarship recipients for the Friends of 440 Scholarship Fund, Inc., a non-profit organization which provides scholarships to the children of workers injured on-the-job or whose primary employment is connected with the Florida workers’ compensation act. Judge Lorenzen also served as the public co-chair of the ABA Section of Labor and Employment Law from August 2006 through August 2009.

180 days until Judicial College ‘10

# NAWCJ Judicial College 2010

August 15 through 18, 2010

## NAWCJ COLLEGE 2010 HIGHLIGHTS:

### COMPARATIVE LAW PANEL

Honorable R. Karl Aumann  
Maryland Workers' Compensation Commission

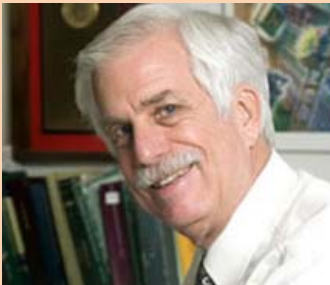
Honorable John J. Lazzara  
Florida Office of Judges of Compensation Claims

Honorable Linda A. Thompson  
Mississippi Workers' Compensation Commission

Honorable David Torrey  
Pennsylvania Department of Labor and Industry



### EVIDENCE IN WORKERS' COMPENSATION



Charles W. Ehrhardt  
Emeritus Professor  
Florida State University College of Law

The trials and tribulations of evidence, or the tribulations of trial evidence; states differ in their workers' compensation evidentiary standards, rules, and approaches. Professor Ehrhardt will bring the subject to the table with wit and wisdom for dealing with difficult objections to hearsay, authentication, relevance and prejudice.



Marriott World Center, Orlando

## Florida Workers' Compensation Institute

<http://www.fwci.org/index.html>

- Refusing to hear matters and instead taking them off calendar or forcing the parties to resolve on their own. Parties are entitled to their day in court and to have their disputes heard timely by a judge. Some judges simply refuse to hear a matter, betting that many of these issues and cases will simply go away if they push them off. Sadly, it is true that many of these matters do resolve. However, they resolve unfavorably to both parties who are forced to make decisions in the absence of knowledge because of the judge's failure to rule. While this may promote judicial economy and efficiency, it is also an abdication of the judge's job.

### **Trial Procedure**

The final area to explore is a judge's conduct of trials and trial procedures. The first suggestion is to let us go to trial. Some judges treat trials as something to be avoided at all costs and will use any and all means to avoid a trial. Attorneys know who these judges are and have to change their strategy accordingly. While parties should try to resolve matters short of trial, when this is not possible, it is incumbent on the judge to hear the case. A related issue is when judges indicate to the parties how they are inclined to rule if the matter goes to trial so that the parties will be encouraged to settle. This is clearly improper and is a disservice to the parties, the process, and the administration of justice.

The next suggestion is to be prepared when hearing a case. The issue being litigated is important to the attorneys and their clients. Appearing before a judge who is obviously unprepared is a disservice to everyone involved in the process. A judge who has read the briefs and asks the right questions results in a quicker trial.

Finally, be considerate of witnesses and their time when they are going to testify at trial. Witnesses often travel from far away to attend a trial. Moving the trial date after the parties and the witnesses have prepared and travelled is inconvenient and should be avoided whenever possible.

### **CONCLUSIONS**

The majority of judges work very hard to administer justice in a fair, impartial and efficient manner. But even the best judges, like all of us, can use a reminder. In the courtroom, you set the tone and you have all of the power. You can use that power in a manner that promotes the rule of law and inspires others. Alternatively, you can use that power in a manner that causes the participants to feel they have been treated unjustly. This undermines the very foundation of our legal system. The choice, of course, is yours. Choose wisely.

We appreciate the opportunity to share these comments with members of the Workers' Compensation bench. While the substance of the article is our own, we have attempted to speak for many attorneys who do not typically have this forum to share their thoughts on this important issue.

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#### The Authors:

Richard S. Thompson graduated from Clemson University (cum laude) in 1985 with a degree in Administrative Management. He received his Juris Doctorate (with honors) from the Florida State University College of Law in 1988. He has been Board Certified by the Florida Bar as a specialist in workers' compensation since 1994. He served as a Judge of Compensation Claims in the Orlando District from 1995 through 2004. During his tenure as a judge, he served two terms as president of the Florida Conference of Judges of Compensation Claims. Rick is currently a member of the Executive Council of the Workers' Compensation Section of the Florida Bar, is former Co-Chair of the Florida Bar's Workers' Compensation Forum (Board Certification Course), and has been a faculty member for the Workers' Compensation Section's Annual Trial Advocacy Workshop since 2003. He has been elected and will serve as Chair of the Florida Bar Workers' Compensation Section for 2010-2011. Rick has been the manager of the Claim-Legal Department of Zenith Insurance Company in Sarasota, Florida since 2005 and currently serves as Vice President, Claims-Legal. He has delivered numerous presentations on behalf of the American Bar Association and the Florida Bar and he has been published in the Florida Bar Journal and the 440 News and Report on many occasions.

Michael Cunningham is Senior Vice President for Claims Legal at Zenith Insurance. Prior to joining Zenith in 2009, Mike worked for Infinity Insurance, as Vice President, Corporate Litigation. Mike has spent his career in insurance defense, as a private attorney, as staff counsel, and managing legal operations for insurers. Mike graduated with highest honors from The Ohio State University College of Law and received his undergraduate degree from Case Western Reserve University in Cleveland.

# Judges Assist with Scholarship Selections

By Hon. Alan Kuker



The Friends of 440, a South Florida social and educational organization, was formed in the late 1950's. Its membership is composed of people who work in the workers' compensation system, i.e., Attorneys, Judges of Compensation Claims, Physicians, Risk Managers, Adjusters, Rehabilitation Providers, etc. The name, Friends of 440, because Chapter 440, Florida Statutes, is the workers' compensation law of Florida.

In 1991, the Friends of 440 Scholarship Fund, a 501 (c)(3) charitable corporation was established to award college scholarships to the children of injured workers based on financial need. The following were the founding officers: Richard Sadow, Esq., President; Judge Alan M. Kuker, Vice President; Cesar Armstrong, Esq., Vice President Fundraising, Tom Conroy, Esq., Secretary; Chuck Kelley, Esq. Treasurer. In that first year \$4,000.00 in scholarships were awarded to four children.

In 2009, \$76,000.00 in college scholarships was awarded to 43 children statewide. Also, the Scholarship Fund had an endowment fund in excess of \$750,000.00. The Scholarship Funds' membership, likewise are people in the workers' compensation system. The Scholarship Fund has grown to include chapters in South Florida, Tampa/St. Petersburg, Orlando, Gainesville, North Florida, Jacksonville, and the Treasure Coast.

Each Chapter has a Board of Directors and Officers and does local fundraising for a statewide Treasury. Each Chapter also does local selection of scholarship candidates who are interviewed, then referred to a statewide selection committee. All chapters are represented at the statewide selection committee meeting for final interviews and award decisions. The Judges of Compensation Claims statewide are involved in the local and statewide selection committees.

The candidates must have financial need and a nexus with F.S. 440, either as a child of an injured worker or of a person employed in the administration of F.S. 440, such as an adjuster or secretary. A detailed written application with IRS forms is required, as are two personal interviews (at the local and statewide level).

There is a statewide Board of Directors composed of representatives of the chapters, and headed by the President, Richard Sadow, Esquire and Vice President, Judge W. James Condry, Vice President Fundraising, Darcy Williams, Secretary, Grace Murtada, Esquire, and Treasurer, R. Cory Schnepfer, Esquire. Fundraising by the local chapters consist of educational panel presentations, golf, tennis and fishing tournaments, award dinners, etc. A statewide meeting is held annually at the F.W.C.I. Conference, where a few of the scholarship children are introduced. Past scholarship recipients are today attorneys who have joined the effort, doctors, teachers, and other contributing members of society who without the scholarship may have not been able to attend college. Over the course of the past 18 years in excess of \$1 million has been raised and used to assist over 518 college students achieve their educational goals.

For further information please visit The Friends of 440 website: [www.440scholarship.org](http://www.440scholarship.org).

## Your NAWCJ Board of Directors

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Florida Office of Judges of Compensation Claims
- Hon. James R. Wolf, Secretary  
Tallahassee, Florida  
Florida First District Court of Appeal
- Hon. R. Karl Aumann  
Baltimore, Maryland  
Maryland Workers' Compensation Commission
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- Hon Paul M. Hawkes  
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- Hon. David Langham  
Pensacola, Florida  
Florida Office of Judges of Compensation Claims
- Hon. Ellen Lorenzen  
Tampa, Florida  
Florida Office of Judges of Compensation Claims
- Honorable David Torrey  
Pittsburg, Pennsylvania  
Pennsylvania Department of Labor and Industry

## Interesting links:

- EHS Today Magazine  
<http://ehstoday.com/>
- Workcompcentral  
[www.workcompcentral.org](http://www.workcompcentral.org)
- Florida Workers' Compensation Institute  
[www.fwciweb.org](http://www.fwciweb.org)
- NAWCJ  
[www.nawcj.org](http://www.nawcj.org)

From:



## Does Physical Loading Damage the Disc?

By Dr. Steven D. Feinberg

In a recently published award-winning study in *The Spine Journal* 10 (2010) 26–31, Dr. Tapio Videman, PhD, and colleagues questioned one of the accepted principles in spine care and in workers' compensation which is the belief that repetitive physical loading is inherently damaging to the intervertebral disc.

The authors studied male twin pairs where one of the siblings was substantially heavier than the other by an average of almost 30 pounds. Their assumption was that the lumbar discs in the larger twins were exposed to much heavier biomechanical loading than the discs of their brothers over a period of years.

The results were contrary to commonly held beliefs as the study found no evidence that the additional physical loading was harmful. In fact, it appeared to have a beneficial effect on lumbar discs.

Dr. Videman is quoted in the January issue of *The BackLetter* with stating that, "Our findings provide evidence that more cumulative and repetitive loading appears to delay disc degeneration slightly. Repetitive loading is not necessarily bad for the disc—within limits," he concluded. He did offer a qualifier, however. "Adaptation of the disc to heavier loading has to be a consideration," he said. *The BackLetter* also noted that "The intervertebral disc is, of course, the largest avascular structure in the human body and has an extraordinarily slow metabolism. As a result, the disc may need to adapt gradually to increased loading. But this is true for nearly every structure in the musculoskeletal system."

The major criticism of this hypothesis is that these findings may not be relevant to the workplace. *The BackLetter* articles notes that, "Gradual loading and strengthening of the disc that occurs with weight gain may not be relevant to workplace situations. The day-to-day physical demands of work might disrupt this adaptation process and lead to injury and ongoing chronic pain."

It is true that studies over the last decade and a half - particularly Finnish twin studies - suggest that occupational physical loading plays a very modest role in disc degeneration.

*The BackLetter* noted that "On the other hand, one study reported that higher body mass, heavier physical work, and higher lifting strength are also associated with disc space narrowing. Disc space narrowing is a signal of the advanced stages of structural degeneration. One possible conclusion would be that heavier physical loading may have a negative effect on severely degenerated discs."

So the overall message may be that physical loading in appropriate doses can strengthen healthy discs but may not have a similarly beneficial effect in those with severe degenerative changes. We know that exercise and strengthening in other joints and musculoskeletal structures in the body is physically beneficial. The same may well be true for the spine – exercise, physical loading and work are good! It may be though that once a joint or musculoskeletal structure suffers degenerative changes with age or substantial damage or injury, physical loading may have a more variable and negative effect. This makes sense clinically. An example would be someone who undergoes a partial knee meniscectomy and returns to sports without difficulty but then has trouble with advanced degenerative disease in that knee years later.

An explanation to tie what appears to be conflicting data is that in the workers' compensation arena, it may be a combination of underlying non-industrial degenerative factors (which are a normal aging phenomenon) and work related factors that result in symptomatic spine conditions. In other words it may not be the work itself but rather the work in a susceptible person with "normal" underlying degenerative changes. Further for injured worker who has been doing physical labor for many years, it may be that genetic and aging factors along with microtrauma both at work and elsewhere over many years has contributed to the degenerative changes but only caused symptoms at a later point in time ("The straw that broke the camels back").

While but for the industrial exposure injury there may well have been no disability, current law instructs us to apportion to the cause of the disability. That leaves the evaluating physician with the unenviable and at time herculean task of addressing apportionment and doing so via providing substantial evidence of an approximate percentage caused by work and non-industrial factors.

(Reprinted with permission from [www.workcompcentral.com](http://www.workcompcentral.com)).

# Workers' comp research gives insight into curbing health costs

By Gary Stephenson

*Johns Hopkins Medicine*

Analyzing physicians' practice patterns may hold valuable clues about how to curb the nation's rising health care costs, according to a study by researchers at the Johns Hopkins School of Medicine.

According to their study, published in the January edition of the *Journal of Occupational and Environmental Medicine*, the practice patterns of physicians participating in a workers' compensation system had a profound impact on the ultimate cost of claims.

After analyzing five years of claim data from the Louisiana Workers' Compensation Corp., or LWCC, from 1998 to 2002, the researchers found that a small group of physicians, only 3.7 percent, accounted for more than 72 percent of the workers' compensation costs. These were termed cost-intensive providers, or CIPs.

"Across the board, we've found that most physicians practice prudently," said Edward J. Bernacki, director of the School of Medicine's Division of Occupational Medicine and principal investigator of the study. "But there are physicians who engage in cost-intensive practices. As we continue to debate the nation's health care system, it makes sense to analyze how practice patterns drive costs, before instituting sweeping reform."

In 2003, Johns Hopkins researchers began working with the LWCC, a private nonprofit mutual insurance company, to provide quality and cost control.

For this study, researchers analyzed individual LWCC claims and a database of health care providers—doctors, physicians, clinical practices and facilities—during the same period. This research is the culmination of several years of investigation into workers' compensation costs that have yielded similar results. Other research team members include Xuguang "Grant" Tao, assistant professor of epidemiology at Johns Hopkins, and Larry Yuspeh, LWCC's director of research and development and strategy management.

"We have demonstrated that it is possible to objectively identify a group of physicians who are associated with high-cost claims and quantify their effect on a system of health care," Tao said. "Our major finding was that the workers' comp costs of claims associated with this group of physicians are much higher than those claims associated with other physicians." *Continued, P. 9*

## Second Fridays Seminars in April and May

Friday, April 9, 2010:

Robert Pass, Carlton Fields

### **Issues Involving Electronic Discovery and Electronic Records.**

The world is changing as technology alters the way people create, store, and use documents. These issues are now making their way into the discovery and litigation processes. Judges will hear more and more about the impacts of such technology issues on discovery requests and the use of documents.

Friday, May 14, 2010:

Dr. Charles Geraci, Center for Disease Control and National Institute of Health.

### **NANOTECHNOLOGY – A "TINY" PRIMER ON FUTURE AND CURRENT ISSUES.**

Although nanotechnology appears to be the wave of the future, important questions remain about basic health and safety issues. Some of these issues include: How might workers be exposed to nano-sized particles? How do nanoparticles interact with the body and what are the potential effects? This presentation will give an overview of this potentially revolutionary technology.

**Plan Now!**

**Second Fridays Seminars are free to NAWCJ members!**

180 days until Judicial College '10  
Highlights on page 4!

While some of the differences between physician groups were related to injury severity, the analysis controlled for International Classification of Disease group, claim duration and other potential surrogates for severity. The analysis concluded that CIP status had a significant cost impact that is independent of severity. When the claim is closed, LWCC assumes the medical issue is resolved. When the claim remains open, a physician has determined that medical issues still need to be addressed.

Previous research by the Johns Hopkins team reinforces the findings of the current study.

- A 2005 study found for the first time that a small network of physicians could have significant impact on overall costs. In this study, a statewide group of 2,000 medical providers, called the OMNET Gold Network, showed significant cost savings by treating patients effectively and closing claims quickly.
- A 2007 study found that certain claim attributes—specifically, the involvement of an attorney and the duration of the claims—greatly impacted overall claim cost. After analyzing 36,329 claims over five years, the study found that 2 percent of these claims accounted for 32 percent of the claim costs.
- A 2008 study found that attorney involvement was associated with consistently higher medical, indemnity and claim handling costs. Of nearly 7,000 claims studied, 738 claims involved attorneys. By the study closure, 97.7 percent of claims without attorneys had been resolved. Of those with attorney involvement, only 57.5 percent had been closed. The study found attorney presence on a claim correlated with duration, and the duration correlated with higher cost.

This article was originally published in the Johns-Hopkins University Gazette on January 19, 2010. It is reprinted here with permission from the Gazette.

Read more: <http://gazette.jhu.edu/>

## Technology Remains an Issue

The January 2010 Lex and Verum featured news on Judges with social networking site pages. Recently, workcompcentral.com has revealed another role these sites may play in our lives. See:

[Twitter About Mardi Gras Supports Petition for Removal](#), by John Kamin, February 12, 2010

And

[I Spy for Free](#), by Donald Barthel, January 26, 2010.

## NCCI: Claims Frequency Dropped Again in Accident Year 2008:

The National Council on Compensation Insurance (NCCI) said claims frequency continued to decline in accident year 2008, while both medical and indemnity severity continued to rise.

NCCI said the study confirms previous predictions that the decline in the number of claims filed per 100,000 workers is continuing to slow.

The Boca Raton, Fla.-based rate maker said frequency dropped by 3.4% for 2008 -- a slightly smaller reduction than the 4.7% decline experienced for the five previous years.

Indemnity severity – the cost per indemnity claim – increased by 5.8% for the accident year. That compares to an overall 3.8% increase between 2003 and 2007.

NCCI also noted a steeper climb in medical severity, which increased 6.7% compared to accident year 2007. Medical severity increased by an overall 6.2% between 2003 and 2007.

NCCI reported 1,014 claims per 100,000 workers for accident year 2008 – compared to 1,050 reported for 2007.

Indemnity losses reached an average of \$21,975 – compared to \$20,769 for the previous year. Medical losses reached \$25,917 in 2008 – up from \$24,291 for the previous year.

The NCCI report is here:

<https://www.ncci.com/documents/Freq-Sev-2008.pdf>.

This article was originally printed by Workcompcentral.com on February 1, 2010. It is reprinted here with permission.

Watch your mailbox this spring for a NAWCJ College brochure. If you want to make sure you receive a brochure send an email with your postal address to [nawcj@live.com](mailto:nawcj@live.com)

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Membership in the National Association of Workers' Compensation Judiciary is open to any person whose responsibility is the adjudication of workers' compensation claims. Throughout the nation, there are a variety of titles that are used to describe us, "Judge," "Commissioner," "Deputy Commissioner," "Referee," and "Hearing Officer" are a few. The NAWJC also has Associate Membership for those interested in supporting the education of workers' compensation adjudicators. The NAWJC is thankful to the concerned professionals that have contributed their time and resources to support our efforts. We recognize them here.

**James Anderson**

Anderson Crawley & Burke, PLLC  
Ridgeland, MS

**Regan Ankney**

McAngus, Goudelock & Courie, LLC  
Charleston, SC

**Robert Barrett**

Rissman, Barrett, Hurt, Donahue & McLain, P.A.  
Orlando, FL

**Douglas Bennett**

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McAngus, Goudelock & Courie, LLC  
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Laurence Leavy & Associates  
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**Hugh McAngus**

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**Richard Waits**

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Atlanta, GA

**Patrick Weaver**

McConnaughay, Duffy, Coonrod, Pope & Weaver, Pa  
Panama City FL

# THE NATIONAL ASSOCIATION OF WORKERS' COMPENSATION JUDICIARY

## APPLICATION FOR MEMBERSHIP

THE NAWCJ MEMBERSHIP YEAR IS A FOR 12 MONTHS FROM YOUR APPLICATION MONTH. MEMBERSHIP DUES ARE \$75 PER YEAR OR \$195 FOR 3 YEARS. IF 5 OR MORE APPLICANTS FROM THE SAME ORGANIZATION, AGENCY OR TRIBUNAL JOIN AT THE SAME TIME, ANNUAL DUES ARE REDUCED TO \$60 PER YEAR PER APPLICANT.

NAME: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

OFFICIAL TITLE: \_\_\_\_\_

Organization: \_\_\_\_\_

PROFESSIONAL ADDRESS: \_\_\_\_\_

PROFESSIONAL E-MAIL: \_\_\_\_\_

ALTERNATE E-MAIL: \_\_\_\_\_

PROFESSIONAL TELEPHONE: \_\_\_\_\_ Fax: \_\_\_\_\_

YEAR FIRST APPOINTED OR ELECTED? \_\_\_\_\_

CURRENT TERM EXPIRES: \_\_\_\_\_

HOW DID YOU LEARN ABOUT NAWCJ? \_\_\_\_\_

DESCRIPTION OF JOB DUTIES / QUALIFICATIONS FOR MEMBERSHIP:

IN WHAT WAY WOULD YOU BE MOST INTERESTED IN SERVING THE NAWCJ:

Mail your application and check to:

Hon. John J. Lazzara, NAWCJ President  
Office of the Judges of Compensation Claims  
1180 Apalachee Parkway Suite A  
Tallahassee, FL 32301 - 4574  
850.488.2110 850.922.3661 (Fax)  
Email: [jjl@nawcj.org](mailto:jjl@nawcj.org)

# THE NATIONAL ASSOCIATION OF WORKERS' COMPENSATION JUDICIARY

## APPLICATION FOR ASSOCIATE MEMBERSHIP

THE NAWCJ ASSOCIATE MEMBERSHIP YEAR IS A FOR 12 MONTHS FROM YOUR APPLICATION MONTH. ASSOCIATE MEMBERSHIP DUES ARE \$250 PER YEAR.

NAME: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

Firm or Business: \_\_\_\_\_

PROFESSIONAL ADDRESS: \_\_\_\_\_

PROFESSIONAL E-MAIL: \_\_\_\_\_

ALTERNATE E-MAIL: \_\_\_\_\_

PROFESSIONAL TELEPHONE: \_\_\_\_\_ Fax: \_\_\_\_\_

HOW DID YOU LEARN ABOUT NAWCJ? \_\_\_\_\_

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## THE NATIONAL ASSOCIATION OF WORKERS' COMPENSATION JUDICIARY

There are opportunities for sponsorship of the 2010 NAWCJ Judicial College August 15 through 18, 2010, in Orlando, Florida. If you are interested in sponsoring any of the following:

**WELCOME LUNCHEON PRIME SPONSOR**

**JUDICIAL RECEPTION PRIME SPONSOR**

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Please Contact: Hon. John J. Lazzara, NAWCJ President  
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Tallahassee, FL 32301 - 4574  
850.488.2110 850.922.3661 (Fax)  
Email: [jjl@nawcj.org](mailto:jjl@nawcj.org)