



2014 CLM Annual Conference

April 9, 2014 – April 11, 2014

**Boca Raton Resort
501 E. Camino Real
Boca Raton, FL 33432**

Roundtable 3: Thursday, April 10, 2014 (3:30 pm – 4:30 pm)

Increasing Recoveries through Simple Identification of Additional Sources of Monies for Claimants

This session will reveal the missed opportunities for subrogation on asbestos or respiratory related comp claims. Millions of dollars of tort and bankruptcy trust offset dollars go unrecovered each year by the comp carriers simply because claims against applicable bankruptcy trusts are never pursued.

I. Workers' Comp Subrogation Issues

Subrogation is the process and the right of the workers' compensation insurer or the self-insured employer to recover the money paid on a workers' compensation claim from another party when the other party is responsible for the employee's injuries. In civil law, the principle of negligence guides and determines who should pay for damages caused to another. Basically, the simplest way of putting it "if someone else is at fault, they should pay for it."

Every workers' compensation claim should be reviewed for subrogation potential when it is reported. Unfortunately, most workers' compensation adjusters are experts in workers' compensation but have little or no knowledge of liability claims and potential subrogation opportunities. This results in the work comp adjusters frequently missing opportunities for subrogation.

II. Bankruptcy Trust Offset

Understanding the monies available to workers compensation claimants in both the tort system and the bankruptcy trust system is essential. Many comp claimants have filed tort claims and reveal much of their jobsite history in those cases. That jobsite history is often times much more extensive than the one site that is the source of their workers compensation claim.

Asbestos trusts are paying billions of dollars per year to claimants and understanding the intersection of your comp claimant's job history to the qualified sites for these trusts is imperative. Tools

are available to simplify the process and ensure that you understand the probable amounts available as subrogation.

Also important to determine is whether you have the opportunity to step in the shoes of a claimant and file a trust claim because the claimant will not take the time because the monies would go straight to the workers compensation carrier.

III. Current Legislative Efforts

A review of current legislative efforts - overview is being created and will be updated before the conference. We will describe the variations in state law and how it affects the subrogation opportunities in the asbestos claimant space.

IV. Processes and Procedures to Ensure Subrogation Opportunities Are Not Missed

This session will describe the means that workers compensation adjusters can take to identify claims which have subrogation potential and the methods which the adjuster can use to protect and maximize their subrogation rights.

- search for tort claim/filing;
- obtain complaint and review;
- estimate tort offset amount;
- determine whether total tort settlement would apply or only portion related to medical costs;
- highlight bankruptcy trusts available to pay the claimant;
- ask to stand in shoes of claimant if claimant unwilling to file bankruptcy trust claim