The 2013 Arizona State Legislature adjourned on June 14, but not before passing two bills that directly affect workers’ compensation.

Primarily sponsored by Republican Senator Majority Leader John McComish of District 18, SB 1148 repeals A.R.S. §23-904 and amends Title 23, Chapter 6, Article 1 by adding a new section 23-904 relating to workers’ compensation. That new section holds that both a worker from another state and that worker’s out-of-state employer are exempt from workers’ compensation regulations while that worker is temporarily in Arizona as long as the employer has workers’ compensation insurance coverage in another state, as long as that coverage extends to the employee, and as long as other specified conditions are met.

For injured workers with claims filed both in Arizona and under the workers’ compensation laws of other states or nations, the amount of compensation paid under the other law is taken as a credit against the compensation due under Arizona law. Regardless of the date of injury, claims made after the effective date of this legislation are subject to the new law’s provisions.

The Legislature also passed SB 1310, primarily sponsored by Republican Senator Steve Yarbrough of District 17, which requires the Industrial Commission of Arizona to publish a report showing the amount of cash and assets held by the Special Fund that are attributable or allocated to the payment of claims of insolvent insurers as of June 30, 2013. The bill requires the report be accompanied by a statement of opinion from an actuary and must include other specified information. The report must be published at the last Commission meeting in 2013.

Other successful bills of interest to employers include:

HB 2204, which holds that the surviving spouse or dependent of a law enforcement officer killed in the line of duty is entitled to receive payments for health insurance premiums from the officer’s employer. That employer must make payments if the surviving spouse or dependent is enrolled in the employer’s health insurance program or the health insurance plan offered by the retirement system or plan from which the person is receiving benefits. The bill specifies the amount of the payment and circumstances under which payments will be discontinued.

HB2303, which expands the definition of “person engaged in law enforcement...
... Two Work Comp Bills continued from page 1

activities* for the purposes of required overtime compensation rates to include any law enforcement personnel responsible for directly assisting law enforcement officers in performing law enforcement activities.

HB 2442, which allows an employer to order a law enforcement officer, including a probation officer, to submit to a physical examination in certain circumstances.

HB 2485, which states that an audit report completed to evaluate compliance with a “health or safety law” or industry safety standard must include each document and communication created for the audit. The statute also specifies types of documents and information that may be included in an audit, and states that any part of the audit report is privileged, and not admissible as evidence or subject to discovery in a legal action, civil action or an administrative proceeding. The statute allows for exceptions, and states that a witness can’t be compelled to testify or produce a document related to an audit in specified circumstances. The bill doesn’t provide civil or criminal immunity to any organization, doesn’t affect any other privileges available under the law, and doesn’t apply to health professionals or health care institutions.

For a full copies of these bills, go to: www.azleg.gov and click on the “Bills” tab.
AWCCA Welcomes New Officers, Board Members

Based on AWCCA Board election results announced at the May dinner meeting, and based on the Board’s replacement of officers pursuant to the AWCCA Bylaws, Officers for the 2013-2014 meeting year are:

- President: Donell Hewitt, Republic Indemnity
- Vice President: Sue Franzen, Valley Schools Insurance Trust
- Treasurer: Cathie Chavez, Broadspire Services, Inc.
- Ysel Gaspar: Tristar Risk Management

Associate Members at Large include:

- Debbie Hill, STI Physical Therapy & Rehabilitation
- Leslie Olmsted, AZ Hand & Wrist Specialists
- Eadie Oslund, Alaris Group

Committee Chairpersons include:

- Webmaster: Maryann Karstendiek, Encore Unlimited
- Examiner Editor: Jim Gill, Southwest Risk Services
- Holiday Party: Susan Williams, The Orthopedic Clinic Association (TOCA)
- Spring Seminar: Erin Finn, Optima Care and Dawn Ripa, PTPN
- Membership: Dave Stewart, Kolb, Stewart Associates
- Job Referral: Linda Barton, Corvel Corporation

The AWCCA Board is looking for additional AWCCA Associate and Regular members to fill two more Associate Member-At-Large positions and all three open Regular Member-At-Large positions. Associate Members include professionals who provide an ancillary service to the workers’ compensation industry and who do not handle workers’ compensation claims. Regular Members include personnel of insurance companies, self-insureds, independent adjusters, and third party administrators that handle workers’ compensation claims.

If you’re interested in filing an open Member-At-Large position for the 2013-2014 meeting year, please contact any AWCCA Board member. Contact information for all Board members is included on the AWCCA, Inc. website at: www.awcca.org.

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**Tichauer Vocational Solutions, LLC**

P.O Box 5838  
Peoria, AZ 85385

Phone: 623.826.9908  
Fax: 623.825.8654  
E-mail: GayleTichauer@gmail.com  
www.tichauervocationalssolutions.com

**Gecko Vocational Consulting, Inc.**

Rebecca Lollie MA, CRC  
Vocational Consultant • Labor Market Expert  
Office: 480-451-5220  
Fax: 480-515-1576  
e-mail: geckovoc@cox.net  
1418 E. Bell Road  
Ste. 107, Box 505  
Scottsdale, AZ 85260
President’s Message

Volunteerism - the act or practice of doing volunteer work in community service (Webster’s Dictionary).

I want to be sure that our volunteers know how much we appreciate them for the work they do, because without them we could not donate over $70,000 a year to charity. Without them, our Holiday Party, Seminar and Golf Tournament could not happen. Without them, we could not bring you The Examiner, job opportunities through AWCCA’s Job Line (with listings available on our website), or any of the activities that keep our organization not only functional but successful!

The AWCCA was organized by a handful of claims adjustors in collaboration with some special vendors to bring the workers’ compensation industry a sense of community and the opportunity to learn. This was done in their time away from work, because we all have a “day job”.

Volunteerism helps our community stay strong. I’m not talking about just our workers’ compensation community, or our Phoenix metropolitan area community; I’m talking about our country as a whole. I believe in values that encourage giving without expecting anything in return. I believe we are talking about paying it forward.

I’m not one to ask for help, but recently I hurt my knee and had to use crutches for a while. I was touched by the assistance I received at every turn, to open doors, to hold the elevator doors, to carry things. I believe that when you give without expecting anything in return, when your time comes to receive, it will be there for you.

Help your community. Volunteer. It makes you feel good!

Thank you for your support of the AWCCA!

Donell Hewett

2013-2014 AWCCA President

AWCCA Mission Statement:

The purpose and objectives of this association shall be to promote the general welfare of its members by developing close relationships among those engaged in the handling of workers’ compensation claims; to promote cooperation by mutual exchange of experiences and information and discussions thereon and, to educate its members.

The Examiner is published quarterly by AWCCA, Inc., P.O. Box 44941, Phoenix AZ, 85064-4941. All articles appearing in this publication contain the opinions of the authors and not necessarily the opinions of AWCCA, Inc., its officers or editors. AWCCA, Inc. encourages the submission of new ads and articles, subject to editing. Signed letters to the editor are welcome. AWCCA, Inc. seeks to provide a forum for the free exchange of ideas and opinions.

If You Want to Go Postal...

Yes— you can still contact AWCCA the “old school” way, via the U.S. Postal Service!

All U.S. mail correspondence including checks, membership applications, hard copies of Letters to the Editor of The Examiner and other items addressed to the organization or its officers should be sent to:

AWCCA, Inc.
P.O. Box 44941 • Phoenix, AZ 85064-4941
Let the AWCCA Job Referral Line Work for YOU!

You're a claim manager whose senior examiner just quit to compete in the new fall reality TV show “The Voice...of Workers’ Compensation”. Or, you're a doctor whose office manager just resigned to put together an exploratory committee for her 2016 presidential campaign.

How are you going to fill those positions?

Simple: contact AWCCA’s new Job Referral Coordinator Linda Barton to post your open positions on the AWCCA’s Job Referral Line.

Whether you’re an employer looking for the perfect new hire, or an adjuster, private investigator or voc rehab consultant looking for a new employment opportunity in the work comp industry, AWCCA may be able to help.

As a no-cost service to employers in the Arizona workers’ compensation community, companies looking to hire claims adjusters, supervisors, managers or support staff can post job openings on the AWCCA website. Additionally, individuals seeking positions as adjusters, supervisors, managers or support staff employees can post short professional bios on the AWCCA website. Further, the Job Referral Line can also be used by medical professionals, vocational rehabilitation companies, private investigators, IME or DME companies or any other insurance-related organization that has a job opening. And, industry professionals looking for employment in any insurance-related field can post their bios using the AWCCA’s website.

The AWCCA offers an excellent, cost-free way to match up qualified employees with ANY job opportunities in the Arizona workers’ compensation industry.

To post an job opening or an employment bio, or to learn more about the AWCCA’s Job Referral Program, contact AWCCA Job Referral Coordinator Linda Barton via e-mail at barton_linda@msn.com.

*Note: The AWCCA Job Referral Line is a service provided for individuals seeking employment with an organization in the Arizona workers’ compensation industry. It is not a forum for vendors to advertise their qualifications, goods or services. AWCCA reserves the right to screen, edit or reject all Job Referral Line submissions based on this criteria.

Let the AWCCA Job Referral Line Work for YOU!

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18325 N. Allied Way
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Scottsdale, Az 85054
602.393.1010
[f] 602.393.1011

2940 E. Banner Gateway Dr.
Suite 350
Gilbert, Az 85234
480.214.9444
[f] 480.214.9445
Court Testimony Guidelines For The Uninitiated

By: Michael A. Nathe, Certified Surveillance Expert, President, Nathe & Nathe Investigations

Whether it’s criminal, civil, ICA or traffic court, being sworn in on the stand is uncomfortable in the best of circumstances and extremely nerve-wracking if your testimony is a crucial part of the defense. You’ve prepped and reviewed and gone over every scenario you can think of but, there are still the nagging uncertainties. Unless they want a fool for a client, even lawyers need to retain other attorneys. So how do you, the insurance specialist, come across as credible? Beneath all the slickness of Court TV, they do get it basically right and the following tips might help you feel more at ease when you raise your right hand:

1. Start by dressing professionally with conservative fashions in mind. Several years ago, a study revealed that the most appropriate color for women is black, while men help their credibility with a blue suit. Avoid flashy colors and ostentatious jewelry.

2. Familiarize yourself with the courtroom layout before the trial starts. Know where the witness chair is and how you’ll get there.

3. While waiting in the hallway beforehand, maintain a professional demeanor. A juror (or a party associated with the opposing counsel) could well be taking mental notes of not only how you act, but also what you say.

4. Don’t take any documents with you to the stand. Anything that the attorneys need they will hand to you for your review.

5. Once sworn in, look at the questioning attorney and then answer clearly, don’t shake your head or nod to the judge while making eye contact.

6. Be sure you comprehend what the question is, and if you don’t, ask the attorney to repeat it or otherwise

Continued on page 7…
rephrase it. When you answer, the judge will assume you understood what was asked of you.

7. If there is an objection, and there always will be, stop talking until a ruling is made. If you’re still uncertain as to how to continue, look at the judge, ask “Your Honor?” and wait until the judge gives you permission to speak.

8. If you misspeak, and it happens a lot at both trials and depositions, readily admit this when it’s pointed out and then move on. If you try to talk around the issue and get “squishy,” it may be construed that you are lying when, in fact, you’re just embarrassed that you

9. Know your facts, but don’t memorize your testimony. You’ll become confused during cross-examination when the questions are re-presented to you out of order.

10. With the above cross-examination in mind, always, always, always pause before answering any questions. This not only gives you a moment to organize your thoughts before you answer, but also lets your lawyer object.

11. When answering a question that was asked by the opposing counsel with which you may be uncomfortable, try not to look to your attorney. This gives the impression that you are seeking guidance and could be interpreted as hiding something. Let your lawyer object. If he or she doesn’t, answer concisely and truthfully without any embellishments.

12. Try hard to keep your cool and not respond with a smirk or anger. Television dramas aside, you really don’t score any points and this may be the crack in your testimony with which the opposing counsel can agitate you.

So, in summary, be yourself, be prepared, and let the attorneys bluster all they want while you enjoy the entertainment. After all, it is a pretty good show and you’ve got a front row seat.
As most of you know, Dr. James Beauchene, a longtime member of the Arizona workers’ compensation family, passed away on May 30. Dr. Beauchene died in a plane crash in Canada with his wife, Brenda. For many years, he has practiced as a member of Arizona Hand & Wrist Specialists in Phoenix.

Dr. Beauchene earned his Medical Degree from the University of Western Ontario where he graduated cum laude in 1978. He later became a Fellow of the Royal College of Physicians and Surgeons of Canada in 1982, and a Fellow of the American College of Surgeons in 1987.

A longtime AWCCA member and supporter, Dr. Beauchene was also member of numerous professional societies in the United States and Canada, all of which focused on treatment of the hand. He had also published numerous articles on hand injuries and treatment in a variety of professional journals in the United States and Canada.

Dr. Beauchene was among the most well-liked and well-respected members of the Arizona workers’ compensation community and he will be greatly missed by the many patients, peers and industry professionals whose lives he touched over the years. In addition to being a past speaker at AWCCA events, Dr. Beauchene and his practice group, Arizona Hand & Wrist Specialists, has been a generous supporter of AWCCA and the charities it sponsors.

His positive spirit and the love he showed for his profession will always be remembered. In his memory, AWCCA has donated $1,000 to the Beauchene Memorial Fund at the Valley Presbyterian Church.

Rest in Peace old friend!
AWCCA Makes Additional Donations

Pursuant to AWCCA’s Bylaws, “Funds received from payment of membership fees, dinners, donations, seminars, the annual golf tournament, and other events, will be used to pay organization expenses. Excess funds will be disbursed to charitable organizations at the end of each meeting year as designated by the Executive Committee, with a nominal amount retained for interim operating expenses as determined by the Executive Committee.”

With the end of the 2012-2013 meeting year, the AWCCA Board voted to donate $6,500 to each of the four charities it has supported throughout the past several years. Donation recipients included Kids’ Chance of Arizona, the Fred Brick Memorial Foundation, Phoenix Children’s Project and Arizona Adoption and Foster Care.

Kids’ Chance of Arizona offers college scholarships to the children of employees killed or seriously injured in on-the-job accidents.

The Fred Brick Memorial Foundation annually recognizes injured workers who have overcome significant obstacles to reach their highest rehabilitation potential.

Phoenix Children’s Project assists underprivileged Valley-area children with food, clothing and shelter, as well as helping provide the tools those children

Continued on page 10...
need to become healthy, responsible and productive adults.

Arizona Adoption & Foster Care assists children with out-of-home care needs due to abuse, neglect or abandonment by licensing and training parents interested in foster care and adoption.

The AWCCA Board thanks all of the organizations and individuals who contributed throughout the year to AWCCA-sponsored events. Without the support and generosity of its membership and the Arizona workers’ compensation community, AWCCA donations to these worthy organizations would not be possible.

### Additional Donations

Thank you for your passion to build a better community by improving the lives of Arizona’s children and families.

Your generosity helps make our work possible.

Sincerely,

[Signature]

[Name]

[Organization]
While litigating Arizona workers’ compensation cases for over 36 years from both defense and claimant’s perspectives, I have distilled certain litigation personalities worthy of categorization and commentary. You may recognize your defense attorney and even a claimant’s attorney as well. My categories are not in any ranking, such as bad to worse or visa-versa. You can make these value judgments.

A lawyer may occupy one predominant personality category but can shift to others depending on a variety of things such as his perception of his client’s wishes, the insurance claims representative’s personality, the attorney’s personality, the particular nuances of the case, including adverse claimant/adverse claimant’s counsel’s personalities and peculiarities.

**Baddies**

This litigation personality style does not believe that any worker, any injury or any condition is worthy of workers’ compensation benefits. Despite the legislative grant of workers’ compensation benefits, the Baddie does not believe, for example, any worker should have a compensable claim, much less a loss of earning capacity award. The Baddie sees the system as a giveaway program encouraging injured workers not to work. The Baddie says “I can’t believe that event caused any injury;” or “we are paying people not to work”, discounting the fact of the injury, the worker’s lack of transferrable job skills or a poor labor market. The Baddie may be influenced by the adjuster/insured who shares his same world view. The Baddie sees the Industrial Commission Judges as

**Continued on page 13...**
LIVE LIFE WITHOUT PAIN

The Center for Orthopedic Research and Education, The CORE Institute®, began practicing in 2005 to deliver comprehensive orthopedic care, one patient at a time. Our fellowship-trained physicians provide specialized care in the areas of surgical, non-surgical and rehabilitative hip, knee, shoulder, elbow and ankle procedures, joint replacement, sports medicine, arthroscopy, fracture management, orthopedic traumatology, hand and wrist procedures, complex articular cartilage restoration, musculoskeletal oncology, foot and ankle reconstruction, physical medicine and rehabilitation, comprehensive spine care and pain management.

Whether it’s for work or play, we understand that you want to get back to your life sooner. The CORE Institute team is dedicated to providing technologically advanced surgical techniques and rehabilitation in six locations in Arizona. With state-of-the-art research labs, less-invasive surgery, on-site MRI and physical therapy, we truly provide excellence in patient care.

Patients now have the ability to schedule an appointment 24 hours a day, 7 days a week by simply contacting our office at the number below.

1.866.974.2673
www.thecoreinstitute.com
compliant, co-conspirators facilitating such unworthy and possibly fraudulent claims. Baddies are inherently paranoid, uncompromising, often short in temper and stature. Baddies need therapy, medication, and a spanking.

A Claimant/Claimant Attorney Baddie sees the whole system as stacked against them. The Claimant/Claimant Attorney Baddie believes his client is entitled to unlimited benefits. The Claimant Baddie thinks the “keys to Walgreens” are his divine right. The Claimant Baddie believes that despite a catastrophic injury, though a miraculous recovery, he still should be entitled to buckets of benefits. It is not a good day when a defense Baddie Attorney and a Claimant/Claimant Attorney Baddie meet up.

**Bullies**

Bullies are Baddies with a mean streak. While a Baddie may “sincerely” question the workers’ compensation system, a Bully uses the system to work out personal inadequacies. Bully Attorneys may also be fueled by insureds/adjusters and undeserving claimants/opposing counsel. Everything is a battle. Any compromise is viewed as defeat, both professionally and personally. They see the injured worker through the opposite of rose-colored glasses – their glasses are dark. The Bully fights everything, everyone, every time. The Bully may even dislike his own client, except for the fact that his client provides the opportunity to conduct litigation. The Bully never recognizes that this litigation style is counter-productive. When he loses, it is the doctor’s fault, the Judge’s fault, the system’s fault -- the great giveaway program at the Arizona Industrial Commission – but not his own personality and counter-productive, overly aggressive litigation style.

The Claimant’s Counsel Bully is identical -- nothing is compromised. A score sheet – win or lose. The best way to handle a Bully of either ilk.
is the schoolyard maxim – face him down, be reasonable and litigate to his detriment. Judges do not like Bullies. Occasionally, a lawyer will “play” the Bully, taunting him until he explodes, demonstrating the grave difference between a reasonable, professional and aggressive representation in a case. All sides and the Judge appreciate a reasonable approach. Recall in workers’ compensation, a scorched earth policy works only one time. In this small community the word about the Bully gets around quickly.

The Applicant/Claimant Attorney Bullies fight everything by the filing of a multitude of A.R.S. § 23-1061(J) petitions, bad faith and unfair claims processing petitions. They eschew a telephone call to the claims representative to work out differences. They want vindication, litigation and their day in court. The Claimant Bully often chooses a litigation lawyer who thinks like him -- everyone is out to punish and deprive benefits. So, war continues without compromise. A Bully and a Baddie in litigation is a poor combination and not a happy place. Woe to the Judge with lots of hearings, battles, discovery, delays -- everything fought out and expensive.

Buddies

The remaining litigation style is the Buddy. He wants to be perceived as a friend to all – a reasonable man to the Judge and opposing counsel. He may even joke with the claimant, is friendly and realistically attempts to define the issues. The Buddy is kind, charming and respectful, knowledgeable and understanding. The Buddy tries compromising or narrowing of the issues to avoid unnecessary litigation. The Claimant Buddy has the same perspective: move the case to a reasonable conclusion. The Buddies work out the differences, narrow the issues, seek reasonable middle ground, engage in no unnecessary litigation, and are courteous to all (court reporters, witnesses, judges, and all litigants).

When you look at who is representing your interests, which litigation personality type would you like to see as the “face of your company” or the “face of your client”? Parties in litigation can occupy at times, different faces, and can shift personalities from time to time and from case to case and from company to company. Stand back and evaluate your defense counsel, just as the claimant should stand back and evaluate his own choice of counsel. Unfortunately, most claimants do not have that perspective – this one case is their only case. However, as insurance professional representatives, you have the opportunity to reflect and recognize which personality type is your chosen counsel and whether you want that personality to be the “face of your company”. No one profits by the incessant Baddie/Bully behavior except the financial pocketbook of those individuals, to the detriment of your insurance company and the entire workers’ compensation system.

Billers

There is an ancillary personality type – The Biller. The more fighting that goes on, the more painful the litigation, the more documents, telephone calls, or painting the opposing counsel as a “Baddy” to his own insurance client yields an increase in more billable hours and an expensive defense counsel’s bill.

At the beginning of every case, the adjuster should examine the issues, the case plan and costs. Not every case needs the same cookbook: interrogatories, deposition, the same IMEs, the same routine. As an insurance professional, you should be able to look at the evidence and predict the outcome. You should be able, as a claims professional, to work with your lawyer and the opposing counsel to resolve the claim. Don’t let litigation take on its own life. There’s nothing wrong with the claims representative calling the claimant’s counsel (the claimant’s counsel can’t ethically initiate that contact). Hold your own attorney accountable to see where the costs and expenses are going. Intervene, get cases managed and resolved. Initiate discussion of compromise. Don’t just turn the case over to defense counsel, never examining its progress.

I can’t tell you how many times I’ve sat back and watched defense counsel drive the bill up when I’m trying to get less than $100 - $200 of out-of-pocket expenses reimbursed to my client. I get letters and multiple phone calls from the defense counsel claiming that we
never sent documentation, they didn’t understand the documents and didn’t get every piece of the documents. It’s not in my client’s best interests to provide only partial/incomplete data. So I do it again because I can’t talk directly to the insurance client. I can’t say: “Are you really going to spend $500-plus in legal fees to pay $300 of bills that you will ultimately have to pay?” Rare is the defense counsel who says “I don’t need the deposition, interrogatories or an IME. I’ve read the file, I know what the issues are, let’s see if we can resolve it, moving it toward a common ground at this time.”

In most cases, there should be at least a deposition but I think interrogatories are unnecessary in a workers’ compensation case. This is a small community and everyone knows essentially where the case is going and what the issues are. Yet, a deposition is useful. A deposition is an opportunity for the claimant to have his “day in court”, for the defense counsel to meet with the opposing counsel, and for both sides (after the deposition) to mutually evaluate the strengths and weaknesses, report back to the insurance carrier/client and try to resolve the case rather than have the issues polarized. The issues can be narrowed, and when narrowed, they can hopefully be resolved without additional litigation.

**Conclusion**

Every lawyer has a perspective and litigation face. The key is an understanding of each side’s respective position and attempt a resolution short of expensive litigation. In some cases, the only answer for both sides is litigation because they are so far apart in their evaluations. These cases are the minority.

Look at your claimant opponents. Look at your own defense counsel. Look at the opponent’s counsel. What are the personalities? Bully? Baddie? Buddy? Biller? Some attorneys “talk” settlement but never get there. Why? Because they are more interested in exercising their own personalities, billing the files and racking up fees to their financial gain. Most adjusters, when they turn the file over to defense counsel, think that is the end of it and they do not review the file again or engage in efforts to resolve the case. Do not lose control of your defense counsel any more than the claimant lawyer should lose control of his claimant.

The whole process should be a constructive relationship rather than an increase of billable time. I can tell you of so many types of cases that could have settled at a certain number, say, “x”. During the course of litigation, we found out that the value of the case increased by “y”. The defense counsel bill is somewhere between $5,000 and $15,000 – more than “x” and “y” combined or even doubled! Phone calls...
Spinning the Wheel of Workers’ Comp Fraud

Note to claimants committing work comp fraud: if you think surveillance might hurt your case, wait ‘til you see what happens when you’re busted on TV!

A North Carolina woman learned this lesson the hard way in early June when she pled guilty to fraud in federal court after having shown up on the TV game show “The Price Is Right”.

In 2009, postal worker Cathy Cashwell was seen by millions of viewers standing and reaching over her shoulders twice to spin a giant “prize wheel” on the long-running game show. In spite of that appearance, Cashwell lied on her September, 2011 workers’ compensation paperwork, claiming that she was incapable of standing, sitting, kneeling, squatting, climbing, bending, grasping or reaching. She insisted she was unable to lift mail trays into a truck due to a 2004 on-the-job injury.

According to North Carolina television station WRAL, Cashwell was also caught riding a zip-line while on a Carnival Cruise vacation in 2010 and lifting and carrying furniture on separate occasions in 2011.

Cashwell is scheduled to be sentenced in September, 2013.

According to the National Insurance Crime Bureau, workers’ compensation and medical fraud costs insurers around $30 billion each year.

CorVel Provides The Following Services

Enterprise Comp is CorVel’s Workers’ Compensation solution. Services include Claims Administration and Managed Care Services leveraging CorVel’s rules-based technology and multiple range of services:

• FNOL
• Claim Management
• PPO
• Patient Triaging
• Bill Review
• Document Management
• Pharmacy Program

CorCase – Patient Management Services

• On-site, Field Case Management and Telephonic Case Management
• Vocational Rehabilitation
• Nurse Liability Claim Reviews

CorVel’s PPO Network

• Exclusive access to Arizona’s Blue Cross Blue Shield Network
• Access to a national network of more than 500,000 providers

MedCheck – Medical Bill Review Services

• Fee Schedule, Usual & Customary
• Bill Review for Workers’ Compensation, Auto, Liability, and Group Programs
• PPO Discounting/Re-pricing
• Utilization Review Services
• Check Writing Services
• Extensive and transparent reporting capabilities

CareIQ – IME Program

• Board Certified Physicians
• Wide Range of Medical Specialties
• Peer Reviews
• Record Reviews
• Discounted IME Rates

CareIQ – Ancillary Services

• Discounted Durable Medical Equipment
• Imaging Services
• Transportation
• Translation
Fred Brick Memorial Foundation Presents Annual Awards

The Annual Fred Brick Memorial Foundation Rehabilitant of the Year Awards Dinner was held on Tuesday, May 14, 2013. This year there were 13 nominations from the community and each one was very deserving of the honor. The Review Committee was tasked with reading each nomination and based on set criteria, choosing the First, Second, and Third Place winners. All other nominees received an honorable mention award.

The Review Committee this year consisted of:
- Jan Hazelton, RN/CCM, Encore Unlimited
- Marybeth Hirte, Rehab Without Walls
- Mary Hyland, OTL, ST1 Physical Therapy and Rehab
- Beky Lollich, Gecko Vocational Consulting
- Guy Testini, Attorney at Law

The Fred Brick Memorial Rehabilitant of the Year Award is presented annually to injured workers who have overcome significant obstacles and have reached their highest rehabilitation potential. “Highest potential” is relative to each injured worker and should not be misconstrued as securing and retaining competitive employment. The Fred Brick Committee thanks each of its Review Committee members for performing this very important duty.

The Fred Brick Memorial Rehabilitant of the Year Award was established in 1992. Fred Brick was a labor market consultant, vocational counselor and valued member of the Arizona workers’ compensation community. He passed away early in 1992 due to complications from cancer. Fred's presence has faded, but the memory of him and all he accomplished and contributed to Arizona's work comp industry remains strong.

Continued on page 18...

Post-acute Care and Rehabilitation Options for Every Stage of Recovery

Comprehensive treatment and support for people of all ages with brain, spinal cord and other life-altering injuries and medically-complex illnesses

5301 E. Thomas Road • Phoenix, AZ
CareMeridian’s 31-bed facility in Phoenix offers a 1:4 staff-to-patient ration and individual care plans to support individuals with brain and spinal cord injuries, as well as medically and orthopedically complex needs. CareMeridian Phoenix has received accreditation from the Joint Commission on Accreditation of Healthcare.

6512 E. Ludlow Drive • Scottsdale, AZ
CareMeridian Scottsdale provides supported living services to participants who have been discharged from a hospital or other more intensive facility with a brain or spinal cord injury, but still face challenges as they work towards increased independence and community integration. CareMeridian Scottsdale is now accredited by CARF, the Commission on Accreditation of Rehabilitation Facilities.

For more information, contact Karen Christiana, LPN, Regional Director of Business Development, 480.254.6227

CareMeridian.com
Fred was a knowledgeable, jovial, and ever-willing individual who assisted any and all professionals in the community. He was President of the Arizona State Chapter of International Association of Rehabilitation Professionals (IARP). This organization, much like AWCCA, provides resources for claims professionals, offers monthly educational meetings and networking to vocational and medical professionals. The organization sponsors these events for continuing education and keeps members up to date on current events affecting the rehabilitation community.

Fred directed many meetings, providing legislative and educational information both on a local and national level. He willingly extended his knowledge and assistance to others in the community. He was unique in his ability to maintain objectivity, while still having compassion and recognition for those who helped themselves. It is in this spirit that the Fred Brick Memorial Rehabilitant of the Year Award was founded and continues.

While the Rehabilitant of the Year Awards and recognition ceremony began under the IARP State Chapter, AWCCA subsequently agreed to keep up the tradition of this special event by carrying the torch and continuing to recognize injured workers. AWCCA has also committed to continued support of the award fund. Other moneys are solicited from various community members, such as carriers, law offices, medical and rehabilitation facilities, as well as individuals.

The following are synopses from all of the nominees for the Class of 2013:

**Duane Brown** – Mr. Brown sustained a complex tibia/fibula fracture that required 13 surgeries and an eventual amputation. He was fitted with his prosthesis and in four months, he returned to full work. Just one month later was able to run with his prosthesis.

**Michael Cline** – Mr. Cline sustained multiple traumatic injuries when he was struck by a drunk driver while operating a tow truck. He spent several weeks in intensive care, received in-patient rehabilitation and had his last surgery in January 2013. While some injuries left him with permanent deficits, he is in an inspiration as he speaks to high school students on the dangers and consequences of driving drunk.

**Anna Garcia** - Ms. Garcia was the only paid employee for the Bisbee Mining Museum when suffered injuries falling
down a flight of stairs. Ms. Garcia is 72 and has been working for the museum over 20 years. Her injuries included a traumatic brain injury and fractures to the T7 vertebra and multiple ribs. With the love and support of family and friends, she has achieved all of her goals.

Robert Griffith – Mr. Griffith was working as a crane operator when a scoreboard fell on top of him. He suffered multiple injuries, leaving him paraplegic. After extensive rehab including time at Craig Hospital, Mr. Griffith has returned to independence and caring for his 4-year old son in just eight short months. He is currently seeking retraining on a new career.

Tammy Hall – Ms. Hall is a 43-year old PE/health instructor for Wilcox High School. She sustained severe multiple trauma injuries as a result of a 20-foot fall in the school gym. Although she has had significant reconstruction of her face, mouth and jaw including 13 weeks of mandibular fixation with no solid food and multiple complications with other injuries, she has returned to full work and life activities.

Michael Harrison – Mr. Harrison suffered a 10-foot fall while getting parts for a customer from a high shelf. He suffered a traumatic brain injury, fractured ribs and a fractured clavicle. He was discharged from Rehab Without Walls with only a 2 percent whole person rating and is now at full work duty.

Craig Miller - Mr. Miller is a 52-year old man who sustained a 6 to 8-foot fall while working at his pool construction company. Mr. Miller suffered a traumatic brain injury and underwent extensive neurorehabilitation. Until he could return to his job, Mr. Miller volunteered the Valley View Community Food Bank to assist with rehab. Mr. Miller has successfully returned to work full time with Shasta Pools.

Adnan Mohammed – Mr. Mohammed is a 27-year old man who was employed by the U.S. military as a linguist/translator. The Humvee he was traveling in was hit with multiple IEDs during his work in Iraq. His injuries were significant, and included burst spinal fractures, fractures in all extremities, and jaw/facial injuries. He has had a positive attitude throughout his recovery and is currently working on his vocational goals.

Norma Morales – Ms. Morales suffered an amputation of her lower extremity as a result of a crush injury at work. She has traveled to Phoenix from Yuma two days per week to receive rehabilitation and has maintained a tireless positive spirit throughout her recovery.

Joan Vierthaler – Ms. Vierthaler is a 70-year old teacher at Bullhead City Elementary School. She suffered a head injury from a fall in early 2012. Her rehab has been extensive and required her to temporarily relocate with her son to Phoenix to participate in therapy at Rehab Without Walls. Ms. Vierthaler persevered with the aid of her loving sons and has returned to work and driving.

The top three Fred Brick Memorial Rehabilitant of the Year Recipients were:

Third Place - Miguel Nicolas – Mr. Nicolas is a 74-year old man in his 12th year of military service as an airplane mechanic. He sustained head and facial injuries when an airplane tow bar struck him. He suffered bilateral subdural hematomas,
subarachnoid hemorrhages, right retinal eye hemorrhage, and multiple facial fractures. He needed to be placed on a ventilator and feeding tube. He eventually lost his right eye and has lasting effects from the traumatic brain injury. Although he is unable to drive, he takes public transportation and is an active volunteer at the Northwest Medical Center in Tucson.

**Second Place – Jose Mata** – Mr. Mata suffered a severe injury as a result of an explosion and chemical inhalation of ammonia. His injuries included severe burns and inhalation exposures to his upper and lower extremities, trunk and groin area. He underwent extensive rehab and remained positive and compliant throughout his recovery. He spoke at the 2013 National OSHA Conference despite his deep fear of public speaking and wanted to share his story so that others could learn from it and avoid the same fate.

**First Place – Craig Smith** – Mr. Smith was involved in a SUV rollover accident going 75 miles per hour while working as a traveling pastor. His injuries were extensive, and included extreme fractures to his lower extremities, a perforated colon that resulted in 10 additional surgeries and detachment of core muscles for over two years, large blood loss that resulted in coding in emergency room, and extensive nerve damage. He was kept in a drug-induced coma for over two months. He states: “While it only took four seconds to damage my body and bring me to death’s door, it’s taken over three years to rebound to where I am today. I thank God for sparing my life”. Craig has begun to return to his duties as a pastor, including preaching to those he was trying to reach on the day of his accident. He is a constant source of encouragement and support for those going through this journey with him.
The AWCCA Golf Committee would like to thank all the sponsors for their generous support over the past 21 years. That support has helped AWCCA assist in providing scholarships to children of injured and deceased Arizona workers through Kids’ Chance of Arizona, as well as training for new foster parents and the opportunities for many of Arizona’s foster children to go summer camp though Arizona Adoption and Foster Care. The individuals and entities that continue to support this annual charity event share in our efforts to support these two great organizations. Your contributions and ongoing interest and support are what have made this tournament a continued success.

AWCCA was able to donate over $13,000 to each charity this year because of sponsor commitments and because of the many organizations and individuals who donated raffle prizes and silent auction items.

We’d like to extend a very special “THANK YOU” to all our committee members and their employers for the time dedicated to making this event successful for the last 21 years, and to the members of the AWCCA Board for helping make this event possible year after year.

This year’s event was a sell-out, with 144 participating golfers who were sponsored by the many companies that support our workers’ compensation community. There were also 12 specialty hole sponsors with 24 dedicated people sitting out on the tee boxes greeting the golfers as they teed off, and offering them drinks and snacks.

Moreover, with over 150 prize donations, our raffle and silent auctions prizes helped bring a lot of additional revenue.

We look forward to May 2, 2014 and 22nd Annual AWCCA Charity Golf Tournament.

Thanks Again!

AWCCA Committee Co-Chairs:
Sam Lloyd STi Physical Therapy
Grace Nolan PAX Resource
Liz Florez Encore Unlimited

**21st Annual AWCCA Golf Tournament Winners**

A Flight:

**First Place** (Net Score: 52.4)
- Ken Shatzberg
- Kris Schatzberg
- Ken Kolb
- Michael Eveland

**Second Place** (Net Score: 53.4)
- Dave McCalmont
- Michael Hayman
- Mark Alexander
- David Bates

**Third Place** (Net Score: 53.8)
- Kris Skogen
- Tony Paul
- Nick Skogen
- Steve King

B Flight:

**First Place** (Net Score: 42.6)
- Jim Ashby
- Diane Kenny
- Ellie Gibson
- Teresa Olguin

**Second Place** (Net Score: 44.8)
- John Fierro
- Robert Luberto
- Brian Schafer
- Josh Vornsand

**Third Place** (Net Score: 47.2)
- Kurt Grutsch
- Dennis Uptain
- Justin Uptain
- Rand Hinrichs

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C Flight

First Place (Net Score: 40)
• Julian Juerta
• Anthony Acosta
• Guy Testini
• Bill McCarty

Second Place (Net Score: 40)
• Zoran Maric
• Ron Jones
• Bruce Martin
• Tim Yngling

Third Place (Net Score: 50)
• Chris Reynolds
• Jeannette Satpington
• Tecia Hutchinson
• Robe Milewski

Overall Low Gross (53)
• Scott Houston
• Dave Rau
• Chuck Rehling
• Paul Zarkovich

Closest to the Pin (Men):
Raymond Abril

Closest to the Pin (Women):
Michelle Hayman

Longest Drive (Men):
Matt Overlin

Longest Drive (Women):
Terri Jacobs

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AWCCA Golf Committee Chairperson
Sam Lloyd with Marcia Reck of Arizona Adoption & Foster Care after presentation of a $13,000 check from the 21st Annual Golf Tournament.

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June 5, 2013

Sam Lloyd
AWCCA, Inc.
P.O. Box 44941
Phoenix, AZ 85064-4941

Dear Mr. Lloyd:

Thank you for choosing to make a difference in the lives of Arizona’s foster children. Your donation is deeply appreciated by our staff, our foster families and of course, the children we serve.

Arizona Adoption & Foster Care (AAFC), a program of the Child Crisis Center, is committed to helping children in out-of-home care due to abuse, neglect and abandonment by licensing and certifying parents for foster care and adoption. The range of services and support along with realistic training prepares families to care for children of all ages and backgrounds. AAFC serves single and two-parent families and has no limitations on religious beliefs, ethnicity or sexual orientation. For more information on our programs, visit www.aafcaz.org.

Thank you for your commitment to our mission and helping us invest in the lives of our community’s youngest citizens. Their future depends on the actions we take today and your generosity has made a difference in their world. We are grateful for your support and appreciative of your donation.

Sincerely,

Christine Scarpati, M.S.
Chief Executive Officer
What do these cases have in common?

A woman with a herniated lumbar disk from an unusual cause

A taxi driver claiming low back pain from his job

A woman whose complaints of left hand numbness are thought not to be injury related by her treating physician

A man with a neck injury

These cases have a common thread of illustrating some of the cases where more records or more thorough analysis of records are needed to arrive at a correct conclusion.

Although many cases are straightforward injuries from a simple cause, some require IMEs to confirm their validity. But it may be difficult for the adjuster to know how many records to obtain in a time- and cost-effective manner. More records, if needless, drive up costs, both in obtaining them and in the extra expense of the IME doctor reviewing them.

While doing workers’ compensation independent medical examinations (IMEs), objectivity is essential. Although one cannot (and objectively, probably should not) treat examinees, the best approach philosophically is to evaluate the claimant as if they were a patient of yours. To achieve fairness, ratings must be based on as much as possible on hard data.

**Case #1.** A 35-year old female had a minor rear-end motor vehicle accident while performing her normal duties for her job. She reported low back pain which she related solely to the accident. A lumbar CT done at an urban hospital showed a central herniated disk at L5-S1. An IME was ordered. Further history revealed a prior low back injury while at her sister’s home in a small town. She had fallen on her buttocks down a flight of stairs at age 33, injuring her low back. A lumbar CT done locally was reported as normal. The woman had had no low back trauma between the two incidents and denied persistent low back pain after the first accident.

Comment: In many cases it is neither necessary nor worth the additional expense to have the IME physician personally review the actual radiographic images. Studies that are normal and read by an experienced radiologist or neuroradiologist, upon IME examiner review, often result in no significant change in interpretation. Here, a minor rear-end accident should not be the cause of a lumbar herniated disk. The apparent change in CT results was unexpected. The fall was obviously a much better explanation for a herniated disk, especially with no known intervening trauma. However the second CT was read by an experienced reader, the first by a much less experienced reader. The second reader did not have the benefit of comparing the first.

Outcome: Direct comparison of the images by the IME examiner showed that the studies were identical: the herniated disk had been missed on the reading of the first CT.

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**Case #2.** A 55-year old cab driver had a relatively minor rear-end accident and complaints of persistent low back pain. He had had no other documented accidents or injuries. Post-accident records showed age-consistent lumbar degenerative disk and spondylitic changes. Not only did the claimant state that the motor vehicle accident caused his low back pain, but went on to claim the degenerative changes as a result of repetitive injury from the years of bumps while driving the taxi.

Comment: In Case #2 as in Case #1, the rear-end accident as an etiology for the long term low back pain was unlikely. While the repetitive injury claim was far-fetched, initial review of records showed no evidence of prior complaints. More thorough review of family practice records one month pre-accident revealed a

Continued on page 25...
one-line, difficult-to-read, hand-written note stating that his (hitherto unknown) chiropractor advised the claimant to talk to his medical doctor about permanent disability for low back pain.

Outcome: With this new information, chiropractic records were obtained which showed a long history of regular treatments for low back pain which started with weight-lifting and sustained frequent exacerbations from more body building. The claimant had kept his chiropractic treatments compartmentalized from his family physician except for the single note. Although laborious at times, prior records can be essential to proper analysis – and sometimes the clue to the correct answer is in a single sentence.

**

Case #3. A 60-year old female, while driving for her employer, sustained a broad-side accident on her driver's door. She had a bruise over her left elbow and complaints of numbness of her fourth and fifth fingers. She was referred to a neurologist when the numbness persisted after a few weeks. An EMG revealed a left ulnar neuropathy at the elbow. As symptoms continued, the EMG was repeated after a few months. The second EMG was normal. The treating neurologist correctly concluded that had the ulnar neuropathy, if related to the accident, was resolved. The patient returned for follow-up about six months after the accident. Her third EMG showed a left ulnar neuropathy, worse than the first EMG. Given the normal EMG, her treating neurologist again concluded that the initial trauma had produced an ulnar neuropathy, it had healed and now her ulnar neuropathy was unrelated to the initial trauma.

Comment: Traumatic ulnar neuropathies, once healed, do not recur absent new trauma. Classical tardy ulnar palsy has a progressive nature in which the EMG does not improve and generally gets worse each time it is evaluated. In this case, it appeared most likely to the IME examiner, board-certified in both neurology and electromyography, that the series of EMGs did not make sense. Upon requesting and recalculating the raw data, the second EMG was found to have been erroneous; it clearly now showed a progression from first to second to third EMG.

Outcome: The IME examiner disagreed with the treating neurologist and agreed with the patient that she had had a progressive, traumatic injury related to her workers' compensation accident. She had an ulnar transposition and did well subsequently.

**

Case #4. A 50-year old male laborer fell while moving an object. There were differing stories as to whether the object, weighing about 500 pounds, fell on him, although this appeared unlikely. He was found to have significant cervical spinal stenosis and a spinal cord abnormality on MRI scanning. It was clear that the spinal stenosis was the result of longstanding and pre-existing degenerative changes. He was advised to have surgical decompression. He denied prior problems.

Comment: The issue at hand was whether the spinal cord lesion was new, caused by exacerbation of the pre-existing spinal stenosis with falling, or old. The MRI as read by the radiologist was uncertain on that point. The IME examiner suggested that a repeat MRI be done several months after the inciting incident. If the intramedullary spinal cord abnormality was caused by the fall, repeat MRI would show a change.

Outcome: Repeat MRI showed absolutely no change in either the spinal stenosis or the cord lesion. Clearly the abnormalities were pre-existing and not changed by the fall. This included the degenerative changes causing the spinal stenosis, which themselves could have been permanently affected. However the lack of progression in the findings causing the stenosis indicated no acceleration caused by the fall. It was felt that the man had suffered a temporary exacerbation of a long standing problem. This case illustrates the need, at times, for repeat testing.

Frederick T Strobl, M.D. has been a Neurologist with AZMN Neurology since 2005, providing neurology consultations and forensic neurology.