

WESTERN STATE UNIVERSITY COLLEGE OF LAW

WORKERS' COMPENSATION LAW IN CALIFORNIA

SYLLABUS AND COURSE POLICIES

(Revised on September 13, 2017)

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Office Hours: I do not have office hours. If the question is worth asking, it will benefit the entire class.

Required Books: California Workers' Compensation Handbook by Stanford Herlick (This can be obtained on line through Amazon)

California Workers' Compensation Labor Code 2017

Recommended Reading:

Workers' Compensation Law by Michael Duff

AMA Guides (5th Edition)

A Medical-Legal Companion to the AMA Guides, 5th Edition

California Rating Manual (both before 1/1/2005 and after 1/1/2005)

California charts giving the dollar amounts for permanent disability indemnity

Life expectancy charts

Sullivan on Comp (18 volumes)

California Workers Compensation Law and Practice by Marcus, Wong, Newman and St. Clair

Dunne on Depositions in California by Kevin J. Dunne

How to Prepare for, Take, and Use a Deposition by Daniel P. Dain

Deposing and Examining Doctors by Kim Patrick Hart

Out of Class Work: It is expected that there shall be a minimum of two hours of homework for every hour in class or six hours a week. Meeting with team members counts, so keep track of those hours and submit an accounting at the first of each class.

Disability accommodations: Anyone who needs any type of reasonable accommodation should contact Senior Assistant Dean Donna Espinoza @ (714) 459-1117 prior to the first class on September 20, 2017 in order to make the proper arrangements pursuant to the Americans with Disabilities Act.

Course Description and Objectives: Workers' Compensation Law is an elective course. It is a non-bar preparation course.

The purpose is to give an overview of the workers' compensation system, with an emphasis on the California Judicial System. We will focus on how to identify a workers' compensation case, file it with the Workers' Compensation Appeals Board, how to represent an injured worker (applicant), how to defend the employer/insurance carrier/third party administrator, trial techniques, how to identify the rights and obligations of all the parties, proper discovery, how to take depositions of injured workers, witnesses, and doctors, how to try a workers' compensation case, and how to resolve a case with a Stipulation with Request for an Award, A Compromise and Release Agreement, a Structured Settlement, A Special Needs Trust, and how and if to appoint a Guardian Ad Litem and Trustee.

We will also discuss the filing of Petitions for Reconsideration, Answers to Petitions for Reconsideration, and when and how to file Petition for Removals.

Examinations and Grading: The mid-term will be a deposition of your assigned role in the system. The final will be a Mock Trial, as well as a written examination. The depositions shall be utilized by the participants in the Mock Trial to develop a script for the trial.

30% of the grading will be based on class participation, 20% on the homework assigned, 25% on the mid-term, and 25% shall be based upon the final examination.

Attendance:

Attendance shall be taken at the beginning of each class. It is anticipated that you will want to come to class. (If I am there, I expect you to be present (and thinking).) Please be in your seats at the beginning of each class. The student handbook states if you miss two classes, you must be dismissed from class. Since it is only a ten week class, your attendance shall be appreciated.

Roles for the students:

Each student shall choose or be assigned one of the following roles. You are expected to be in this role for the length of the class and to ask and respond to questions in "character":

1. An honest and trustworthy injured worker (applicant).
2. An applicant's counsel who has an excellent reputation within the workers' compensation community.
3. A defense attorney who has an excellent reputation within the community.
4. A Claims Examiner who wants to follow the law and provide the necessary benefits.

5. A Claims Manager who is in charge of giving the authority for a Stipulation or a Compromise and Release and watches over the Claims Examiner in the performance of those duties.
6. A subroa investigator.
7. A percipient witness for the applicant.
8. A percipient witness for the defense.
9. An expert witness for the applicant.
10. An expert witness for the defense.
11. An applicant's physician.
12. A defense physician.

Schedule of Classes:

September 20th: History of workers' compensation law.. Orientation and discussion of workers' compensation terms. Explanation of the roles as stated above. Vocabulary in the workers' compensation lexicon. What is an "industrial injury". Who is an "employee". Who is an "independent contractor". What is an "employer". When does employment start and when does it end. What is the going and coming rule? When is an injury at work not "compensable".

Please read *Labor Code section 3600* and sections 5300-5305. Please also read Chapters 2 and 13 in Herlick.

September 27th: How to prepare and take a workers' compensation deposition. Please read Labor Code section 5710. Please read section 14.20 of Herlick.

October 4th: How to represent an applicant. Initial interview, how to utilize the Medical Provider Networks, how to analyze differing strategies, how to file an Application before the WCAB. How to analyze the case for third party liability from both the applicant's and the defense's position.

October 11th : Heirarchy of the judiciary. How to prepare a Trial Brief. How to do legal research and how to research the defenses in a workers compensation class. Please read Herlick, Chapter 1.1 to 1.6.

October 18^h: how to prepare for trial, when to have a witness testify and when not to have a witness testify. How to prepare a Pre-Trial Conference Statement, determine what facts to stipulate to, what issues to raise, and how to raise those issues. How to present subroa videos and investigations. (DEPOSITIONS ARE DUE FOR EACH CLASS MEMBER BASED ON THEIR ROLE).

October 25th: Trial tactics. What attorneys do right and what attorneys do wrong in trial? What does a Judge analyze in making his/her determinations? How is the credibility of the witnesses evaluated and weighed.

November 1st: How to resolve a workers' compensation case. What is a Stipulation with Request for an Award? What is a Compromise and Release? What is a structured settlement? What is a Special Needs Trust? How is Medicare/Medi-Cal, Social Security Disability, Regular Social Security benefits affected? When is a Guardian Ad Litem and Trustee required?

November 8st: Case Law update .

November 15th: Review and prepare scripts for Mock Trial. Practice direct and cross examination

November 22nd : Mock Trials (2).

I hope you enjoy the class and find it a learning experience.