

CARPENTER, MCCADDEN & LANE, LLP

Newsletter

February 2015

Exciting Times at CML!

We know that its hard to believe that Spring is almost here given the recent frigid temperatures, but we promise, IT IS ALMOST HERE! We are planning a lot of exciting events in the coming months and wanted to make sure that you knew everything that is going on at CML!



WINTER WORKSHOP

Lisa Lane will be providing the 2015 Case Law Update at the 9th Annual Winter Workers' Compensation Workshop at Dave & Buster's in Homestead, Pennsylvania on March 4, 2015. If you have questions or are interested in attending, please contact winterworkshop@associnrehab.com or call (412) 922-9055 x17.

NEW WEBSITE

This month, CML went live with our new website! This website is more interactive than our previous one. We will be posting blog articles, providing case law updates, and announcing all events directly to our website. **Be sure to subscribe so that you don't miss a thing!** Visit www.cml-law.net to subscribe now!

Case Law Update

We here at CML aren't the only ones that have been busy — the Commonwealth Court has been very active this winter. The following are some of the significant cases that have been issued so far this year.

In Murphy v WCAB (Ace Check Cashing, Inc.), Claimant filed a Claim Petition alleging that she sustained work-related injuries to her neck, shoulders, thoracic spine, wrists, and ankles, as well as post-traumatic stress disorder, anxiety and depression when she was physically and psychologically assaulted during an armed robbery. Claimant was hog tied and her husband's life was threatened. The Employer defended the case by arguing that employees were trained about what to do in the event of an armed robbery. There were also various security measures in place in addition to decoy safes. The WCJ found that this was not an abnormal working condition. The WCAB affirmed, The Board noted that "an armed robbery was foreseeable or could have been anticipated." The Commonwealth Court remanded the case back to the WCJ for an analysis under Payes v WCAB (PA State Police) as to whether the robbery was "a singular, extraordinary event occurring during [Claimant's] work shift." This has become the new standard in the analysis of a mental-mental claim. Note that although Claimant sustained some physical injuries in this case, they were minor and the court analyzed the facts as a mental-mental case because it was the psychological trauma, not the physical trauma that caused the PTSD.

The Court addressed IRE's in two cases so far this year. In IA Construction Corporation and Liberty Mutual Insurance Company v WCAB (Rhodes), the Court held that although Regulation 123.105(b) allows an IRE physician to refer to a specializing physician (who also meets the qualifications as an IRE physician), the IRE physician is not required to make such a referral. Therefore, a WCJ cannot reject an IRE physician's opinion on the basis that the injury is not within that physician's specialty. If a WCJ rejects the testimony of an IRE physician, there must be evidence of record to support that rejection.

In Neff v WCAB (Pennsylvania Game Commission), the Employer obtained an IRE which resulted in a 1% whole body impairment. Claimant appealed the change in status and argued that she was not at MMI because it was undisputed that she could undergo future treatment which could cause a change in her condition. The Court cited the Impairment Guides which “instruct that an individual is at MMI when his condition has become static or stable and that while further deterioration or recovery may occur at some point in the future, one would not expect a change in condition at any time in the immediate future.” The Court upheld the IRE by finding that the IRE physician whose testimony was found to be credible, opined that Claimant was at MMI, and that he knew that there was “some discussion of surgery, but...with or without treatment, a patient still can be at MMI. That includes a surgical procedure.” Since the WCJ had found the IRE physician’s testimony to be credible regarding MMI, that credibility determination could not be reviewed on appeal.

In Donahay v WCAB (Skills of Central PA, Inc.), Claimant sustained an injury and returned to work with “restrictions” and a loss of overtime. The Court held that Claimant was not entitled to partial disability benefits because she testified that she was essentially performing the same job that she had when she was injured and that her restrictions have not impeded her ability to perform her regular duties. In denying benefits, the Court utilized a Harle analysis and stated that there is no entitlement to TPD benefits when the work injury is not the cause of the loss of earnings. Lisa Lane fully addressed the importance of this Decision in a recent blog article on our website!

March Madness

Come out and watch the first round action with us at a happy hour at Appalachian Brewing Company in Mechanicsburg, Pennsylvania on March 19, 2015 at 3:30pm.

Please RSVP to avalenti@cml-law.net by March 12, 2015 if you plan to attend.



Bracket Challenge


CML is hosting its **1st Annual NCAA Bracket Challenge** this year! On Sunday, March 15, 2015, after the bracket is set, we will be emailing out brackets to complete! If you do not receive one, please email avalenti@cml-law.net to request yours! Please return completed brackets by Thursday, March 19th at noon. There is no cost to enter and we will be awarding prizes after each round. One winner will receive the coveted CML Bracket Challenge Champion trophy! Everyone will receive a t-shirt for participating!

West Virginia

Planning to attend the WV Conference on May 7 and 8, 2015? If so, let us know! We will be hosting a dinner and after party and would love to see you there!

E-mail Patty McEnteer at pmcenteer@cml-law.net for details!





Save the Date!!

Lisa Lane will be discussing “The Top 10 Litigation Pitfalls and How to Avoid Them” at the PA Self-Insurers’ Association annual meeting at Nemacolin on April 12 –13, 2015! Additional details and meeting agenda will be coming soon!

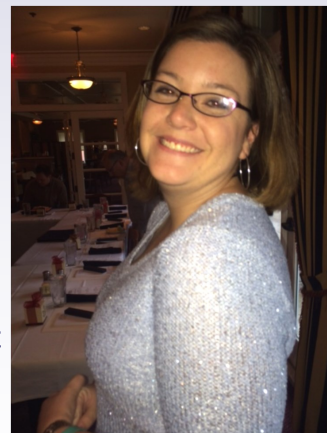
CML Continues to Grow!

This month, CML Pittsburgh made two exciting additions! Charles ("Chuck") Sapienza III is CML's newest attorney and Elizabeth Sooy was hired as CML Pittsburgh's new Office Manager and Paralegal. We are excited about everything they both will be adding to CML!



Chuck graduated from Duquesne University School of Law in 2014. During his final year of law school, he worked for a Pittsburgh firm that focused its practice on personal injury, workers' compensation, SSDI, and medical malpractice. In his spare time, he enjoys golfing, hunting, reading, playing shuffleboard, throwing darts, and an occasional trip to the casino.

Liz graduated from Dickinson College in 2009 with a BS in Physics and started her career as an adjuster for SRS in April 2010. After being acquired by Sedgwick, she was able to relocate to their Hunt Valley, MD office. As an adjuster, Liz was considered to be a Pennsylvania jurisdiction subject matter expert in her office, but also handled claims in West Virginia, New Jersey, Delaware, Maryland, Washington DC and Virginia jurisdictions. Liz is excited to move to Pittsburgh and start her new career with CML and we are excited to have her as our new Pittsburgh Office Manager and Paralegal!



HERSHEY

Travel back in time with us to a Roaring 20's Speakeasy this year at the PA Bureau Conference!

Details will be coming soon, but we guarantee that this is a party that you won't want to miss!



Join us on May 18, 2015 for a day at Citizens Bank Park to celebrate the return of baseball season! No athletic ability required! There will be a workers' compensation training followed by a VIP tour of the facilities! Email avalenti@cml-law.net with questions or to RSVP!

Want training and can't make it to our seminars? **We will come to you!**
Email any attorney at CML to set up your in-house training today!