



Oregon Law Institute  
of Lewis & Clark Law School

**2011**

# **Workers' Compensation Update**

**J**oin your friends and colleagues for this informative and practical annual event. Not to be missed, this seminar will update you on the important new cases, administrative and legislative developments, and current issues in workers' compensation practice that are significant for you and your clients.

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**FRIDAY, SEPTEMBER 30, 2011**

Oregon Convention Center  
777 NE Martin Luther King Jr. Blvd.  
Portland, Oregon

**6** General MCLE Credits

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# SCHEDULE

- 8:30 a.m. LATE REGISTRATION AND DISTRIBUTION OF MATERIALS
- 9:00–9:30 **Tiebreaking Cases at the Board—  
A Personal Perspective**
- Role of the tiebreaker
  - Mechanics of tiebreaking
  - Circumstances when a tiebreaker is likely to be needed
  - Principles implicated in tiebreaking cases  
– *Abigail L. Herman*
- 9:30–10:15 **Time Loss, Return to Work, and Vocational Benefits—The Latest Scoop**
- TTD, TPD, IC, RTW, RMW, AWW—all the acronyms one needs to know
    - ◆ Time loss rates
    - ◆ Average weekly wage—gapology
    - ◆ Regular work versus modified work
    - ◆ Modified work versus TPD in an open claim
    - ◆ Permanent modified work versus vocational benefits
  - VOC—what is it good for?  
– *H. Thomas Andersen*
- 10:15–10:30 BREAK
- 10:30–11:30 **New Case Law**
- Significant Workers' Compensation Board cases
  - Analysis of Oregon Court of Appeals and Supreme Court cases  
– *Edward J. Harri*  
– *Deborah L. Sather*
- 11:30–12:00 **Are Rules Made to be Broken? or Bent? or Changed? An Interactive Look at WCB's Administrative Rules and Some Proposals for Change**
- Rules of law
  - Rules of practice and procedure
  - Rules of thumb
  - "They're more like guidelines, anyway"  
– *Greig Lowell*
- 12:00–1:15 LUNCH (on your own)
- 1:15–2:00 **Legends of the Fall**
- The uniquely difficult issues surrounding "falls in the workplace" and how nuanced facts can make one case compensable and another seemingly identical situation not
  - The blending of "course and scope," medical causation, risks of employment, and the interplay between these concepts
  - The major cases and an approach to evaluate fall cases  
– *Arthur W. Stevens III*  
– *Constance L. Wold*

# SCHEDULE (cont.)

- 2:00–2:45 **Determining the Value of a Claim**
- Using the Oregon Administrative Rules
  - Establishing the relevant facts
  - The intangibles
    - *Christine C. Frost*
    - *Linh T. Vu*
- 2:45–3:00 BREAK
- 3:00–3:30 **Legislative Update**
- Payment of medical bills in a DCS
  - Postponement of reconsideration proceedings to negotiate
  - Changes to the definition of attending physician
    - *Christopher D. Moore*
- 3:30– 4:15 **Head Cases: Concussion Claims and Psychological Distress Claims**
- The “normal” head case: concussions
  - The “special” head case: psychological condition claims
  - Practicalities: medical support and settlement vs. hearing
    - *James E. Bailey III*
- 4:15 p.m. ADJOURN

# Program Faculty

## H. Thomas Andersen

*Attorney at Law*

## James E. Bailey III

*Bailey & Yarmo, LLP*

## Christine C. Frost

*Swanson, Thomas & Coon*

## Edward J. Harri

*Assistant Dean for Student Affairs &  
Instructor of Legal Research and Writing,  
Willamette University College of Law*

## Abigail L. Herman

*Chair, Workers' Compensation Board*

## Greig Lowell

*Workers' Compensation Board*

## Christopher D. Moore

*Moore & Jensen*

## Deborah L. Sather

*Program Planner  
Sather, Byerly & Holloway, LLP*

## Arthur W. Stevens III

*Black Chapman Webber & Stevens*

## Linh T. Vu

*Olson Vu & Dickson, LLP*

## Constance L. Wold

*Hooton Wold & Okrent, LLP*

## LIVE PRESENTATION

**Portland – 9/30/11**

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## MCLE CREDIT

*2011 Workers' Compensation Update*  
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## QUESTIONS?

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## VIDEO REPLAYS

Please register at least one week prior to the replay date.

**Bend – 10/14/11**

**Replay 8:30 a.m.**  
Bryant Lovlien & Jarvis  
591 Mill View Way

**Eugene – 10/7/11**

**Replay 8:30 a.m.**  
Harrang Long Gary & Rudnick PC  
360 East 10th Avenue, Ste. 300

**Medford – 10/7/11**

**Replay 8:30 a.m.**  
Kellington Krack Richmond  
Blackhurst & Glatte LLP  
23 Newtown Street

**Portland – 10/19/11**

**Replay 9:00 a.m.**  
Oregon Law Institute  
Gus J. Solomon Courthouse  
620 SW Main Street, Ste. 706

# 2011 Workers' Compensation Update

Friday, September 30, 2011

Name

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Please "✓" appropriate box below:

 Live presentation Video replay. Location: \_\_\_\_\_ Date: \_\_\_\_\_  
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## TUITION

*(Prices apply to live and video replays.)*

- \$179 Early registration *(received by September 26, 2011)*
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- \$90 Legal aid attorneys *(received by September 26, 2011)*
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- \$15 Oregon judges and their lawyer staff *(received by September 26, 2011)*
- \$20 **Add to above tuition if registration received after September 26, 2011**

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 or e-mail us at [oli@lclark.edu](mailto:oli@lclark.edu).**

**CONFIRMATION:** Confirmation will be sent via e-mail.**CANCELLATION POLICY:** Tuition minus a \$20 handling charge will be refunded if the cancellation request is *written and received* by Monday, September 26, 2011.**NEED ASSISTANCE:** If you are a person with a disability, please let OLI know in time to make any necessary accommodations for you.**TUITION ASSISTANCE:** A limited number of scholarships are available based on financial need. Contact OLI.