



2021 CLM Workers Compensation and Retail, Restaurant & Hospitality Conference  
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### **How Cyber and Crypto Currencies are Financing the Exploding Gig Economy. What it Means to Your Workers Comp Insurance Defense**

This course addresses the dramatic changes taking place in our economy and its finances that accompany the acceptance of Crypto currency as an accepted method to transfer value. This societal change undercuts many workers compensation insurance defenses. We will explore how to use current tools to ethically evaluate claims involving transfer of value (money) until government oversight and regulation can catch up.

#### **I. What is happening in our economy Post-COVID?**

Five years ago, the most common “side hustle” we saw from out of work employees was they all wanted to be real estate brokers. Real Estate involved virtually no start up costs and the “paydays” were big when they sold a house. The issue is real estate brokers need “people skills” and an extensive circle of acquaintances to be able to list and sell properties. Most employees didn’t have the skills, failed rather quickly, and went back to work when the treating doctor released them from restrictions.

Post-COVID all of this changed. Apps that transfer value (Venmo, Zelle, Cashapp etc.) have eliminated most of the questions they used to ask. All they record now is who the value (money or crypto) is exchanged, the date, and the amount. This leads to two developments. The first is the GIG economy operates just like a cash economy, in that it is virtually untaxable. Now employees out on indemnity can turn their hobbies into business and do it all virtually tax free. Secondly, because the cause for the transaction is no longer documented, the potential for the overstatement of business revenue is not only easy, but a very likely component a wage benefit submission/calculation.

#### **II. Legal Challenges**

With minimal tax reporting in the Crypto/Cyber/Gig world, you can still ask for tax records or a pay stub to document an income claim but it’s not certain you will get it. How can you document the presence of a business and the activity associated with that business? Social media is the launch pad of most every business as it is the most widely known source of free advertising.

As alluded to earlier, it is amazingly easy to inflate the revenue of a business using cash apps. People may be sending your target money for his/her birthday, repaying a previous loan, or helping your target out of a financial crunch. Because the purpose of these transfers is not part of the transaction it is easy to make a business look more successful than it is. Social media often gives clues to the purpose of these possible transactions by listing the D.O.B, the birth of a new child, or financial hardships.

### **III. Strategies for this Brave New World**

Now more than ever, these changes in the economic world we live in signal the end of the “one and done” investigation. If you are going to document not only the activity of the target but the activity level/success of their business, you need to be able to update the social media harvest frequently, on demand, over the life of the claim. This will allow you to document the events that support the business (i.e., catering) as well as additional products (i.e., bakery, skin care, clothing) being introduced.

Because social media findings may be the only string you have to play in defending the income portion of your claim, ethics involved with obtaining that information must be impeccable. There are no “do-overs”, so claimant ID needs to be as close to 100% accurate as possible. Dangers to person and company reputation abound so recovered material must always be from public sources and obtained anonymously. All findings must be reported. Even information detrimental to the defense of the file can be useful in the setting of reserves and in settlement evaluation.

It must be remembered that claims trials are nothing more than formalized story telling. Insurance companies and the defense bar have always preferred cold hard facts (i.e., financial docs, accident recons, forensic engineers) to tell their side of the story. With this piece of formerly empirical information removed, you need to rely on “softer” information to develop the same compelling story.

### **IV. Solutions**

We believe social media will always be part of our culture. However, the continued pressure put on social media by the legislature along with the changing desires and cultural influences of its users, you will see social media continue to fracture. Keeping up with new venues, the technological challenges each new venue provides, and user preference will be paramount in using social media as an effective part of your claim defense.

For enterprise clients doing business multiple locations and in multiple states, social media presents a new challenge. Social media provides the opportunity for “groups” to come together around the subject of fraud. The groups also allow associated members to create claims in multiple locations while all the while trading notes on what works and what does not. An enterprise business can no longer address claims as isolated incidences. They need to look at software solutions that identify first and second-degree relationships to determine if their loss exposures are dumb luck or the result of a organize concerted effort to target them.