

Alabama Law Weekly

presents

2016 Alabama Workers' Comp Conference

*This conference features two tracks—
one for attorneys and one for employers and others.
Attendees may choose one track or switch between
tracks during the day.*

HIGHLIGHTS

Employers will learn:

- How the ADA, the FMLA, and workers' compensation overlap, how to transition between benefits, and how to keep good records
- Drug and alcohol testing in the workplace
- How to use social media to your advantage
- Complying with OSHA and other workplace safety issues
- Determining whether an injury is within the scope of employment

Attorneys will learn:

- Differences when evaluating an injury under workers' compensation, the ADA, and the FMLA
- Current issues and challenges with Medicare set-asides
- How to negotiate medical and third party claims
- Review of the Department of Labor's ombudsmen/mediation process
- Ethical obligations when dealing with third party administrators

Each track will have a review of the latest cases from the Alabama Supreme Court and the Court of Civil Appeals:

- A look into the treatment of an employer's petition when the trial court order was interlocutory rather than a final judgment
- The latest on reinstating temporary total disability benefits and "back pay"
- A review of the exclusive-remedy provisions of the Workers' Compensation Act

BONUS: Attendees will receive a binder of the materials covered during the seminar and will be able to download the materials after the conference.



WHEN Friday, September 30, 2016

WHERE Birmingham Marriott



SPEAKERS

Karen Berhow

Porter Porter & Hassinger, PC

Whitney Brown

Lehr Middlebrooks Vreeland & Thompson, P.C.

Marcus Chatterton

Balch & Bingham, LLC

John Civils

Huie, Fernambucq & Stewart, LLP

Karen Cleveland

Fish Nelson & Holden, LLC

Amanda Cutshall

Carr Allison

Charley Drummond

Fish Nelson & Holden, LLC

Patricia Fraley

Alabama Department of Labor

Donald M. (Don) Harrison, III

Alabama Department of Labor

Donald B. (Bo) Kirkpatrick, II

Carr Allison

Timothy McFalls

Hodges Trial Lawyers, P.C.

Ted Roose

Alabama Department of Labor

Jessica Silinsky

Carr Allison

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WHERE

Birmingham Marriott

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WHEN

Friday, September 30, 2016

8:30 A.M. TO 5:15 P.M.

Registration begins at 8:00 a.m. The conference begins at 8:30 a.m. and concludes at 5:15 p.m.

(There will be morning and afternoon breaks, and attendees will have 1 hour and 15 minutes for lunch on their own)

CLE: 7 hours of CLE

(6 hours of general and 1 hour of ethics)
*7 recertification credit hours through the HR Certification Institute and Professional Development Credits through SHRM.

Price: \$327 for program, \$247 for additional attendees from the same firm, \$147 for materials only.

\$50 early bird special until August 19

WHO SHOULD ATTEND?

- Employers
- Insurance adjusters
- Third party administrators
- Safety and human resource managers
- Plaintiffs' and defense attorneys
- In-house counsel

HOW IS THIS SEMINAR DIFFERENT?

- **Beyond workers' compensation.** Employers will learn how to determine if an injury is within the scope of employment.
- **Practical information.** Employers will get practical information on drug and alcohol testing and workplace safety.
- **Social media.** Employers will learn what is, and is not, discoverable in a world where privacy is disappearing.
- **Settlement.** Attorneys will get tips on the settlement process.
- **Medicare set-asides.** Attorneys will learn about Medicare set-asides and how to use them.
- **Other employment laws.** You'll learn how workers' compensation benefits overlap with the Family Medical Leave Act and the Americans with Disabilities Act.
- **Update.** You'll receive an update on the latest workers' compensation decisions from the Alabama Supreme Court and the Court of Civil Appeals, as well as an update from the Alabama Department of Labor.
- **Flexibility.** You may choose to attend a track designed for attorneys or one designed for employers and others – or you may mix the tracks to better serve your needs.
- **CLE.** Attorneys can earn 7 hours of CLE credit, including 1 hour of ethics.
- **Interactive.** The speakers welcome your questions and feedback.

Produced by:

Rachel Mayo, CLE Specialist
M. Lee Smith Publishers, a division of BLR®

2016 Alabama Workers' Comp Conference

PROGRAM AGENDA

EMPLOYER TRACK

ADA, FMLA, and Workers' Comp 8:30 A.M. TO 9:30 A.M.

Whitney Brown
Lehr Middlebrooks Vreeland & Thompson, P.C.

- Overlapping benefits
- Transitioning between benefits
- Keeping good records
- Common pitfalls in eligibility verification

Case Law Update 9:30 A.M. TO 10:45 A.M.

Bo Kirkpatrick
Carr Allison

Mr. Kirkpatrick will review workers' compensation cases from Alabama's appellate courts dealing with such issues as:

- A look into the treatment of an employer's petition when the trial court order was interlocutory rather than a final judgment
- The latest on reinstating TTD benefits and "back pay"
- A review of the exclusive-remedy provisions of the Workers' Compensation Act

10:45 A.M. TO 11:00 A.M. MORNING BREAK

OSHA and Workplace Safety 11:00 A.M. TO 12:00 P.M.

Charley Drummond
Fish Nelson & Holden, LLC

- OSHA and workplace safety laws
- What is a recordable injury?
- Keeping the required records

12:00 P.M. TO 1:15 P.M. LUNCH
(ON YOUR OWN)

Social Media Discovery 1:15 P.M. TO 2:15 P.M.

Marcus Chatterton
Balch & Bingham, LLP

Arguably, social media has changed the way people across the globe interact with others more than anything since the invention of the air conditioner (at least in the South). More and more people routinely post private information on the web, information which could be used against them in certain circumstances.

What is, and is not, discoverable in a world where privacy is disappearing?

Alabama Department of Labor Update 2:15 P.M. TO 3:00 P.M.

Don Harrison, Patricia Fraley, and Ted Roose
Alabama Department of Labor

- Updates from the DOL
- Ombudsmen/mediation process

3:00 P.M. TO 3:15 P.M. AFTERNOON BREAK

Scope of Employment and Affirmative Defenses 3:15 P.M. TO 4:15 P.M.

Amanda Cutshall
Carr Allison

- Going to and coming from work
- Exclusivity
- Misrepresentations on job application

Drug and Alcohol Testing 4:15 P.M. TO 5:15 P.M.

Timothy McFalls
Hodges Trial Lawyers, P.C.

- Intoxication of the injured employee
- Types of testing
- Refusal of alcohol/drug testing
- Drug-Free Workplace certification

ATTORNEY TRACK

The Settlement Process 8:30 A.M. TO 9:30 A.M.

John Civils
Huie, Fernambucq & Stewart, LLP

- Pre-mediation preparation
- Evaluation of the case
- Negotiation and mediation techniques/ breaking logjams
- Negotiation of medical and third party claims
- Appellate mediations
- Finalization of the settlement

ADA, FMLA, and Workers' Comp 9:30 A.M. TO 10:30 A.M.

Charley Drummond
Fish, Nelson, and Holden, LLC

- Differences in evaluating an injury under each of the statutes
- Responding to a workers' compensation claim while avoiding potential FMLA and ADA pitfalls
- Handling leave simultaneously under each of the statutes

10:30 A.M. TO 10:45 A.M. MORNING BREAK

Case Law Update

10:45 A.M. TO 12:00 P.M.

Bo Kirkpatrick
Carr Allison

- A look into the treatment of an employer's petition when the trial court order was interlocutory rather than a final judgment
- The latest on reinstating TTD benefits and "back pay"
- A review of the exclusive-remedy provisions of the Workers' Compensation Act

12:00 P.M. TO 1:15 P.M. LUNCH
(ON YOUR OWN)

Alabama Department of Labor Update

1:15 P.M. TO 2:00 P.M.

Don Harrison, Patricia Fraley, and Ted Roose

Alabama Department of Labor

- Updates from the DOL
- Ombudsmen/mediation process

Medicare Set-Asides

2:00 P.M. TO 3:00 P.M.

Jessica Silinsky
Carr Allison

- Medicare's statutory and regulatory perspective on workers' comp
- Medicare set-asides (MSAs) and how to use them
- Calculating Medicare's interest in future medicals
- Getting the MSA approved
- Establishing and using a MSA account
- Current issues and challenges

3:00 P.M. TO 3:15 P.M. AFTERNOON BREAK

Hot Topics in Workers' Compensation

3:15 P.M. TO 4:15 P.M.

Karen Cleveland
Fish, Nelson, and Holden, LLC

Ms. Cleveland will discuss "hot button" issues facing today's workers' compensation attorney in Alabama.

Ethical Obligations

4:15 P.M. TO 5:15 P.M.

Karen R. Berhow
Porter Porter & Hassinger, LLC

- Rules of Professional Conduct
- Contacts with doctors and rehabilitation personnel
- Interaction between attorneys and third party administrators
- Attorney fees
- Lawyer liability

Your Distinguished Faculty:



Karen R. Berhow is an attorney with the law firm of Porter Porter & Hassinger, P.C., in Birmingham, where she practices in the areas of workers' compensation defense litigation and personal injury defense litigation. She is admitted to practice in the state of Alabama and the U.S. District Court, Northern and Middle districts of Alabama. She is a member of the Birmingham Bar Association (member, Medical Liaison Committee), the Alabama State Bar, and the American Bar Association.



Whitney Brown, of Lehr Middlebrooks Vreeland & Thompson, P.C., in Birmingham, represents employers in a range of employment litigation, including harassment and discrimination cases, Family Medical Leave Act, and cases involving state law claims. She was named a "Rising Star" in the 2013 and 2014 editions of the *Alabama Super Lawyers Magazine* and was also named a "Top Attorney" in Labor and Employment by *Birmingham Magazine* in 2014.



Marcus Chatterton is an attorney in the litigation section of Balch & Bingham LLP's Birmingham office. He is also active in the firm's business litigation practice group as well as the products liability and casualty litigation practice group. His practice focuses on intellectual property disputes and cases involving damage to and ownership of real property. He presently serves the American Bar Association as co-chair of the Title Insurance Subcommittee in the Section of Litigation.



John Civils is a partner in the Birmingham law firm of Huie, Fernambucq & Stewart, LLP, practicing workers' compensation law. He is an AV preeminent rated lawyer. He is listed in *Best Lawyers of America*® concerning workers' compensation and is also listed in *Alabama Super Lawyers* and as one of "Birmingham's Top Attorneys" in *Birmingham Magazine*.



Karen Cleveland is an Associate with the Birmingham insurance defense law firm of Fish Nelson & Holden, LLC. She received her B.A. from West Virginia University and her J.D. from the Birmingham School of Law (BSL), graduating with honors. While at BSL, she received the Champ Crocker award for "Evidence."



Amanda Cutshall is a shareholder in the Birmingham office of Carr Allison, where her practice is devoted to labor and employment, liability matters, litigation, and workers' compensation. She is an annual speaker on legal panels at Birmingham Southern College. She also speaks on workers' compensation law at ASIA Conferences and for the National Business Institute.



Charley Drummond is an attorney in the Birmingham insurance defense firm of Fish Nelson & Holden, LLC. In addition to being an adjunct professor of Alabama workers' compensation law at the Birmingham School of Law, he frequently speaks at conferences and seminars for other attorneys, judges, insurance adjusters, and employer representatives.

Patricia Fraley is a representative from the Alabama Department of Labor.



Donald M. (Don) Harrison, III, is Deputy General Counsel with the Alabama Department of Labor. He represents and advises the various divisions of the Department, including the Workers' Compensation, Unemployment, and Mining and Reclamation Divisions.



Donald B. (Bo) Kirkpatrick is a senior shareholder and a founding member of Carr Allison in Birmingham. His practice focuses primarily on workers' compensation and related litigation, including retaliatory discharge and other employment matters. He advises self-insured clients, third party administrators and insurance carriers with respect to workers' compensation issues. He has handled litigation statewide for Fortune 500 Companies and has extensive trial experience throughout Alabama. He has been selected to the *Alabama Super Lawyers* list since 2008 as well as *Best Lawyers in America*® since 2012.



Timothy McFalls is an attorney with Hodges Trial Lawyers, P.C., in Huntsville. His practice areas include personal injury, social security, and workers' compensation. He is admitted to practice in the state of Alabama and the U.S. District Court, Northern District of Alabama.



Ted Roose is an Ombudsman for the State of Alabama, Workers' Compensation Division of the Department of Labor. He has over 40 years of experience in claims, working for insurance carriers and third party administrators in Alabama, Florida and Tennessee.



Jessica Silinsky, is a shareholder with the Medicare Compliance Group of Carr Allison in Birmingham. For the past seven years, her practice has been focused exclusively on Medicare Compliance. She assists clients across the nation in complying with the Medicare Secondary Payer Act. She has authored numerous articles on this topic and frequently gives presentations regarding the same to insurers, employers, and attorneys.

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Yes! I want to get the latest information on changes, developments, and trends in Alabama workers' comp law, all while gaining CLE/HRCI/PDC credit. Please reserve my seat at the **2016 Alabama Workers' Comp Conference**. My registration includes the one-day conference, pages of valuable course materials, morning and afternoon refreshments (lunch is not included) and 7 hours of CLE/HRCI/PDC credit. If I am dissatisfied, I am entitled to a 100% refund. Fee: \$327 for program, (\$277 before August 19), \$247 for additional attendees from the same firm or company, \$147 for materials only.

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CLE INFORMATION

This program has been approved by the Mandatory Continuing Legal Education Commission of Alabama for a maximum of 7 hours' credit, including 1 hour of ethics.

*7 recertification credit hours through the HR Certification Institute and Professional Development Credits through SHRM.

BLR is recognized by SHRM to offer Professional Development Credits (PDCs) for the SHRM-CPSM or SHRM-SCPSM.

The use of HRCI seal is not an endorsement by HRCI of the quality of the program. It means that this program has met HRCI's criteria to be pre-approved for recertification credit.

FEES

\$327 for program

\$277 when registered by August 19

\$247 for additional attendees from the same firm or company

\$147 for materials

Cancellation Policy

- A \$50 processing fee applies to ALL conference cancellations.
- Registrants are responsible for the entire program fee for a cancellation made after 5:00 p.m. three weeks prior to the event (whether or not you attend the program or fail to cancel).
- An alternate may attend in place of the original registrant.

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DYNAMIC INTERACTION

Unlike other one-way presentations, you'll be encouraged to ask questions and present your own situations for discussion, while interacting with both the speakers and your peers.

QUALITY PRESENTERS

Your presenters are all authorities in Alabama workers' comp law. Their experience, skill, and familiarity with issues of specific concern to Alabama attorneys and employers make this the perfect learning event for plaintiffs' and defense attorneys, in-house counsel, employers, insurance adjusters, third party administrators, and safety and human resource managers.

TWO-TRACK PROGRAM

This conference includes two tracks running simultaneously all day – one for attorneys and one for employers. Attendees do not have to choose one track for the entire day – switch between the two sessions if you'd like!

Topics include:

- Interplay between workers' compensation, ADA, and FMLA
- Overview of drug and alcohol testing
- OSHA and workplace safety
- Social media and discovery
- Scope of employment and affirmative defenses
- Settlement process
- Medicare set-asides

WHAT YOUR COLLEAGUES SAID ABOUT LAST YEAR'S SEMINAR:

"The material was applicable. I received information I can use now."

"There were good presentations, relevant material. The event was well organized and executed, and very educational."

"I enjoyed learning the practical applications as to when workers' comp does and does not apply. I also enjoyed the discussion on how the ADA/FMLA is applied in various situations."

"The speakers were up to date on their topics."

"I like the case law presentation and analysis."

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