2019 Workers’ Compensation Midwinter Seminar and Conference
March 14–16, 2019
The Biltmore Hotel
Coral Gables, Florida
Dear Colleagues,

Welcome to the 2019 Workers’ Compensation Midwinter Seminar and Conference, co-sponsored by the ABA Section of Labor and Employment Law and Tort, Trial and Insurance Practice Section. We look forward to your attendance on March 14-16 in beautiful Coral Gables, Florida at The Biltmore Hotel. I hope everyone is looking forward to escaping the winter cold and enjoying all that the surrounding Miami area has to offer when not engaged in our fantastic continuing education and other programs.

The program this year includes a number of notable judges, attorneys and other industry experts covering a variety of topics with applicability to practices that cross state lines. More specifically, topics will include: social media and surveillance, technology and its role in workers’ compensation claims, subrogation, the interplay with OSHA, alternatives in pain management, ethical dilemmas, courtroom advocacy, jurisdictional issues and direct/cross examination of physicians. These topics will be presented on March 14 and 15.

The College of Workers’ Compensation Lawyers Symposium will be held on March 16. The topics will include: temporary transitional employment, top 10 workers’ compensation cases nationally and dealing with the irrational, paranoid or suicidal claimant. Later that evening, there will be an induction ceremony for this year’s College of Workers’ Compensation Fellows, which is a separate ticketed event.

In addition to the great educational programs, we also will have a networking reception on March 14. Further, Judge David Langham will offer a breakfast conversation on the “litigation privilege.” Finally, you will be treated to a speaker who will provide a heart-warming story of how Kid’s Chance has had a life-changing impact on the child of an injured worker.

Please join us in Coral Gables for the educational benefit, CLE credit, networking and, hopefully, a little relaxation. We look forward to seeing you there.

Sincerely,

Rob Hendrix
Program Chair
Hotel Accommodations
We have negotiated a special group rate at The Biltmore Hotel of $299 for single or double occupancy rooms plus a $10 per night resort fee, which covers in-room WiFi and access to the health club. Reservations may be made online at www.biltmorehotel.com/groups and entering Group Code 3688 or by calling the hotel at 305.445.1926 or 800.727.1926. Be sure to mention you are attending the “ABA Section of Labor and Employment Law Workers’ Compensation National Program” to receive the group rate, which will be honored until February 13, 2019 or until the room block is exhausted.

Meeting Registration
The Midwinter Meeting registration fees cover your attendance at all CLE programs and social functions, including the Saturday College of Workers’ Compensation Lawyers Symposium on Saturday, March 16. College of Workers’ Compensation Lawyers may register for the Symposium only for $100 or for the entire Midwinter Meeting and Symposium at the ABA Section Member rate.

Register online at www.americanbar.org/lelmidwinter. You also may register by completing the Registration Form included in this brochure and returning it with your check to the address listed on the form. Credit card payments are accepted online or via telephone only. Refunds, less a $50 administrative fee, will be made on registration cancellations received in writing before March 1, 2019.

Continuing Legal Education Credit
The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, CT, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, ME, MN, MS, MO, MP, MT, NH, NJ, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI and WV. These states sometimes do not approve a program for credit before the program occurs. The meeting is expected to qualify for 15.0 CLE credit hours (including 1.0 ethics hours) in 60-minute states and 18.0 credit hours (including 1.2 ethics hours) in 50-minute states. These transitional programs are approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit www.americanbar.org/cle/mandatory_cle.html.

Financial Assistance
Visit the Section of Labor & Employment Law website at www.americanbar.org/labor for information about the Section Development Fund and Government and YLD Fellowship Program opportunities. For registration fees over $500, qualifying attorneys could receive at least a 50% reduction in the course fee. This does not include any reduction in meals, lodging or travel costs associated with the course. Please send written requests to laboremppllaw@americanbar.org.

We thank our very generous sponsors for their participation in the 2019 Workers’ Compensation Committee Midwinter Seminar and Conference.
Thursday, March 14

• 1:00 pm
Registration

• 1:30 pm – 1:35 pm
Introduction and Welcome Remarks
Timothy Malloy, Union & Employee Co-chair
David Moskowitz, Employee Co-chair
Elizabeth Connellan Smith, Employer Co-chair
Hon. David Torrey, Public Co-chair
Robert Hendrix, Program Chair

• 1:35 pm – 1:45 pm
Remarks on Behalf of Section Leadership
Joseph E. Tilson, Chair of the ABA Section of Labor and Employment Law, and Roy Alan Cohen, Chair of the ABA Tort, Trial and Insurance Practice Section, will welcome attendees and provide remarks on behalf of their Sections.
Joseph E. Tilson, Cozen O'Connor, Chicago, IL
Roy Alan Cohen, Porzo, Bromberg & Newman, P.C., Morristown, NJ

• 1:45 pm – 2:45 pm
Miranda Warnings in Workers’ Compensation:
Everything You Post Can and Will Be Used Against You in a Court of Law
Panelists will discuss issues regarding the admissibility of social media and surveillance and its impression to workers’ compensation judges. Examples of social media posts and surveillance from real cases will be presented.
MODERATOR: Hon. Todd B. Seelig, Bureau of Workers’ Compensation, Philadelphia, PA
PANELISTS: Hon. Sheral C. Kellar, Louisiana Workforce Commission, Baton Rouge, LA
Hon. Sylvia Medina-Shore, Judge of Compensation Claims, Miami, FL
Hon Pamela B. Johnson, Tennessee Court of Workers’ Compensation Claims, Knoxville, TN
Michael Petrie, Social Detection, Inc., King of Prussia, PA

• 2:45 pm – 3:45 pm
To Tweet or Not to Tweet:
The Use of Technology in Work, Workers’ Compensation and Claims Management
New technologies that make work safer and make managing work-related injuries easier are entering the workspace every day. Likewise, employees are carrying these new technologies into workplaces on a daily basis. Forward-
thinking employers are already exploring and incorporating various mobile apps, wearables and equipment specifically designed to improve worker safety through “smart” technologies. Learn about innovations that are already being used as well as ideas for ways to better handle injury claims with an aim toward reducing costs and speed recovery through judicious use of emerging technology.

MODERATOR: Elizabeth Connellan Smith, Verrill Dana, L.L.P., Portland, ME

PANELISTS: Elizabeth Eddy Griffin, Maine Employers’ Mutual Insurance Company, Portland, ME
Robert J. Grace, Jr., Bleakley, Bavol & Denman, Tampa, FL
Mike Winer, Mike Winer Law, Tampa, FL

• 3:45 pm – 4:00 pm
  Refreshment Break
  Please visit our sponsors in the exhibition hall.

• 4:00 pm – 5:00 pm
  Sub*ro*ga*tion: What It Is and How It Works
  When subrogation is discussed in connection with a workers’ compensation matter, it typically pertains to injuries sustained by a worker as a result of the negligence of a third party. In addition, subrogation issues can arise when an injured worker receives short and/or long-term disability benefits. Healthcare liens also are becoming prevalent. Our panel will discuss subrogation issues and will present a 50-state survey addressing these topics.

MODERATOR: Catherine Tanaka Surbeck, Freedman & Lorry, P.C., Philadelphia, PA

PANELISTS: Michael A. Aguilar, Interisc, LLC, Miami, FL
Michael I. Fish, Fish, Nelson and Holden, L.L.C., Birmingham, AL
Cathy A. Lake, Administrative Law Judge, Department of Workforce Development, Milwaukee, WI
George L. Townsend, HammondTownsend, L.L.C., Fishersville, VA

• 5:00 pm – 6:00 pm
  The Interplay between OSHA and Workers’ Compensation
  Panelists will discuss the interplay between OSHA and Workers’ Compensation including the questions and risks that employers and attorneys to consider.

MODERATOR: James S. Anderson, Cummins, Goodman, Denley & Vickers, P.C., Portland, OR

PANELISTS: Stacy A. Tees, Goldberg Segalla, Philadelphia, PA
Julia Sfurm, Elkay Manufacturing Company, Oak Brook, IL
William “Bill” J. Wahoff, Steptoe & Johnson PLLC, Columbus, OH

• 6:30 pm – 7:30 pm
  Networking Reception
Friday, March 15

- **7:30 am – 8:30 am**
  Continental Breakfast

- **8:00 am – 8:30 am**
  A Breakfast Conversation on Litigation Privilege
  During the deposition, the defense attorney asked the doctor “Doctor, we are sure that this man is a fake and fraud, do you agree?” The doctor answered: “Based on the lack of objective findings, I’d have to say that I agree he is a fraud.”
  Upon reading the deposition, the plaintiff insists that his attorney sue them both for libel. Enjoy your breakfast over a roundtable discussion led by Judge David Langham, Florida Deputy Chief Judge of Compensation Claims, on litigation privilege.

- **8:30 am – 9:30 am**
  Alternatives in Pain Management
  With the opioid epidemic still wreaking havoc throughout the country, panelists will discuss newer and emerging alternatives to address chronic pain, including medical marijuana, talk therapy, and naturopathic approaches to pain management.

  **MODERATOR:** Katherine Poirier, Borden Ladner Gervais LLP, Montréal, QC
  **PANELISTS:**
  Teresa Bartlett, M.D., Sedgwick, Troy, MI
  Becky Curtis, Take Courage Coaching, Bozeman, MT
  Phyllis G. Phillips, Mediation Works, LLC, Williston, VT
  Kim D. Starr, Ritsema & Lyon, P.C., Fort Collins, CO

- **9:30 am – 10:30 am**
  Ethical Considerations, Dilemmas and Obligations in Workers’ Compensation Law
  A look at the ethics and professionalism of employers, attorneys and adjusters in the workers’ compensation claims system and how claims can be disputed without sacrificing civility. Panelists will discuss identification of the client, scope of representation, basic duties owed to the client, confidentiality, conflicts of interest, the role of the lawyer as an advocate, advertising and solicitation of clients, and managing fees and billing.

  **MODERATOR:** Zachary M. Rubinich, Rawle & Henderson, LLP, Philadelphia, PA
  **PANELISTS:**
  Hon. John J. Lazzara, Judge of Compensation Claims, Tallahassee, FL
  Stephanie L. Cherala, Degan, Blanchard & Nash, New Orleans, LA
  Kerri Crosby, Director Risk Management, Rollins, Inc., Atlanta, GA
  Jeffrey S. Gross, Gross & Kenny, LLP, Philadelphia, PA

- **10:30 am – 10:45 am**
  Refreshment Break
• **10:45 am – 11:45 am**

**Do's and Don’ts in the Courtroom: Judges’ Perspectives of Effective Advocacy**

Have you ever wondered what makes a Judge or Commissioner upset? What evidence is best presented and how? Does credibility really matter on either parties’ side? What crosses the line between being a zealous advocate and a rude litigant? This panel will provide attorneys, claims representatives, and employers with first-hand narratives from two sitting Judges/Commissioners and a former Commissioner on the most efficient and effective tools for advocating your case.

**MODERATOR:** Derrick L. Williams, Mickel & Bass, LLC, Columbia, SC

**PANELISTS:**
- Hon. Aisha G. Taylor, South Carolina Worker’s Compensation Commission, Columbia, SC
- Hon. David B. Torrey, Pennsylvania Department of Labor & Industry, Pittsburgh, PA

• **11:45 am – 12:45 pm**

**Jurisdiction Issues: Who’s the Boss?**

A panel will discuss various jurisdictional issues, including the interplay between the Longshore and Harbor Workers’ Compensation Act and State Workers’ Compensation Acts, personal and subject matter jurisdiction and how to best position your case when confronted with multiple jurisdictions that may apply.

**MODERATOR:** Phyllis G. Phillips, Mediation Works, LLC, Williston, VT

**PANELISTS:**
- Lynn Blasingame Olmert, McAngus Goudelock & Courie LLC, Atlanta, GA
- Thomas J. Murphy, Murphy Law Firm, Great Falls, MT

• **12:45 pm – 1:45 pm**

**Direct and Cross-Examination of Physicians in the Workers’ Compensation Context**

A panel of experts will share tips and tricks to secure the best and most accurate testimony when examining physicians in workers’ compensation cases. Be prepared to hear secrets and thoughts from seasoned practitioners, who are lowering the curtain and letting everyone have a peek into their methods for drawing out cogent and useful testimony to support their client’s cases.

**MODERATOR:** Donald E. Lampert, Calfee, Halter & Griswold LLP, Cleveland, OH

**PANELISTS:**
- Janet Frickey, The Frickey Law Firm, Lakewood, CO
- Geoffrey J. Shapiro, Shapiro, Shapiro & Shapiro Co., L.P.A., Cleveland, OH
- Alison Stewart, Peddicord Wharton, Des Moines, IA
THIRD ANNUAL
Workers' Compensation
Symposium
Saturday, March 16

• 7:30 am – 8:00 am
Registration and Continental Breakfast

• 8:00 am – 8:30 am
Welcome and Introductions

• 8:30 am – 9:30 am
Temporary Transitional Employment
Temporary Transitional Employment (TTE) is a popular workers’ compensation tool in which employers who cannot return injured workers to positions within the company’s operations arrange for assignment to public services entities that can accommodate the worker’s restrictions. Reason advanced in support of such programs include that they maintain or restore the employee’s habit of getting out and going to work, help the employee to overcome a sense of disability, and may qualify the employee for fringe benefits. Injured employees and their attorneys frequently oppose such offers. Reasons given for opposing TTE include that the employee does not want to perform the work offered, the work is not within the listed medical restrictions, or that the employee does not have to “accept” volunteer work. This panel will explore the various arguments, pro and con, to this tool.

MODERATOR: James M. Gallen, Evans & Dixon, L.L.C., St. Louis, MO
PANELISTS: Debra Livingston, ReEmployAbility, Inc., Tampa, FL
Marci R. Rosenberg, Marci R. Rosenberg, P.C., Dunwoody, GA

• 9:30 am – 10:30 am
Top Ten Workers Comp Cases of the Year
Judge David Torrey will lead a panel discussion of the ten most important workers’ compensation cases to come down during the past year.

MODERATOR: Hon. David Torrey, Pennsylvania Department of Labor & Industry, Pittsburgh, PA
PANELISTS: Hon. Robert L. Dietz, Judge of Compensation Claims, Sebastian, FL
Barbara Holmes, Blaufeld, Schiller & Holmes LLP, Pittsburgh, PA

• 10:30 am – 10:45 am
Refreshment Break

• 10:45 am – 11:45 am
Dealing with the Irrational, Paranoid or Suicidal Claimant
Experts on legal ethics, mental/testimonial capacity and psychiatry will discuss the unique challenges of representing or defending claims from claimants who demonstrate irrational or paranoid behaviors and/or who might present with suicidal or homicidal ideation, either overt or subtle. How do practitioners recognize these threats and what is the practitioner’s responsibility to respond to them?

MODERATOR: Alan S. Pierce, Pierce, Pierce & Napolitano, Salem, MA
PANELISTS: Alex Cuello, Law Office of Alex Cuello, P.A., Miami, FL
Ramon Malca, Malca Law P.A., Miami, FL
Albert Ray, M.D., The Lite Center, South Miami, FL
# REGISTRATION FORM

## 2019 MIDWINTER MEETING

The Biltmore Hotel • Coral Gables, Florida  
March 14–16, 2019 • Registration Deadline: March 1, 2019

**Online:**  [www.ambar.org/midwinter](http://www.ambar.org/midwinter)  
(Credit card payments accepted online only.)

**Mail:**  
American Bar Association  
Attn: Service Center Meeting/Event Registration  
321 North Clark St., Chicago, IL 60654  
☐ Enclosed check (made payable to American Bar Association)

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**AFFILIATION:**  
☐ Employer  ☐ Union & Employee  ☐ Neutral  
☐ Employee/Plaintiff  ☐ Public/Government  ☐ Other  
☐ First-Time Attendee

## Registration Fees

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**Social Event:**  
Thursday Reception  
(included in registration fee)

**Total Enclosed:**  $___

If any special arrangements are required under the ADA, contact Judy Stofko at 312.988.5813.
2019 Workers’ Compensation

Midwinter Seminar and Conference
March 14-16, 2019 • Coral Gables, Florida

SECTION OF LABOR AND EMPLOYMENT LAW
WORKERS COMPENSATION COMMITTEE CO-CHAIRS
Timothy Malloy, Malloy, Etzler & Lawhead, P.C.
David H. Moskowitz, Morgan & Morgan
Hon. Todd B. Seelig, Pennsylvania Department of Labor & Industry
Elizabeth Connellan Smith, Verrill Dana LLP