



THOUGHTS FROM THE PRESIDENT'S CHAIR

It has been said that life is not so short that there is not always time enough for civility and professionalism. As members of the Bar, we are asked to comport ourselves in accordance with this maxim. We practice in an area of litigation which presents innumerable stresses and strains on petitioner and respondent attorneys alike. Nonetheless, our duty to conduct ourselves in a dignified manner must not be forgotten. Indeed, as Abraham Lincoln once quipped, "a drop of honey catches more flies than a gallon of gall." As we engage in discourse with one another, be mindful of this sage advice from Honest Abe.

Our commitment to civility and professionalism should not only be extended to practitioners but also to those serving in an administrative capacity at the numerous hearing sites -- be they affiliated with the Illinois Workers' Compensation Commission or not. We are guests at many of the venues. Insolent conduct will only encourage our gracious hosts to withdraw their hospitality and send us packing.

Finally, our strive for civility and professionalism should be reflected in our attire. While casual dress certainly lends a degree of comfort, one may question whether it confers the stature so deserving of practitioners in our field. After all, the dignity we exhibit as professionals will be reflected in the respect we are accorded by others. Consequently, attorneys appearing at the hearing sites are encouraged to dress accordingly.

If we are all so mannered, our practice will forever be held in high esteem. Collectively, let us achieve a level of civility and professionalism worthy of our ranks.

Sincerely,

Michael F. Doerries

Workers' Compensation Lawyers Association
President

Summer 2012

Inside this issue:

Determining Causation When Mechanism of Injury Isn't Obvious

Page 2 -3

Interview With Donald "Taps" Gallagher: Author of "Stolen Glory"

Page 6-7

Young Lawyers

Page 7

Repeat Controversy at Menard

Page 11- 12

OFFICERS

Michael F. Doerries
President
Frank A. Sommario
Vice President
Andrew L. Rane
Secretary
Cameron B. Clark
Treasurer

BOARD OF DIRECTORS

Kevin S. Botha
Jack Cannon
Gerald F. Cooper
James B. Hardy
Laura D. Hrubec
Guy N. Maras
David B. Menchetti
Vitas J. Mockaitis
Cristi L. Nelson
Wayne L. Newman
Francis J. O'Byrne, Jr.
Peter J. Stavropoulos

Newsletter Committee

John Castaneda, Chair
Cameron Clark
Peter Stavropoulos
Laura Hrubec
Kevin Botha
Dan Simones
John Bergin

*Interested in submitting an article?
Contact John Castaneda at jcastaneda@cac-law.com*

Determining Causation When Mechanism of Injury Isn't Obvious

By: *Cindy Rega, PT, MS HSA, CEAS II Vice President of Industrial Rehabilitation, Accelerated Rehabilitation Centers*

Depending on state law, workers' compensation benefits are paid out for aggravation of a pre-existing condition and for accidental injuries that are caused by the employee's work. Certainly, the causal connection is easier when there is a specific incident that correlates to the injured body part(s). However, causation can be convoluted when there is an insidious onset of pain or when the reported subjective complaints aren't consistent with the work process and/or worker methods. This latter scenario is when the science of ergonomics should be incorporated into the treatment plan to uncover the causal connection, because it is truly an objective determination.

The best place to start is for all parties to determine whether the job meets the "Standard Action Trigger." Does the employee's job routinely involve, on one or more days a week, exposure to one or more relevant risk factors at the levels described in standardized ergonomic assessment tools?

Some of the most reputable ergonomic assessment tools that are utilized by ergonomic specialists include:

- Revised The National Institute for Occupational Safety and

Health (NIOSH) lifting guide lines

- Washington Industrial Safety and Health Act (WISHA) check list for work-related musculoskeletal disorders
- Occupational Safety and Health Administration (OSHA) Washington Administrative Code (WAC) 296-62-05174

Appendix B

- Auburns engineers' moderate & high risk surveys
- Rapid Upper Limb Assessment (RULA)

The scope of any ergonomic assessment is to identify the extent of the exposure of the following musculo-skeletal risk factors:

- Repetition
- Force
- Awkward Posture
- Contact Stress
- Vibration

The exposure must meet or exceed specific thresholds in terms of frequency, duration, joint angle, forces, surface area, and height in order to be considered a contributor to the musculoskeletal disorder.

In the investigative process, the ergonomic specialist needs crucial information from the employer to determine the frequency and duration components of the relevant risk factors. Some of the key components to gather from the employer include: productivity standards, amount of

time spent at the workstation per day and week, tenure of the employee performing this job, hourly schedule and breaks, frequency of overtime, etc. The comprehensive ergonomic analysis for causation should incorporate cycle times, rest recovery times, grip/pinch dimensions and forces, lifting loads, push/pull forces, goniometric measurements of body parts, and vibration force and exposure time.

Despite the rise in upper extremity work-related injuries in many states, the most misunderstood causal connection cases revolve around Carpal Tunnel Syndrome (CTS). CTS is not caused by a job that merely involves high frequency movements (i.e., typing), but must be related to one of the following combinations:

- Repetition with grip force: > 25#
- Repetition with pinch force: > 7.5#
- Repetition with vibration: meters per second squared and time in hours in hazard zone

The forces noted above, in combination with the repetitive motions noted below (taken from the Auburn Engineers Moderate and High Risk Survey) are suggestive of a causal connection between the job or work task(s) and the Carpal Tunnel Syndrome.

Continued on page 3

Moderate Risk - Auburn Engineers

Excessive Repetition:

- Fingers 4000
- Hands 2000
- Elbow/Forearm 1000
- Shoulder 300

Multiple causation cases have been resolved through Ergonomic Analysis when the mechanism of injury is not clear. Attorneys, employers, insurance carriers, and physicians have utilized the expertise of ergonomic specialists to determine whether an injury reported at work is caused by the performance of specific job tasks. Ergonomic Analysis utilizes an objective, scientific approach to causal connection, which is invaluable to all parties.

If you are interested in resolving a difficult causation case, contact Accelerated Rehabilitation Centers at 877-97-REHAB (877-977-3422) or visit www.acceleratedrehab.com.

Annual Medical Seminar

Friday, September 14, 2012
8:00 a.m. – 12:15 p.m.

Chicago Cultural Center
77 East Randolph
(Sidney Yates Gallery, 4th Floor)
Chicago, Illinois 60602

3.0 HRS. General CLE CREDIT

Click below to RSVP

<http://events.constantcontact.com/register/event?llr=orvqasdb&oeidk=a07e6aknxq2dc859bc>

AGENDA & FACULTY

8:00 a.m.

Continental Breakfast & Check-in

8:30 – 8:45 a.m.

Opening Remarks & Introductions

Michael F. Doerries, WCLA President

Frank A. Sommario,

WCLA Vice President -Moderator

8:45 - 9:30 a.m.

- Return to Work Issues after Traumatic Brain Injury (TBI)

James A. Young, M.D.

9:30 - 10:15 a.m.

Evolving Technologies in Spine Care:

Application to the Injured Worker

Alexander J. Ghanayem, M.D.

10:15 - 10:30 a.m.- Break

10:30 a.m. - 11:15 a.m.-

Shoulder Care Update 2012

Charles Carroll, IV, M.D.

11:15 a.m. - 12:00 p.m.

- How Knee Injuries Affect the Workers' Compensation Patient

Howard I. Freedberg, M.D.

ACCELERATE YOUR RETURN TO WORK

LEADING PROVIDER IN PHYSICAL THERAPY AND INDUSTRIAL REHABILITATION

Our physical and occupational therapists, who have many years of experience in the rehabilitation of work-related injuries, are dedicated to our patients' rapid and safe return-to-work.

Accelerated offers services to all industries and shares their commitment to controlling workers' compensation costs.

ACCELERATED OFFERS A VARIETY OF PHYSICAL THERAPY SERVICES

ORTHOPEDIC REHABILITATION

JOB ANALYSIS

JOB COACHING

OCCUPATIONAL THERAPY

ERGONOMICS

POST-OFFER TESTING

FUNCTIONAL CAPACITY EVALUATIONS

WORK CONDITIONING

EMPLOYEE EDUCATION

Accelerated
rehabilitation centers
Physical Therapy • Sports Medicine



PUTTING PATIENTS FIRST

877.97.REHAB (877.977.4322) | acceleratedrehab.com



Why do more plaintiff attorneys refer their clients to PCF than any other lawsuit loan company?

Simplest Forms

Our one page info sheet only takes minutes to complete.

Fastest Approval

Your client will usually receive Approval within an hour of receipt of the requested information.

We were the first and are the largest licensed finance company in the country providing loans to injury victims. Call today to speak with a Preferred Capital Funding representative.



Preferred Capital Funding

CASH ADVANCES TO PLAINTIFFS

Chicago • Las Vegas • St. Louis • Cleveland • Utah

1-800-992-9615

www.PCFCash.com

Licensed Finance and Funding Company

THE FIRST 48 HOURS ARE THE MOST IMPORTANT.

That's why we're fully committed to providing
initial evaluations within 48 hours.

We have more than 60 convenient locations.

We'll open early.

We'll stay late.

We'll do whatever it takes.

Because for over 20 years, we've been dedicated to providing
top quality Work Rehabilitation care when you need us most.

ATHLETICO

PHYSICAL THERAPY

877-284-5384

Better for every body.

athletico.com

INTEGRITY
MEDICAL GROUP

A MULTIDISCIPLINARY APPROACH TO WELLNESS

Orthopedic Surgery David Schafer, MD	Physical Therapy Jamie Harris, PT	Pain Management Kritina Chunduri, MD	Physical Medicine & Neuro Rehab Vladimir Kaye, MD	Chiropractic Ariel Randy Hans, DC
Neurosurgery Sean Saleh, MD	Internal Medicine Claudia Johnson, MD			Mary Elizabeth Dietz, DC



4307 S Archer Ave
Chicago, IL 60632



3005 W Armitage Ave
Chicago, IL 60647



1111 E 87th St Suite B
Chicago, IL 60619

CALL FOR AN APPOINTMENT

773-736-0665

www.integritymedicalgroup.com

Call for an appointment at our affiliated locations in Lansing, Roseville, Ben Palomar & Waukegan

Interview with Donald “Taps” Gallagher: Author of “Stolen Glory”

By Peter Stavropoulos

It was the middle of the Cold War, Russia wanted to show its dominance in sports and that Communism was the right way to live life. An unprecedented series of events handed them a gold medal they did not deserve.

A lot of people don't know the true story behind the 1972 Olympic Basketball Team's gold medal game, and the travesty that occurred. Now, WCLA member “Taps” Gallagher has brought it to us in his new book.

It makes sense that many don't know the story of the basketball team given the horrible tragedy that occurred. Just days before the game was played a terrorist attack occurred that resulted in the killing of 11 Israeli athletes and coaches. The games were nearly cancelled after that; rightfully so, the terrorist attack is the most memorable event of the 1972 Munich Olympics.

Taps has worked on bringing to light the plight of the 1972 US Basketball Team since 2007, and the book is, quite simply, amazing. While its primary focus is on the game itself, it also deals with the political climate at the time and how that impacted the outcome of the game and the appeal.

For those of you who don't know, this game “ended” three times. Despite the fact that the clock ran out twice, the Russians were granted 3 chances to make the final, and winning, shot. The third time was the charm when a pass was thrown the length of the court and the Russians scored as time finally expired for good putting the Russians up one point for the gold medal. The president of FIBA, R. William Jones, kept putting time back on the clock and giving Russia possession after possession.

The US Team couldn't believe what happened to them, and their 12 silver medals lay unclaimed as they refused to accept them due to the way the game ended. Taps interviewed all 12 players from the team, and also interviewed coaches such as Johnny Bach and Bobby Knight (who was “combative” for the 2 ½ hour interview), for the content of this book.

When asked what prompted him to want to write this book, Taps relayed the story of meeting one of the members of the team, Kevin Joyce, through a friend in 1975. While talking to him, Taps said to him, “If I ever become a lawyer I want to try and get you guys your gold medals.” Always true to his word, Taps has not only written this book but is also petitioning the International Olympic Committee to issue the US players a duplicate gold medal. He is not asking the IOC to strip the Russians of their medals.

When he was ready to undertake the task, Taps contacted Joyce and asked for his help in getting all 12 of the players to cooperate with writing the book. Taps was only going to write the book if all 12 players would be a part of it. After contacting and interviewing 11 of the players, the last player declined to participate: Doug Collins. Not a man to be deterred, Taps reached out to some NBA players he knows and, with their help, got Doug Collins to participate.

As he worked on the book, the story really grew and he realized how big it was. Taps said before he started his research he only knew “about 50%” of the story, and now he has been told that he knows more about the complete story than anyone in the world.

Taps watched the game by himself in the basement as it aired, and when

asked about his reaction at the time said, “it was the only time in my life I wanted to kick the TV in. If we had remotes in those days, it would have shattered against the wall.” In preparation for writing the book, he watched the game about 25 times. A really interesting fact is that there is no recording of the entire game. Of the two 20 minute halves, only 9 minutes of the first half was shown (and is available) and 14 minutes of the second half was recorded.

After watching the available footage again, Taps recalls, “I had a similar reaction [to when he first saw the game in 1972], but didn't remember the exact ending. I didn't remember the Russians had 3 chances to win the game. The US should never have gone back on the court the third time, but they were threatened with forfeit and Olympic ban.”

Aside from the way the game ended, the second most controversial point to come out of the game is the decision of the US Team to refuse to accept the silver medal. When the IOC heard that they were not going to appear on the medal stand, the event was moved from the main stadium to a smaller venue. I asked Taps what his opinion is on this decision: “I agree with their decision. Interviewing all the people I did for the book, I heard various viewpoints. But the players weren't going to be railroaded. If they would have lost fair and square, that would be one thing. They should expect to have a game refereed the right way and performed in accordance with the rules and they didn't get that.”

Despite the problems that still exist with refereeing and judging, the Olympics are different now than they were during the Cold War. As Taps put it,

“It’s changed for the better. The athletes now train in the US, and there are World Championships. They also play together in the NBA. There’s not as much animosity. We even have a Russian owner in the NBA.”

One striking thing is how humble the players are, and how they are not bitter despite the fact that they are all still clearly upset by what happened. According to Taps, the “best interview was Doug Collins. He was really emotional, he cried, he had a lot of good stuff to say. Four of the twelve guys cried when I interviewed them. I never met 12 more humble, spiritual guys. They’re really cool. Bobby Jones said he was glad the Russians got them, because they were able to help their families.”

Even though they were not treated fairly and were denied the gold medals that were rightfully theirs, these men demonstrate what it means to be an Olympian. They are getting together as a group of 12 for the first time since Munich on August 25, 2012 in Lexington, Kentucky. Taps, of course, is invited.

The man that brought the 12 players together again 40 years later is also moving forward with his promise to get the gold medals for the team. “According to FIBA, if I get an affidavit from the ref that he was intimidated by the President of FIBA, the IOC will award a gold medal. There’s a good chance we can get it done. Our main argument, as explained in the book, is that the appeal they had was not legitimate. We would argue it in Switzerland, and if I can do it and come back on the plane knowing I got them for these guys that would be the coolest thing I have ever done in my life.”

If you want to purchase a copy of the book, you can email Taps or go to www.stolenglorythebook.com, gmbooks.com, or amazon.com for the Kindle book or hard copy.

WCLA Young Lawyers Section Introduction & Events

The Young Lawyers Section (YLS) of the WCLA was established with the goal of introducing younger Workers’ Compensation attorneys to the members and benefits of the WCLA. Since its inception, the YLS has hosted Happy Hours, Continuing Legal Education events, Charity Fundraisers, and other social events in order to bridge the gap between the industry veterans and those new to the practice. Young Lawyers Section events are not held exclusively for lawyers under a certain age and all members of the practice are encouraged to attend.

We encourage all WCLA members and members of the Workers’ Compensation practice contemplating joining the WCLA to attend the remainder of our events this year.

On September 13, 2012, the YLS will be hosting the WCLA’s brown bag lunch seminar. Later that evening, the YLS will be offering refreshments at the WCLA tent at Race Judicata. Race Judicata is a 5k run/

walk benefiting the Chicago Volunteer Legal Services Foundation. The WCLA will pay the registration fees for the first 25 WCLA members who wish to participate in the Race Judicata 5k. Please contact Dan Simones (drsimones@wmlaw.com) if you wish to register. Regardless of whether or not you participate in the 5k, all WCLA members are welcome to stop by the WCLA tent for pre- and post-race refreshments.

In addition to the aforementioned events, the YLS will be hosting a Happy Hour this fall and will sponsoring a holiday toy drive in the winter. More details for those events will follow shortly.

If you are interested in becoming involved in the WCLA Young Lawyers Section, please contact Dan Simones (drsimones@wmlaw.com), Michael Powlisz (mmp@roddylaw.com), John Walker (jwalker@kfeej.com), or Brandon Hall (bhall@chnm-law.com).



SMP Advance Funding, LLC Phone: **888-578-2566**
Financial Relief for the Injured

SMP Advance Funding, LLC is an Illinois licensed pre-settlement funding company for individuals awaiting resolution of pending lawsuits. We provide ready cash to your clients with financial needs so that you have the time and opportunity to negotiate the best settlement possible.

Within the industry, we are *the safe choice, no-hassle provider*. Both clients and attorneys alike prefer **SMP Advance** for the following reasons:

- Our **processes are the quickest and easiest**, saving you and your client time and money!
- We are **one of the most experienced companies** for pre-settlement funding.
- We have **lower interest rates that do not compound monthly**.
- We have **no pre-payment penalty, and interest is prorated** to the date the payoff is received.

Phone: **888-578-2566** WEBSITE: WWW.SMPADVANCE.COM 10700 WEST HIGGINS ROAD
E-MAIL: INFO@SMPADVANCE.COM SUITE #100
ROSEMONT, ILLINOIS 60018

IWP

The Patient Advocate Pharmacy®



THE MOST DIRECT WAY TO GET WORKERS' COMPENSATION PRESCRIPTIONS TO THE INJURED WORKER.

• IWP is a national patient advocate pharmacy that provides medication to the injured worker.

• We ensure your clients' medications are shipped right to their door regardless of the claim status.

888-321-7945

• With IWP, there's no out-of-pocket expense for the patient, physician or attorney.

• IWP will allow you to spend less time and energy on paperwork and more time on your case.

www.IWPharmacy.com

Watch our video at IWPharmacy.com to learn more about how IWP assists injured workers and all those who support them.

Weiss Memorial Hospital is Here to Help Your Clients

When your client sustains a work injury,
count on Weiss Memorial Hospital to provide
outstanding treatment.

WEISS
MEMORIAL HOSPITAL

An affiliate of the University of Chicago Medical Center

- Expertise in workers compensation
- Extensive orthopedic and physical therapy programs
- Complete diagnostic and imaging capabilities
- Excellent surgical outcomes
- IMEs (independent medical evaluations) and second opinions provided

For more information or
to make an appointment with
one of our physicians, call
our Workers Compensation
Coordinator at (773) 564-7764.

Weiss Memorial Hospital is a proud sponsor of the WCLA.

ADVANCED MEDICINE MADE PERSONAL



TAKING PHYSICAL THERAPY TO A HIGHER LEVEL



GET THERE

You have a **CHOICE** in Physical Therapy

There is a **DIFFERENCE**

Choose the place that is taking Physical Therapy to a **HIGHER LEVEL**

Ask your doctor to send you to **ATI**

ATI Physical Therapy...**GET THERE**

ATIpt.com



**Work Conditioning
Functional Capacity Evaluations (FCEs)
Physical Therapy**



**GLOBAL FUNDING
SOLUTIONS, LLC**

FAST SIMPLE FUNDING

The loan rate at Global Funding Solutions, LLC is **36% A.P.R.**

The rate is always a fixed, flat rate.

No application fees, closing costs or prepayment penalties.

The only company to place a cap on all interest and principal payments.

Once the cap is reached, the interest stops no matter how long it takes to settle the case.

134 North LaSalle St., Suite 1960

Chicago, IL 60602

Phone: 312-782-0900

Fax: 312-782-0901

Globalfundingsolutionsllc.com

Hinsdale Orthopaedics is Pleased to Support the

**Workers' Compensation
Lawyers Association**

*"Keeping Workers Productive for Over 60 Years
Through Orthopaedic Excellence"*

- | | | | |
|---------------------------|---------------------------|----------------------------|---------------------------|
| Kris J. Alden, M.D. | Michael C. Durkin, M.D. | Justin M. LaRosa, M.D. | Cary R. Templin, M.D. |
| Steven G. Bardfield, M.D. | Bradley D. Dworsky, M.D. | Mark A. Lorenz, M.D. | Paul M. Tiskak, M.D. |
| Giridhar Birra, M.D. | Nathan J. Funter, M.D. | Steven S. Louis, M.D. | Leah R. Urbanosky, M.D. |
| Steven C. Chudlik, M.D. | Bernard J. Feldman, M.D. | Steven W. Miller, M.D. | Robyn A. Vargo, D.O. |
| Michael J. Collins, M.D. | William J. Gilligan, M.D. | Anuj S. Puppala, M.D. | Michael R. Zindrick, M.D. |
| Robert J. Daley, M.D. | Jason G. Hurbancuk, M.D. | Victor M. Romano, M.D. | |
| Benjamin G. Domb, M.D. | Marie Kirincic, M.D. | Kenneth L. Schuffman, M.D. | |

Elmhurst 1200 South York Rd. Suite 4110 Elmhurst, IL 60126 630.510.7666	Hinsdale 550 West Ogden Ave. Hinsdale, IL 60521 630.323.6116	Joliet 951 Evington Rd. Joliet, IL 60435 815.744.4551	Naperville 2940 Rollingridge Rd. Suite 102 Naperville, IL 60564 630.579.6500	New Lenox 1870 Silver Cross Blvd. Suite 200 New Lenox, IL 60451 815.462.3474	Oak Park J Erie Ct. Suite 7120 Oak Park, IL 60302 708.848.4662	Westmont 1010 Executive Ct. Suite 250 Westmont, IL 60559 610.920.2350
--	--	---	---	---	---	--



SOUND FAMILIAR?

That is why you should call Suisse Bancorp for financial assistance in regards to pre-settlement or settled cases. We require minimal paperwork to be filled out and fast approval upon receipt of case information from attorney. This option will minimize client inquiries to case status and allow proper time to **MAXIMIZE RECOVERY FOR YOUR CLIENT.**

Suisse Bancorp has over 10 years of experience in the lawsuit loan industry and the level of customer service you deserve. We will make sure that your first loan referral won't be your last.



www.suissebancorp.com
630.571.4101

Repeat Controversy at Menard

By: *John P. Bergin*
Braun Lorenz & Bergin, P.C.

The controversy surrounding repetitive trauma carpal tunnel claims at the Menard Correctional Center led to amendments to the Illinois Workers' Compensation Act, as well as an audit ordered by the Legislature. The State audit found that the Menard facility had the most claims of any corrections facility during the timeframe of 2007 to December, 2010, with 869. The claims at Menard resulted in more than 30 million dollars in paid benefits. Many of these claims resulting in awards and settlements were due to repetitive injuries with an allegation of development of carpal tunnel syndrome.

Recently, this controversy was resurrected when the Illinois Workers' Compensation Commission in Tracy Howell v. SOI/Menard Correctional Center, 09 WC 39531, 12 IWCC 48, affirmed a decision of Arbitrator Nalefski, who found that the Petitioner sustained repetitive/cumulative trauma injuries to his feet, as a result of his job duties as a Correctional Officer at the Menard facility, requiring the Petitioner to stand, walk, and climb stairs. The Arbitrator found that this activity placed him at a greater risk of injury than that to which the general public is exposed.

The decision received backlash from bloggers and commentators, including the Editorial Board of the Bellevue News/Democrat which stated in a June 8, 2012 editorial, "The Commissions decision

would result in a 'gold rush' of new claims."

In his decision, Arbitrator Nalefski noted that the Petitioner had been a Correctional Officer assigned to patrol for Respondent, Menard Correctional Center, for 15 years. Petitioner testified that he was on his feet 80 to 90% of each day, which required him to walk on concrete and metal stairs. The Petitioner testified that he wore a pedometer, which showed that on a slow day he would walk anywhere from 3 to 5 miles and up to 8 to 10 miles on a busy day.

The Petitioner testified that he noticed pain in his feet and ankles, and eventually saw his treating physician. Petitioner was referred to an orthopedic foot surgeon, who diagnosed Achilles tenodesis, and eventually recommended surgery. As noted, the Arbitrator found that the Petitioner sustained repetitive/cumulative trauma injuries to his feet as a result of his job duties with Respondent. The Arbitrator noted this activity placed him at a greater risk of injury than that to which the general public is exposed. The Arbitrator further noted that the Commission has made similar findings concerning Correctional Officers on patrol in the past. The Arbitrator awarded 16 weeks of TTD and medical expenses, in the amount of \$62,062.11. Tracy Howell v. SOI/Menard Correctional Center, 09 WC 39531, 12 IWCC 48. The hearing was under Section 19(b) and permanency was not awarded. The Commission on Review affirmed and adopted the

decision of the Arbitrator without comment or analysis.

One commentator stated that, "repetitive walking" has joined the list of occupational hazards in Illinois. However, Arbitrator Nalefski was correct in his decision that repetitive walking has been previously found to be compensable under the Act under the repetitive trauma theory.

In Kazimiere Wiechert v. General Motors, 97 WC 13188, 00 IIC 841, the Commission reversed the decision of the Arbitrator, finding that the Petitioner sustained an injury that arose out of her employment with Respondent. The Petitioner alleged that her work at Respondent's warehouse required "constant walking." Petitioner felt that she would walk an average of 7 to 9 miles per day on a wood floor. She also stated that the warehouse also had a concrete floor and she would have to push a picker truck while picking the parts, and would sometimes have to climb stairs. In that particular job, the Petitioner estimated that she would walk 9 to 12 miles per day.

Petitioner testified that she began to develop pain in the bottom of her feet and in her toes. Following the surgery she was off work, but then returned to regular duty. Later she developed more symptoms, and eventually in 1996, her physician told her that her condition was work-related. Her physician testified on behalf of the Petitioner that the Petitioner's condition could have been aggravated by her repeti-

Continued on page 12

tive walking at work, or her condition may have been accelerated by this walking.

The Commission found that the Petitioner proved a causal relationship between her foot injuries and repetitive and excessive walking on concrete floors at work. The Commission noted that an injury arises out of the employment if it involves a risk connected with or incidental to the employment so that there is a causal relationship between the employment and the accidental injury. *Warren v. Industrial Commission*, 61 Ill.2d 373, 335 N.E.2d 488 (1975). The Commission noted that the facts must show that the employee is subjected to an increased risk of injury and that her work accident need not be the sole or even the major cause of an employee's disability, but only that the accident must be a causative factor in the disability. *County of Cook v. Industrial Commission*, 68 Ill.2d 24, 11 Ill.Dec. 546, 368 N.E.2d 1292 (1977).

The Commission stated and acknowledged that walking is an activity most people do on a daily basis and generally would not be considered an increased risk, but the Commission stated in this case that here, "... the Petitioner was subjected to an amount and duration of walking to which the general public clearly is not normally subjected." This, therefore, constituted an increased risk of injury, and therefore, the Petitioner's injuries arose out of and in the course of her employment. *Kazimiere Wiechert v. General Motors*, 97 WC 13188, 00 IIC 841.

Some bloggers reviewing the Howell case have stated, "Repetitive walking" has joined the list

of occupational hazards that could earn you Workers' Compensation benefits in Illinois, according to news reports. Another commentator stated, "A Workers' Compensation Commission in Illinois has ruled that repetitive walking is now a compensable Workers' Compensation injury." This commentator also argued that walking was once considered good for you, but is now considered a compensable Workers' Compensation injury. The commentator for the note stated, "In these difficult times, the addition of a new condition such as "repetitive walking" is not likely to help matters."

The Howell case has certainly stirred some reaction. However, the finding in Howell is not new and is a representation of the many repetitive trauma cases that have been found compensable in Illinois. This decision might have been overlooked but for the fact that it involved the Menard Correctional Facility, an employer that generated such controversy with the large number of CTS claims in the 2007-2010 timeframe.

Some of the reaction to the Howell decision reflects the great scrutiny and attention the Illinois Workers' Compensation Commission, as well as the Workers' Compensation practice, receives. The Howell, decision, however, is not ground-breaking and is consistent with the Commission decisions in the past.

One blogger compared the decision to a Monty Python skit. However, the Howell decision is not an elusive shrub in the forest, but a decision based on Commission precedent.

WCLA Upcoming Events

THURSDAY, SEPT. 6 MCLE Lunch Program

Noon

JRTC Assembly Hall

James R. Thompson Center
100 W. Randolph, Chicago

THURSDAY, SEPT. 14

8 a.m. - 12:15 p.m.

Annual Medical Seminar

Chicago Cultural Center

Sydney R. Yates Gallery,

Fourth Floor

Chicago

WEDNESDAY, SEPT. 19

Board Meeting

11:45 a.m.

TUESDAY, OCT. 2

MCLE Lunch Program

Noon

JRTC Assembly Hall

James R. Thompson Center
100 W. Randolph, Chicago

WEDNESDAY, OCT 24

11 a.m. - 2 p.m.

Appellate Court Luncheon

Union League Club Chicago

65 W. Jackson Blvd

John Muir, CCLA, CPCU

As managing partner of Ringler Associates Bloomington, Illinois, John Muir is nationally known for his expertise in Workers Compensation cases. He specializes in settling worker's compensation and personal injury cases with a focus on the people in each case. He has specific expertise in funding workers' compensation matters including Permanent Total Disability, Wage Differential and Death cases. Additionally, he is an expert in funding and Medicare Set-Aside Arrangements, Life Care Plans and Special Needs Trusts.

John has 32 years of experience in the industry. He provides assistance and expertise to clients at mediations and settlement conferences. His goal is "to deliver innovative settlement solutions to all parties involved in an injury claim with fast and accessible services"

CONTACT

2501 E. College Ave, Suite A
Bloomington, IL 61704
309-662-0569 (Bloomington)
314-238-1353 (St. Louis)
309-826-7318 (Mobile)
jmuir@ringlerassociates.com



Structure Settlements Expert

Premier Worker's Compensation Solutions

CASES

Workers' Compensation
Personal Injuries – Liability
Liability Transfer
Medical Malpractice
Automobile
Construction Defect Claims
Products Liability Claims



Oasis Legal Finance®

The largest and most respected name in Legal Funding



There is an escalating demand for presettlement loans in Chicago and Oasis is excited to recognize our Chicago director!

Led by Paige Winkels, Oasis continues to provide faster and more personal service to your clients. We look forward to strengthening current relationships and establishing new ones with attorneys around the Chicagoland area.

Oasis thanks the Workers Compensation Lawyers Association for our continuous sponsorship and affiliation with such an excellent organization.

Contact the Illinois Funding Team at the number listed below.

Offices

Chicago
•
Philadelphia
•
Dallas
•
Orlando

Paige Winkels

Illinois Director, Legal Funding
847.521.4446 Local Office
pwinkels@oasislegal.com
www.oasislegal.com

Offices

Atlanta
•
New York City
•
Miami



Professional Liability
Insurance

Newly Licensed
Attorney Program

Surety Bonds

Risk Management

▶ Rated "A" Excellent
by A.M. Best Company

▶ Endorsed by Illinois
State Bar Association

▶ Exclusive Program
Designed for the
Newly-Admitted Lawyer

▶ Exclusively Serving
Lawyers and Law
Firms Since 1988

▶ Over \$9.7M in Policyholder
Dividends Since 2000

▶ Free CLE and
Premium Savings

STRONG, COMMITTED & DEDICATED

800-473-4722

www.isbamutual.com

WELA Golf Outing 2012



A Great Day on the Links



Injured on the job?

Your health and rights are important to us.



At Instant Care Medical Group, we provide comprehensive protection just for you.

On one hand, the best doctors will treat your physical injuries.
On the other, the best lawyers will fight for your fair compensation.

Call 847-869-9700 to schedule a free consultation.



Medication Delivery for
Workers' Compensation
&
Auto Accident Claimants

We also offer
Billing & Practice Management

877.678.5400 • www.summitrx.com
www.facebook.com/summitrx