

Presidents Message

Michael K. Gruber

My last newsletter was filled with stories about continuing workers' compensation reform efforts in several states, so it's a nice change to be able to finally report some good news. On May 8, 2017 a circuit court judge in Jefferson County, Alabama ruled that both the states' cap on disability benefits and its cap on attorneys' fees were unconstitutional. As Alabama has a "non-severability" statute, the Courts' ruling means the entire Alabama Workers' Compensation Act was declared to be unconstitutional. In their analysis of the issues involved in the claim, the Court noted that the benefit cap "meets the very definition of being arbitrary, capricious, irrational and attenuated". The Court then went on to recognize what WILG has been saying for years: continuing reform efforts have lowered benefits to the point where the "Grand Bargain" between business and labor has essentially been breached.

Reading the decision, ([Clower v. CVS Caremark Corporation](#), which is available on the WILG website), I can't help but be amazed by the efforts of our WILG members. [Clower](#) was brought by Larry King and was worked on by Don Rhea, David Nomberg and Bernard Nomberg, all WILG members. The [Clower](#) decision relied heavily on the cases of [Castellanos v. Next Door Co.](#) and [Injured Workers' Ass'n of Utah v. Utah](#). Mark Zientz submitted an amicus brief on behalf of WILG in [Castellanos](#) and WILG member Jinks Dabney was the successful appellant attorney in the Utah case. These cases are a reminder of the powerful force WILG can be and why your membership in WILG is invaluable.

The cases mentioned above are part of a growing trend of courts addressing the constitutionality of workers compensation statutes. WILG is forming a task force to investigate whether similar constitutional challenges may be brought in other states. This is an area that must be further explored as part of our battle to halt the "race to the bottom" and regain a level of equitable benefits for injured workers.

I wish everyone a safe and happy Memorial Day holiday. I also want to remind everyone that even though we are just entering into the summer season, October is right around the corner. Registration for our Annual Convention at the Breakers in Palm Beach Florida is now open. As always, the Convention is a great opportunity to participate in our fantastic CLE program and to network with your fellow WILG Warriors!