American Conference Institute’s 17th National Advanced Forum on

LITIGATING DISABILITY INSURANCE CLAIMS

The only disability insurance event where plaintiff & defense lawyers and in-house counsel & claims professionals meet to devise practical solutions for today’s most critical issues

January 22–23, 2015 • The Union League • Philadelphia, PA

A unique opportunity to learn from and network with:

Cesar R. Brito
AVP & Senior Counsel
Unum

Colleen A. DeNoto
Vice President, Corporate Counsel
Prudential Insurance Company of America

Jessica Mitchell Standish
Assistant Vice President/Assistant General Counsel
The Hartford

Adam Formus
In-House Counsel
Disability Management Services, Inc.

Viktoria Torchinisky-Field
Senior Counsel and Team Lead
Group Insurance Litigation
Cigna

Mark C. Taylor, MS, CCM, CDMS
Executive Director, Claims
RGA Reinsurance Company

Peter M. Kelly
Chief Employee Benefits Counsel
Blue Cross and Blue Shield Association

Maureen T. Mulville, CLU, FLMI
Vice President, Compliance & General Counsel
Illinois Mutual Life Insurance Company

Kevin J. Tierney
Vice President & General Counsel
Disability Reinsurance Management Services, Inc.

Noreen M. Fierro
Chief Compliance Officer,
Group Insurance Division
Prudential Financial

Jim Welty
Managing Attorney – ISG Legal
The Standard

Scott Rose
Vice President, Disability Products
SSDC Services

Top in-house counsel, plaintiff and defense lawyers and medical experts will provide valuable, practical information on key issues that arise in litigating disability claims. Sessions include:

- ERISA case law year in review: A circuit-by-circuit examination of the key case law developments from 2014, what they mean for your practice in 2015 and their impact on ERISA disability litigation
- The current state of new remedies & equitable relief under ERISA §502(a)(3): navigating the ongoing fallout from Amara, McCutchen and their progeny
- Judicial review of claims decisions and the battle over discretion: how individual states are treating discretionary clauses in ERISA plans, and how to strategically use the discovery in record to win your case in the face of a “de novo” vs. “arbitrary & capricious” standard of review
- The latest discovery trends in disability claim actions: conflict of interest discovery, the scope of the administrative record, the fiduciary exception to the attorney-client privilege and beyond
- Mental disorders, substance abuse and other limited conditions – tackling the challenges of handling mental/nervous claims and establishing objective proof of “non-visible” conditions
- Tackling the IME’s evaluation, treating physician’s opinion, the FCE, neuropsych evaluations, medical records and more
- Get hip to HIPAA – understanding and overcoming the various privacy issues implicated in the procurement, use and disclosure of medical records and patient information in the context of disability claims
- Tips, strategies and best practices for successful early mediation of a disability claim
- Proper use of social media, surveillance and modern technology in conducting an effective and legally compliant disability claim investigation
- Vocational issues in disability claims: the assessment of own occupation, any occupation, dual occupation and employability; and determining a claimant’s entitlement to full or partial disability benefits
- The latest trends, developments and challenges in non-ERISA claims: an in depth look at continuing and emerging topics in IDI and LTD claims
- Defending Rule 30(b)(6) corporate depositions in disability insurance claims
- Recovery of attorneys’ fees in the ERISA and non-ERISA context
- Developments in social security awards, offsets, overpayments and liens in disability cases

Featuring unparalleled medical insights from:

Leo J. Shea III, Ph.D.
Clinical Associate Professor of Rehabilitation
at Rusk Institute
President, Neuropsychological Evaluation and Treatment Services, P.C.

Charles Saldanha, MD
Forensic Psychiatrist
Forensic Psychiatric Associates Medical Corporation

Ronald Roberts, Ph.D., ABPP
Forensic Neuropsychologist
Forensic Psychiatric Associates Medical Corporation

Henry G. Connore, MD
Clinical Assistant Professor,
Rush Medical College
Regional Medical Advisor, Social Security Administration Region V

Obtain insight as to the perspectives from the Bench. Hear from:

Hon. Eric F. Melgren

Hon. Mark I. Bernstein
Philadelphia Ct. C.P.

Hon. Robert B. Collings

Hon. Sandra Mazer Moss (ret.)
Philadelphia Ct. C.P.

The nation’s premier conference on Litigating Disability Insurance Claims returns for its 17th year, led by an unparalleled faculty of in-house industry experts, renowned jurists, cutting edge medical professionals, and renowned plaintiff and defense attorneys.

Along with the greater volume of long-term, short-term, individual and ERISA claims being seen by the industry, claimants, insurers and their counsel have been faced with additional challenges in: responding to the rise in mental illness and other subjective, “non-visible” claims; adapting to the recent case law developments following MetLife v. Glenn, Cigna v. Amara and US Airways v. McCutchen which have shifted the scope of discovery and equitable remedies in disability claims; navigating the varying standards regarding the enforceability of discretionary clauses; determining the scope of the administrative record and conflict of interest discovery; and properly utilizing social media and other modern technology in conducting disability claim investigations – just to name a few.

ACI's 17th National Conference on Litigating Disability Insurance Claims will help you to tailor your practice to the on-going discovery battle, and highlight key strategies to making discovery useful and meaningful to your case in the face of both an “arbitrary & capricious” and “de novo” standard of review. Attendees will hear the latest on how other industry professionals are navigating the shifting remedies landscape in disability claims, and will be provided with the latest practical solutions and tips for handling these claims in various stages including pre-litigation, mediation and administrative review.

In total, this is the event you’ve come to rely on as a one-of-a-kind opportunity to meet with colleagues – and opponents – to assess your best move – and anticipate what the other side is thinking. The faculty features renowned judges, leading plaintiff and defense attorneys, medical experts, claims professionals, disability consultants, vocational experts, independent medical examiners, risk managers, reinsurers, carriers and insurers. Here’s a small sampling of companies already registered to participate: Unum, Prudential Insurance Company of America, The Hartford, Disability Management Services, Cigna, RGA Reinsurance Company, Blue Cross and Blue Shield Association, Illinois Mutual Life Insurance Company, Disability Reinsurance Management Services, The Standard and more.

This conference is your “one-stop” venue for the latest and most innovative material on today’s most pressing and contentious disability law issues, including how to wade through the complexities of filing a claim, how to recover benefits when faced with mounting obstacles, how to hone and sharpen the skills needed to protect your client’s interests, and how to successfully forge a defense against weak claims and overbroad discovery requests. Get all the practical tips, strategies and solutions needed for every stage of the claims process!

Continuing Legal Education Credits

Accreditation will be sought in those jurisdictions requested by the registrants which have continuing education requirements. This course is identified as nontransitional for the purposes of CLE accreditation.

ACI certifies that the activity has been approved for CLE credit by the New York State Continuing Legal Education Board.

ACI certifies that this activity has been approved for CLE credit by the State Bar of California.

You are required to bring your state bar number to complete the appropriate state forms during the conference. CLE credits are processed in 4–8 weeks after a conference is held.

ACI has a dedicated team which processes requests for state approval. Please note that event accreditation varies by state and ACI will make every effort to process your request.

Questions about CLE credits for your state? Visit our online CLE Help Center at www.americanconference.com/CLE.

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Who You Will Meet

Attorneys Specializing in

• Life, Health and Disability Insurance litigation
• Long Term Disability
• ERISA
• Labor & Employment
• Worker’s Compensation

Insurance Industry Professionals including:

• In house Counsel
• Claims Specialists
• Adjusters
• Risk Managers
• Litigation Specialists
• Disability Claim Consultants
Day One – Thursday, January 22, 2015

7:15 Continental Breakfast and Registration

8:00 Co-Chairs’ Welcoming Remarks

Robert K. Scott
Law Offices of Robert K. Scott

Kristina B. Pett
Pett Furman, PL

8:05 In-House Roundtable: Counsel and Claims Professional Insights on New Emerging Issues in Disability Insurance Claims

Panel 1 | 8:05 - 9:00

Cesar R. Britos
AVP & Senior Counsel
Unum

Colleen A. DeNoto
Vice President, Corporate Counsel
The Prudential Insurance Company of America

Mark C. Taylor, MS, CCM, CDMS
Executive Director, Claims
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Viktoriya Torchinsky-Field
Senior Counsel and Team Lead,
Group Insurance Litigation
Cigna

Peter M. Kelly
Chief Employee Benefits Counsel
Blue Cross and Blue Shield Association

Kevin J. Tierney
Vice President & General Counsel
Disability Reinsurance Management Services, Inc.

Panel 2 | 9:00 – 9:50

Jessica Mitchell Standish
Assistant Vice President
Assistant General Counsel
The Hartford

Adam Formus
In-House Counsel
Disability Management Services, Inc.

Maureen T. Mulville, CLU, FLMI
Vice President, Compliance & General Counsel
Illinois Mutual Life Insurance Company

Noreen M. Fierro
Chief Compliance Officer,
Group Insurance Division
Prudential Financial

Jim Welty
Managing Attorney – ISG Legal
The Standard

Panel 1 and 2 Moderator:
Adrienne C. Publicover
Wilson Elser Moskowitz Edelman & Dicker LLP

In this valuable panel, hear from in-house on the front lines at the leading carriers. Gain perspective as they walk you through a claim from start to finish, from their side. Join a great discussion with plenty of opportunities for Q&A. Topics include:

- Thoughts on investigation: use of social media and surveillance as tools
- Pre-litigation resolution tactics
- In house response to Department of Insurance inquiries and complaints
- Retaining outside counsel: factors to consider
- Views on mediation
- Challenges to sufficiency of the complaint
- Discovery and Rule 26 disclosures
- Post litigation investigative techniques
- Punitive damages in non-ERISA
- How metrics can help foreshadow potential litigation and regulatory issues
- Complaints tied to claims - what they can tell us
- New compliance issues and hurdles created by the Affordable Care Act

9:50 Morning Coffee Break
10:00  **ERISA Case Law Year in Review: A Circuit-by-Circuit Examination of the Key Case Law Developments from 2014, What They Mean for Your Practice in 2015 and Their Impact on ERISA Disability Litigation**

*John T. Seybert*  
Sedwick LLP

*Bradley J. Betlach*  
Sedwick LLP

This panel will provide you with a comprehensive circuit-by-circuit review of the year’s most important disability cases under ERISA. Follow along as counsel well versed in the new developments in case law over the past year engage you in an in-depth examination of the real-life impact of each case on ERISA disability practice. Participants will learn what these cases reveal about trends in ERISA disability litigation as well as recommendations for how in-house counsel and ERISA practitioners can update their litigation strategies in response to recent developments going forward.

Whether you are new to the practice of ERISA disability litigation or a senior practitioner in need of a refresher, you will find this session invaluable for getting up to speed on the latest cases, while maximizing your opportunity to engage in the advanced discussion that will be the hallmark of the main conference.

Please note that the cases covered during this session will be updated to include all high profile cases resolved by January 2015.

10:45  **The Current State of New Remedies & Equitable Relief Under ERISA §502(a)(3): Navigating the Ongoing Fallout From Amara, McCutchen and Their Progeny**

*John J. Myers*  
Eckert Seams Cherin & Mellott, LLC

*Denise M. Clark*  
Clark Law Group

*Anthony F. Shelley*  
Miller & Chevalier Chartered

- Assessing the ongoing impact of *Amara*, *McCutchen* and their progeny on ERISA litigation
- Developing case law and recent lower court rulings/standards
- The new remedies landscape
- Equitable relief; plan reformation; detrimental reliance
- Arguing against monetary damages as a form of equitable relief
- What recovery provisions qualify as clear and specific? When do equitable principles “augment” the plan?
- Minimizing damages in the wake of *Amara*
- How have *Amara*, *McCutchen* and their progeny changed the remedies landscape from the plaintiff’s viewpoint?
- What must plaintiffs prove in order to obtain remedies?
- How have the courts interpreted ‘plan terms’?
- Can you look to SPDs and other documents?
- Equitable recoupment of benefit overpayments after *McCutchen*
- ERISA remedies in fiduciary breach claims – how are the circuits ruling?; litigating these cases
- Disgorgement as an equitable remedy – implications of the Supreme Court decision in *Rochow v. LINA*
- What factors/evidence can a claimant show/rely upon to get the court to lessen the deference accorded to an adverse benefit determination?
- When and under what circumstances can an arbitrary & capricious standard of review be converted to a de novo standard?
- Considerations when there is a fiduciary breach claim and a benefits claim
- Practical approaches/tactics to developing and utilizing the evidence in record to win your case when the standard of review is arbitrary & capricious? When the standard of review is de novo?

Networking Lunch for Speakers and Delegates

**The Latest Discovery Trends in Disability Claim Actions – Conflict of Interest Discovery, the Scope of the Administrative Record, the Fiduciary Exception to the Attorney-Client Privilege and Beyond**

*Jason A. Newfield*  
Frankel & Newfield, PC

*Joseph M. Hamilton*  
Mirick, O’Connell, DeMallie & Lougee, LLP

*James A. Keller*  
Saul Ewing LLP

**The Latest Treatment of Conflict of Interest Discovery**

- How have the lower courts been continuing to interpret the scope of discovery in the aftermath of *MedLife v. Glenn*?
- The effect of insurer/plan administrator conflicts of interest on the scope of discovery
- Access to information outside of the administrator’s claim file; requests for evidence outside of the record in “conflicts situations” – What are the courts allowing now?

**The Scope of the Administrative Record**

- Determining the contents of the administrative record and assessing claims of privilege
- Best practices for limiting discovery to the administrative record
- Determining which documents must be disclosed

**The Fiduciary Exception to the Attorney-Client Privilege**

- Determining whether a particular conversation or communication fits the fiduciary exception to the attorney-client privilege
- What are the legal and practical implications of this on discovery?
- How does the application of the fiduciary exception vary across jurisdictions

**Discovery Requests/Responses in ID & LTD Claim Cases**

- Identifying the key issues of discovery at the beginning stages of litigation
- What should the plaintiff request and how can the insurer properly respond to requests?


*Ronald K. Alberts*  
Gordon & Rees LLP

*Rene' E. Thorne*  
Jackson Lewis P.C.

*Azeez Hayne*  
Morgan, Lewis & Bockius LLP

- Judicial review of the administrative record in adverse disability ERISA claims decisions – when do the courts use the de novo standard; when do they use an arbitrary & capricious standard? How has this case law been evolving?
- Examining the effects of discretionary clauses in ERISA plans
- What potential effects can a discretionary clause have on an insurer’s handling of a claim?
- How do such clauses affect the standard of review used by courts in the review of adverse benefit decisions?
- State prohibitions on discretionary clauses: Which states have banned such clauses? How have the states varied in their application of such clauses?
- Is state regulation of discretionary clauses preempted by ERISA?
- Is a ban on discretionary clauses applicable if it conflicts with the plan’s choice of law provision?
- Do state bans on discretionary clauses apply to policies “issued or delivered” in another state?
- Can a state ban on discretionary clauses be applied retroactively?
- What does evolving case law say regarding the language included in these clauses?
- What have the courts been saying regarding the fairness and permissibility of such clauses?
- What factors/evidence can a claimant show/rely upon to get the court to lessen the deference accorded to an adverse benefit determination?
- When and under what circumstances can an arbitrary & capricious standard of review be converted to a de novo standard?
- Considerations when there is a fiduciary breach claim and a benefits claim
- Practical approaches/tactics to developing and utilizing the evidence in record to win your case when the standard of review is arbitrary & capricious? When the standard of review is de novo?
Mental Disorders, Substance Abuse and Other Limited Conditions – Tackling the Challenges of Handling Mental/Nervous Claims and Establishing Objective Proof of “Non-Visible” Conditions

Henry G. Conroe, MD
Clinical Assistant Professor, Rush Medical College
Regional Medical Advisor, Social Security Administration
Region V
Charles Saldanha, MD
Forensic Psychiatrist
Forensic Psychiatric Associates Medical Corporation
Ronald Roberts, Ph.D., ABPP
Forensic Neuropsychologist
Forensic Psychiatric Associates Medical Corporation
Nicole Y. Blohm
Meserve, Mumper & Hughes LLP

Mental Illness, Substance Abuse and Mental/Nervous Limitations

• Understanding the complexities of the mental illness: Distinguishing between a physical problem in the brain chemistry and a mental symptom
• Evaluating the medical experts that are key to mental illness claims
• IME strategies and record review; building a medical record which supports your claim
• Losing or winning the claim at summary judgment
• What are the limitations to the mental illness claims
• Interpreting the co-morbid condition: When the mental illness arises out of the physical illness; How to deal with co-morbid conditions?
• Identifying the condition causing the inability to work
• Identifying whether there is a cognitive component to a disability claim and whether or not that component should be classified as “mental/nervous”
• Preparing your client’s claim so that it is properly categorized by the insurance company
• Recent challenges to the mental/nervous limitations – what types of challenges have proven successful?
• Successfully challenging and changing an initially incorrect benefits determination
• Substance abuse and risk of relapse as a defensible disability
• What kind of policy language is being seen regarding coverage for substance or alcohol abuse? How are these provisions being interpreted? What is the current state of the law on whether such a claimant is entitled to benefits?

Fibromyalgia, Chronic Fatigue Syndrome, Chronic Pain and Chronic Lyme Disease

• Proving the existence of the disorder
• How to identify the appropriate healthcare professionals to properly diagnose and/or evaluate a subjective condition: Should IMEs be the norm? Are peer reviews sufficient to overcome clinical evaluations by treatment providers?
• Balancing the need for objective proof versus the subjective disorder: Understanding objective proof of diagnosis vs. objective proof of limitations: Testing to objectively verify functional limitations
• Distinguishing one claimant’s ability to work with these conditions and another claimant’s inability to work with these conditions
• Educating courts and/or adversaries who are not medically savvy on such a claimant is entitled to benefits?

The Fundamental Right to Require IMEs or FCEs During a Claim

• During each stage of the case: initial claim review, during litigation, during an appeal
• What type of testing is required under the contract and what type of testing is most relevant to the claim
  - Disabling Physical Illness – is an FCE warranted?
  - A neuropsychiatric exam?
  - Disabling Mental Illness – is the Neuropsychiatric exam warranted?
  - In a “pain case” what testing is relevant?

What Must Be Preserved and Produced Related to the Examinations

• The exchanges between the examiner and insurance company?
• The raw data from a Neuropsychiatric or Neuropsychological Exam?
• Can the examination be videotaped, audiotaped or witnessed?
• What data, if any is confidential?

How to Establish the Credibility of Examinations

• Comparing and assessing the different approaches by physical therapists for the FCE
• Comparing and assessing the different approaches to the Neuropsychiatric and Neuropsychological exams – examples of testing used and their purpose
• Evaluating the Credentials of the examiners and potential bias
• Taking action to establish unreliability and/or bias early on so that evidence of same can be included with appeal filing

Get Hip to HIPAA – Understanding and Overcoming the Various Privacy Issues Implicated in the Procurement, Use and Disclosure of Medical Records and Patient Information in the Context of Disability Claims

Elizabeth (Lisa) J. Bondurant
Smith Moore Leatherwood LLP
Bryan D. Bolton
Funk & Bolton, PA.

Medical Records

• The proper use and disclosure of medical records in disability cases
• The impact of HIPAA’s privacy rules on the discovery of health information in litigation; the latest court decisions on this
• Tips for identifying HIPAA issues and pitfalls to avoid
• Abiding by applicable rules governing court filings; redactions vs. use of protective orders
Day Two – Friday, January 23, 2015

6:05 Conference Adjourns

7:30 Continental Breakfast

8:00 The View From the Bench

The Honorable Eric F. Melgren
The Honorable Robert B. Collings
The Honorable Mark I. Bernstein
Philadelphia Ct. C.P.
The Honorable Sandra Mazer Moss (ret.)
Philadelphia Ct. C.P.

Moderator:
Pamela Atkins
Atkins & Associates, Attorneys-at-Law, LLC

9:30 Morning Coffee Break

9:40 Tips, Strategies and Best Practices for Successful Early Mediation of a Disability Claim

Doug deVries
deVries Dispute Resolution/Judicate West
Mark F. Seltzer
Mark F. Seltzer & Associates
Robert K. Scott
Law Offices of Robert K. Scott
Bonny G. Rafel
Bonny G. Rafel LLC
David A. Bryant
Bryant Legal Group

• How to effectively mediate a disability claim
• Pre-mediation best practices: determining if your case is appropriate for mediation
• Assessing when to mediate – is it always “the earlier the better?”
• The roles of the various participants in a mediation
• What should an early mediation focus on and what should each party do to best prepare?
• How does the mediator view their role in the process?
• What are the latest trends/issues that specialty ERISA and IDI mediators are seeing? Where do they see the field moving?
• Mediation war stories from those on the front lines

11:10 Proper Use of Social Media, Surveillance and Modern Technology in Conducting an Effective and Legally Compliant Disability Claim Investigation

Frank N. Darras
DarrasLaw
Kristina B. Pett
Pett Furman, PL

• The potential benefits of looking online and reviewing the content of social media/networking sites during claims investigations – practical tips on what you should and should not do
• Effectively and legally using content found on social media
• Practical suggestions for successful research on social media sites and privacy implications
• Legal issues surrounding surveillance at work and elsewhere – what are the courts finding to be an “inappropriate use of a surveillance video” for the purposes of proving a claimant’s ability/inability to do work
• Legal and privacy implications/challenges of using internet surveillance
• Use of hidden cameras and GPS tracking devices
• How to lawfully make use of such surveillance/investigation tools

11:50 Vocational Issues in Disability Claims: The Assessment of Own Occupation, Any Occupation, Dual Occupation and Employability; and Determining a Claimant’s Entitlement to Full or Partial Disability Benefits

Larry Schneider
Disability Income Insurance Specialist
Disability Insurance Resource Center
Evan S. Schwartz
Quadrino Schwartz
Norris A. Adams, II
Essex Richards, PA.

• What are the standards used to define: “Own Occupation” and “Any Occupation”?
• How to define the material duties of a claimant’s “occupation” under an “own occupation” provision
• What is the standard to determine whether the claimant can return to work?
• Proving the inability to return to work for the first 2 years
• Proving the inability to work in another occupation for the next several years
• Navigating the implications and arising challenges when there is a change of definition from “own occupation” to “any occupation”
• How do different LTD policies define the “any occupation” standard, and what are the implications of the different definitions?
• Defining and interpreting “gainful” employment
• Treatment of sedentary occupations in LTD claims
• Determining whether a claimant is constrained by financial pressures and returns to work disabled
• Understanding the Physician-Specific classifications/standards of “Modified Own Occupation” and “Medical Occupation” – what do these classifications mean and what effect do they have on entitlement to benefits?
• Recent litigation trend in long term disability cases involving professionals, and especially doctors
• Tightening clauses in the policy and defining exactly the material duties of a claimant’s occupation
• Examining the approaches taken by insurance carriers in processing/evaluating vocational reports submitted by disability claimants
• Recent challenges arising from claimants with dual occupations
• What does it take to satisfy a claim?
• Impact of the incontestability clause
The Latest Trends, Developments and Challenges in Non-ERISA Claims: An In Depth Look at Continuing and Emerging Topics in IDI and LTD Claims

Robert Tomilson
Clark Hill PLC

Daniel W. Maguire
Burke, Williams & Sorensen LLP

- Examining the latest treatment of the “Notice Prejudice Rule” – what states have adopted this rule and what are the effects and implications?
- Continued struggle in interpreting/applying the “Appropriate Care” standard in LTD claims – When and under what circumstances can the failure to treat a medical condition lead to the termination of a claimant’s long term disability benefits?
- The latest on “total vs. residual disability,” “legal vs. factual disability” and “accident vs. sickness”
- Recent rise in state regulators’ concerns about disability insurance claim handling procedures/practices
- Understanding the individual disability insurance contract

Defending Rule 30(b)(6) Corporate Depositions in Disability Insurance Claims

D. Larry Kristinik
Nelson Mullins Riley & Scarborough LLP

Robert E. Hess
Barger & Wolen LLP

Gregory P. McMahon
Koleos, Rosenberg & McMahon, PL

Rule 30(b)(6) depositions present complex challenges and serious potential exposure for a company implicated in a disability insurance claim – not just in IDI claims, but also in ERISA cases where a conflict of interest has been placed into issue. Counsel must strategically determine who should represent the corporation – not just in IDI claims, but also in ERISA cases. The key steps for minimizing risk, successfully tackling privilege issues. Listen to this panel of expert IDI and ERISA practitioners explain the key steps for minimizing risk, successfully responding to a Rule 30(b)(6) deposition notice and selecting and preparing witnesses for the deposition.

Recovery of Attorneys’ Fees in the ERISA and Non-ERISA Context

Eric L. Buchanan
Eric Buchanan & Associates, PLLC

William Patton
Lane Powell PC

Attorney’s Fees: ERISA
- Whether the prevailing party will recover attorney’s fees
- Whether the courts are creating an overly broad definition of the phrase “success on the merits”
  - How successful are plaintiffs in recovering attorneys’ fees post Hardt v. Reliance?
  - Recovery of attorney’s fees after remand or voluntary reinstatement of the claim by the insurer, etc.
- Addressing the issue of whether the courts are using attorney’s fees as a punitive measure
- How do we deal with fee multipliers?
  - Addressing Plaintiff's entitlement to 2½ x the attorney’s fees recovered
- Examining whether, when and under what circumstances attorney’s fees are available for a remand

Attorney’s Fees: Non-ERISA
- Recovering attorney's fees even in the absence of a jury trial
  - Recovering in settlement, mediation or other alternative methods
  - Attorney fee recovery limited to fees incurred to recover contract benefits

Developments in Social Security Awards, Offsets, Overpayments and Liens in Disability Cases

Scott Rose
Vice President, Disability Products
SSDC Services

Wesley R. Payne
White & Williams LLP

David A. Bryant
Bryant Legal Group

ERISA:
- Defining the multi-step process in recovering overpayment of funds
- Analyzing and interpreting offsets post-Great West v. Knudson
- Interpreting constructive trust in Great West v. Knudson
- Reviewing the decision in Sereboff where no tracing of funds was required
- Defining “other equitable relief ” in Section 502(a)(3) of ERISA
- Establishing the insurer is a planned fiduciary and have standing to bring suit
- Convincing the insured and the court that the fund sought is the overpayment itself and not the insured’s general assets
- What to do when the claimant is judgment proof
- Recouping ongoing net benefits to satisfy debt in the interim
- Difficulties posed when asserting unjust enrichment
- Determining whether there is a payment agreement
- Battling with the obstacles to claim benefits in overpayment
- Assessing the impact of the U.S. Supreme Court decision in U.S. Airways v. McCutcheon
  - What recovery provisions qualify as clear and specific?
  - When do equitable principles “augment” the plan?

Non-ERISA:
- What are the available state remedies?
- Analyzing legal/equitable relief
- Interpreting and analyzing cases that allow/disallow recovery
- Understanding how the courts have responded to over payment and recovery
- How SSA anti-assignment provision affects state law claims
- Emphasizing the need for constructive trust
- Recovering interest and fees
- Recouping in settlement, mediation or other alternative methods
- For plaintiff’s – the latest tips and tactics for (i) establishing right to fees and (ii) obtaining those fees

Conference Ends
**REGISTRATION FORM**

**PRIORITY SERVICE CODE**

702115.S

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**ATTENTION MAILROOM:** If undeliverable to addressee, please forward to:

ERISA ATTORNEY; DISABILITY CLAIMS COUNSEL AND CLAIMS MANAGER

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**CONFERENCE CODE:** 702115-PHI

☐ YES! Please register the following delegate for **LITIGATING DISABILITY INSURANCE CLAIMS**

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**CONTACT DETAILS**

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☐ I would like to receive CLE accreditation for the following states: ___________________. See CLE details inside.

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**FEE PER DELEGATE**

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<td>☐ Conference Only</td>
<td>$1995</td>
<td>$2095</td>
<td>$2295</td>
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☐ Please reserve ____ additional copies of the Conference Materials at $499 per copy.

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**PAYMENT**

Please charge my

☐ VISA   ☐ MasterCard   ☐ AMEX   ☐ Discover Card   ☐ Please invoice me

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CARDHOLDER

☐ I have enclosed my check for $_______ made payable to

American Conference Institute (TIN—98-0116207)

☐ ACH Payment ($USD)

Please quote the name of the attendee(s) and the event code 702115 as a reference.

For US registrants:

Bank Name: HSBC USA
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**REGISTRATION FEE**

The fee includes the conference, all program materials, continental breakfasts, lunches, and refreshments.

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**PAYMENT POLICY**

Payment must be received in full by the conference date. All discounts will be applied to the Conference Only fee (excluding add-ons), cannot be combined with any other offer, and must be paid in full at time of order. Group discounts available to individuals employed by the same organization.

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**CANCELLATION AND REFUND POLICY**

You must notify us by email at least 48 hrs in advance if you wish to send a substitute participant. Delegates may not “share” a pass between multiple attendees without prior authorization. If you are unable to find a substitute, please notify American Conference Institute (ACI) in writing up to 10 days prior to the conference date and a credit voucher valid for 1 year will be issued to you for the full amount paid, redeemable at any other ACI conference. If you prefer, you may request a refund of fees paid less a 25% service charge. No credits or refunds will be given for cancellations received after 10 days prior to the conference date. ACI reserves the right to cancel any conference if it deems necessary and will not be responsible for airfare, hotel or other costs incurred by registrants. No liability is assumed by ACI for changes in program date, content, speakers, or venue.

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**HOTEL INFORMATION**

American Conference Institute is pleased to offer our delegates a limited number of hotel rooms at a preferential rate. Please contact the hotel directly and mention the “ACI Litigating Disability” conference to receive this rate.

Venue: The Union League
Address: 140 South Broad Street, Philadelphia, PA 19102
Reservations: 215-587-5570

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**INCORRECT MAILING INFORMATION**

If you would like us to change any of your details please fax the label on this brochure to our Database Administrator at 1-877-927-1563, or email data@AmericanConference.com.

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