



# WORKERS' COMPENSATION LAW

Section Newsletter

Spring 2018

Nathan Levy, Co-Editor  
C. Jason Perkins, Co-Editor



## How Social Media Posts Are Killing Your Case!

Photo by Getty Images @g-stockstudio

# From the Section Chair

By Gregg M. Porter, Savell & Williams, L.L.P., gporter@savellwilliams.com

The Executive Committee of the Workers' Compensation Section of the State Bar of Georgia Members for 2017-18, are Gregg M. Porter, Elizabeth T. Costner, Kevin C. Gaulke, L. Lee Bennett, Julie Y. John, Christopher Jason Perkins and Nathan C. Levy. Our Immediate Past Chair is Kelly Benedict to whom I owe a debt of gratitude for her past leadership and continued counsel.

It's hard to believe that it's been eight years since I was nominated to the Executive Committee by Cliff Perkins, the then-outgoing Chair, and it's nice to see his son Jason following in his footsteps. My service on the Executive Committee has been rewarding in many significant ways, and I encourage any practitioner in the workers' compensation arena to consider giving back to workers' compensation through service on the Executive Committee representing the nearly 1,000 member strong Workers' Compensation section.

Over the past year, the Executive Committee was able to put on another successful Workers' Compensation Law Institute at St. Simons which had almost 500 attendees. The co-chairs for the 2017 Institute were the Hon. Jerry Stenger, Ben Leonard and Marvin Price. Those three individuals worked tirelessly in order to put on an exceptional conference that presented a slew of new topics and incredibly useful information. Thank you to all the speakers who donated their time and talents to present at the conference. At the annual seminar, the distinguished service award was presented to Ann Bishop. Additionally, Chairman McKay, along with Blake Brantley, presented a donation to Kids' Chance in honor Judge Gordon Zeese from monies collected during a fundraiser

in honor of Judge Zeese's retirement. Lastly, the workers' compensation section also made a sizable donation to Kids' Chance of Georgia at their annual fundraiser held at the King & Prince during the seminar.

This year, the Workers' Compensation for the General Practitioner seminar will be chaired by Kevin Gaulke along with co-chair Judge Nicole Tifverman to take place April 26, 2018. Jason Perkins and Nathan Levy are the co-editors of the Workers' Compensation Newsletter and did a fantastic job with this current issue. Elizabeth Costner gets the distinction of chairing the annual Workers' Compensation Law Institute that will take place on October 4-6, 2018, at the Jekyll Island Convention Center due to the unavailability of Sea Palms caused by hurricane damage in 2017. I have been attending the annual seminar for 22 years, and this is the first time it's been held at a place other than Sea Palms. We are excited for the new location and hope that every attendee enjoys the beautiful new facility and change of venue.

For years, I have always heard that the Workers' Compensation Section is the best Section of the Bar. After serving eight years on the Executive Committee, I can truly say that I wholeheartedly agree. I believe our friends in Washington, DC can learn a lot about how to get things done for the betterment of the system by observing our Section of the Bar where ideas are openly expressed, people act as professionals and there is only the occasional hiccup. As we go forward, let's not forget how we got to this place and let's continue to preserve the system for the next generation. Thank you for the honor of serving on the Executive Committee and as your Chair for this past year.

## In This Issue

From the Chairman.....	3
How Social Media Posts Are Killing Your Case!.....	4
Continuous Employment - Where Do We Stand?.....	7
Kids' Chance Scholarship Named for Judge Zeese.....	8

# From the Chairman

By Frank R. McKay, Chairman and Chief Appellate Court Judge, SBWC

2018 will be a good year for the Georgia State Board of Workers' Compensation and our Workers' Compensation system. Georgia continues to grow and is now the eighth most populous state in the nation with over 10.4 million citizens. Among the ten most populous states, Georgia is one of five to have above average employment growth. As we start this year, unemployment stood at just 4.3 percent and more than 675,000 new private sector jobs were added to Georgia's economy in the last seven years. Georgia continues to be recognized as the number one state in the nation in which to do business. With all of this economic growth and expansion of business, it is imperative we continue to have an efficient, fair and balanced Workers' Compensation system to take care of our most valuable resource – the employee work force. Accidents and injuries do happen and will happen in a booming economy. Fortunately, Georgia employers have some of the best accident prevention and safety programs in the nation. With an emphasis on prompt medical care, returning to work as soon as possible following a work related injury, both the injured employee and their employer experience a far greater successful outcome from the unfortunate accident and injury.

As the Board starts 2018, we welcome Judge Brian Mallow, who started work Jan. 1, 2018. Judge Mallow is in our Albany office and will hear cases in the southwest Georgia area. Judge Mallow comes to the Board from private practice where he handled workers' compensation cases for over fifteen years. We are excited to have Judge Mallow and his experience at the Board.

On July 1, 2017, the Board changed Board Rule 205 and implemented a new procedure and Board form WC-PMT to address the delay problems of an injured employee receiving authorized medical treatment as recommended by an authorized treating physician for a compensable injury or condition. The Petition for Medical Treatment (PMT) is simple and easy to file and will trigger a show cause telephonic conference before an administrative law judge within five business days with the employer/insurer for them to show cause why the recommended medical treatment/testing should not be authorized. As of the end of February 2018, 678 WC-PMTs were filed with telephone conferences scheduled and 83 percent of those were resolved between the parties prior to the teleconference, which resulted in the teleconference being canceled. Of the remaining 17 percent in which a teleconference was conducted, 74% led to orders authorizing treatment or authorization of the requested treatment/testing by agreement. The remaining petitions were either denied, controverted or withdrawn. This new process has been highly successful in accomplishing the goals and intentions of the Workers' Compensation Act.

Georgia is the 11th leading state in the nation for fatal opioid overdoses. We must reduce the reliance upon opioid drug prescriptions and all players in the WC system from prescribers, caregivers, adjusters, policy makers, employers, and injured workers have a role in helping to reduce the misuse of opioids. The prescriber should be asking whether opioids are the most appropriate choice to alleviate the individual's pain and return the patient to function, and whether an alternative could work as well or better. A poll from the National Safety Council found that three quarters of doctors erroneously believed morphine and oxycodone were more effective than acetaminophen and ibuprofen. More education is needed for the individuals taking prescription opioids. According to a separate National Safety Council survey, roughly nine in ten patients taking opioids were not concerned about addiction. In Georgia, our State Board of Workers' Compensation Advisory Council's Medical Committee has recommended the Board adopt a drug formulary on opioids and the Medical Committee has now moved into the initial implementation stage.

In 2018, the SBWC plans to greatly expand the number of users to access and file Board forms on ICMS. We anticipate adding over 2,500 additional users, which will include adjusters and claims handling professionals.

The SBWC is excited about a five-city tour for regional educational seminars this spring. On March 28, 2018, the Board will be in Rome, April 13 in Alpharetta, April 26 in Warner Robins, May 2 in Augusta and Savannah on May 9.

Data received from the National Council on Compensation Insurance (NCCI) shows the total amount of workers' compensation premiums paid continues to increase in Georgia due to the expanding payroll and economic development. NCCI has also recommended to the Department of Insurance an 8.7 percent rate decrease in workers' compensation insurance policy premium charged to employers. This data reflects a good, healthy, and stable WC system in Georgia.

The Workers' Compensation Law  
Section Newsletter is looking for  
authors of new content for publication.

If you would like to contribute an article or  
have an idea for content, please contact  
C. Jason Perkins at  
[jason@perkins-studdard.com](mailto:jason@perkins-studdard.com)

# How Social Media Posts Are Killing Your Case!

By Shannon D. Rolen, J. Franklin Burns, P.C., [srolen@jfbllaw.com](mailto:srolen@jfbllaw.com)

Social media can be a great thing by connecting friends, colleagues and family members to your everyday life. However, we have all seen how social media can also implode these relationships. People fight with their words by bullying others into either accepting their points of view or vilifying them for not agreeing. This is why I do not engage in political or religious discussions on social media. It is a recipe for disaster.

Social media is a dangerous thing when it comes to a workers' compensation case. People forget that they are not invisible online. They assume that their employers will not search their posts and take them out of context. They assume that co-workers will not tell the employer things that they don't want them to know. They assume that their posts are private and not discoverable. Social media posts are all about the credibility of our clients. We are seeing more and more problems with social media and that is why we, as attorneys, need to be aware of the issues.

The first time I ever encountered a social media post that tried to tank my case was while I was in the courthouse. The defense attorney did not provide the Facebook records, even though they were requested in discovery and he had sat on them for the better part of a year. It was sandbagging in its finest moment and here I am left scrambling to figure a way out of the mess my client had made. We found a way out but it was not without consequences.

The next time I encountered a social media post in a case was not near the same level of drama but, unfortunately, the same type of damage had been done. The client was saying things on social media that were completely against what she said to the doctors, thus illustrating she could do more than she was saying. It makes our clients look like liars when these posts completely contradict their testimonies or medical records. Once again, contradictory posts were the death of another claim.

Social media posts have become the modern day surveillance. It is a lot cheaper and easier to look at someone's online posts than to hire an investigator. Shockingly, many of my clients detail every aspect of their lives on social media sites like Facebook and Instagram. I only mention these two platforms because they offer the videos and photos most of the defense look for when perusing an injured worker's online activities.

While we cannot always convince our clients of the dangers of posting online, we can encourage them to keep their posts clean. How so? First, I tell my clients not to post about their daily activities online. This is just a matter of fundamental privacy. No one needs to know what you ate for breakfast on a daily basis. Also, would be burglars do not need to know when you leave for vacation. Second, injured workers should not post about the employer online, especially to complain about

the employer. Third, injured workers should not post about their injuries online. This is where people get in trouble because innocent posts can be taken out of context and used against them. Just don't say it. Post pictures of your kids or your dog. Keep it benign and you cannot get yourself into trouble.

Do not forget that social media posts can also be used against witnesses other than the injured worker. Defense witnesses are likewise not immune to posting their whole lives online. I have been able to find posts of defense witnesses who claimed my client engaged in bad dealings only to find that their witness was dirty. These defense witnesses are not likely to get thorough prepping in advance of depositions about the dangers of social media.

I still remember using a social media post to catch a witness in a lie. Imagine a witness claiming to not see my client in an accident only to find out that the witness was posting about the accident he witnessed and laughing about my client's injuries. We did not end up at trial because of what I discovered and we were able to resolve the case.

Employers also forget that our clients tend to keep all of the text messages that the employers send to them, sometimes including threatening voicemails or messages sent over social media. These communications help bolster our clients cases. I have an employer who told my client via Facebook messenger that he would only tell the truth about the accident if he was paid. Yes, that is right -- he demanded payment to tell the truth because my client's case could be valuable. He wanted to profit off my client's pain and injuries. Fortunately, he also told this to the defense attorney so we did not have to use the messages to prove it.

Now that you know the dangers, you may ask how the State Board of Workers' Compensation is handling these cases. From what I am seeing, it is not a matter of whether social media is admissible but more a matter of the weight of the evidence. In Case 2014-001500, the claimant injured his lower back in February 2013 while lifting a box at work. His testimony made it seem as if he was not physically active after the injury but a Facebook post two weeks after the accident completely contradicted that when he reported to his followers that he had worked out and felt great, "haven't felt like doing that in years." This claimant admitted to lying on Facebook as a ploy to boost his multilevel marketing business. His request for approval of his back surgery was denied. Judge Massey found that "the employee also testified under oath that he is willing to lie if it benefits him to do so." The ruling was issued Nov. 14, 2017.

In Case 2014-039677, the claimant slipped and fell in a mud puddle injuring his lower back and coccyx. You know the case did not go well when the next paragraph of the ruling talks about contradictory testimony and mentions the *Pike v.*

*Greyhound Bus Lines* case. He had issues of credibility without the social media implications but it was the Facebook photos posted by his wife showing him not using a cane and painting his daughter's room that were the icing on the cake. Judge Tifverman denied the claim in its entirety. The ruling was issued Dec. 21, 2015. The case was unfavorably appealed.

In Case 2015-036399, the claimant injured her foot when someone drove over it with a pallet jack. This claim really focused on her failure to meet her Maloney burden. However, her Facebook posts about traveling outside of the state 3 times and going to nightclubs on numerous occasions didn't help. The claimant testified that she wore her boot on her foot every day but there were photos and videos showing her without the boot. Judge Lammers denied the claim on May 5, 2017. The claimant appealed this unsuccessfully.

Finally, in Case 2015-008252, the claimant was in a work related car accident where he complained of headaches but kept working. Two months later, he was lifting a heavy bag when he felt electric shock course through the left side of his body. This was immediately reported. He claimed injuries to his left neck, arm, shoulder and hand. You know when the judge starts a paragraph by saying "this is the employee's fourth workers' compensation claim," that the claimant did not win this case. Once again, Facebook and Instagram photos confirmed this claimant participated in a music promotion business. While other factors went into the denial issued by Judge Hagler April 19, 2017, you can see how the photos would derail the claim.

So what can we learn from all of this? Issues regarding an injured worker's credibility can often be bolstered by contradictory Facebook and Instagram posts. These posts are not the entire reason that these claimants lost their claims but it only added fuel to the lack of credibility fire. While I doubt social media posts alone would garner a denial, it is entirely possible. There is no slow down in social media options so we need to make sure our clients understand the dangers and what they can do to avoid them.

Social media can be a great thing by connecting friends, colleagues and family members to your everyday life. However, we have all seen how social media can also implode these relationships. People fight with their words by bullying others into either accepting their points of view or vilifying them for not agreeing. This is why I do not engage in political or religious discussions on social media. It is a recipe for disaster.

Social media is a dangerous thing when it comes to a workers' compensation case. People forget that they are not invisible online. They assume that their employers will not search their posts and take them out of context. They assume that co-workers will not tell the employer things that they don't want them to know. They assume that their posts are private and not discoverable. Social media posts are all about the credibility of our clients. We are seeing more and more problems with social media and that is why we, as attorneys, need to be aware of the issues.

The first time I ever encountered a social media post that tried to tank my case was while I was in the courthouse. The defense attorney did not provide the Facebook records, even though they

were requested in discovery and he had sat on them for the better part of a year. It was sandbagging in its finest moment and here I am left scrambling to figure a way out of the mess my client had made. We found a way out but it was not without consequences.

The next time I encountered a social media post in a case was not near the same level of drama but, unfortunately, the same type of damage had been done. The client was saying things on social media that were completely against what she said to the doctors, thus illustrating she could do more than she was saying. It makes our clients look like liars when these posts completely contradict their testimonies or medical records. Once again, contradictory posts were the death of another claim.

Social media posts have become the modern day surveillance. It is a lot cheaper and easier to look at someone's online posts than to hire an investigator. Shockingly, many of my clients detail every aspect of their lives on social media sites like Facebook and Instagram. I only mention these two platforms because they offer the videos and photos most of the defense look for when perusing an injured worker's online activities.

While we cannot always convince our clients of the dangers of posting online, we can encourage them to keep their posts clean. How so? First, I tell my clients not to post about their daily activities online. This is just a matter of fundamental privacy. No one needs to know what you ate for breakfast on a daily basis. Also, would be burglars do not need to know when you leave for vacation. Second, injured workers should not post about the employer online, especially to complain about the employer. Third, injured workers should not post about their injuries online. This is where people get in trouble because innocent posts can be taken out of context and used against them. Just don't say it. Post pictures of your kids or your dog. Keep it benign and you cannot get yourself into trouble.

Do not forget that social media posts can also be used against witnesses other than the injured worker. Defense witnesses are likewise not immune to posting their whole lives online. I have been able to find posts of defense witnesses who claimed my client engaged in bad dealings only to find that their witness was dirty. These defense witnesses are not likely to get thorough prepping in advance of depositions about the dangers of social media.

I still remember using a social media post to catch a witness in a lie. Imagine a witness claiming to not see my client in an accident only to find out that the witness was posting about the accident he witnessed and laughing about my client's injuries. We did not end up at trial because of what I discovered and we were able to resolve the case.

Employers also forget that our clients tend to keep all of the text messages that the employers send to them, sometimes including threatening voicemails or messages sent over social media. These communications help bolster our client's cases. I have an employer who told my client via Facebook messenger that he would only tell the truth about the accident if he was paid. Yes, he demanded payment to tell the truth because he case could be valuable. He wanted to profit off my client's pain and injuries. Fortunately, he also told this to the defense attorney so we did not have to use the messages to prove it.

Now that you know the dangers, you may ask how the State Board of Workers' Compensation is handling these cases. From what I am seeing, it is not a matter of whether social media is admissible but more a matter of the weight of the evidence. In Case 2014-001500, the claimant injured his lower back in February 2013 while lifting a box at work. His testimony made it seem as if he was not physically active after the injury but a Facebook post two weeks after the accident completely contradicted that when he reported to his followers that he had worked out and felt great, "haven't felt like doing that in years." This claimant admitted to lying on Facebook as a ploy to boost his multilevel marketing business. His request for approval of his back surgery was denied. Judge Massey found that "the employee also testified under oath that he is willing to lie if it benefits him to do so." The ruling was issued Nov. 14, 2017.

In Case 2014-039677, the claimant slipped and fell in a mud puddle injuring his lower back and coccyx. You know the case did not go well when the next paragraph of the ruling talks about contradictory testimony and mentions the Pike v. Greyhound Bus Lines case. He had issues of credibility without the social media implications but it was the Facebook photos posted by his wife showing him not using a cane and painting his daughter's room that were the icing on the cake. Judge Tifverman denied the claim in its entirety. The ruling was issued Dec. 21, 2015. The case was unfavorably appealed.

In Case 2015-036399, the claimant injured her foot when someone drove over it with a pallet jack. This claim really focused on her failure to meet her Maloney burden. However, her Facebook posts about traveling outside of the state 3 times and going to nightclubs on numerous occasions didn't help. The claimant testified that she wore her boot on her foot every day but there were photos and videos showing her without the boot. Judge Lammers denied the claim on May 5, 2017. The claimant appealed this unsuccessfully.

Finally, in Case 2015-008252, the claimant was in a work related car accident where he complained of headaches but kept working. Two months later, he was lifting a heavy bag when he felt electric shock course through the left side of his body. This was immediately reported. He claimed injuries to his left neck, arm, shoulder and hand. You know when the judge starts a paragraph by saying "this is the employee's fourth workers' compensation claim," that the claimant did not win this case. Once again, Facebook and Instagram photos confirmed this claimant participated in a music promotion business. While other factors went into the denial issued by Judge Hagler April 19, 2017, you can see how the photos would derail the claim.

So what can we learn from all of this? Issues regarding an injured worker's credibility can often be bolstered by contradictory Facebook and Instagram posts. These posts are not the entire reason that these claimants lost their claims but it only added fuel to the lack of credibility fire. While I doubt social media posts alone would garner a denial, it is entirely possible. There is no slow down in social media options so we need to make sure our clients understand the dangers and what they can do to avoid them.

The State Bar has three offices to serve you.



**HEADQUARTERS**  
104 Marietta St. NW  
Suite 100  
Atlanta, GA 30303  
404-527-8700  
800-334-6865  
Fax 404-527-8717



**SOUTH GEORGIA  
OFFICE**  
244 E. 2nd St.  
Tifton, GA 31794  
229-387-0446  
800-330-0446  
Fax 229-382-7435



**COASTAL GEORGIA  
OFFICE**  
18 E. Bay St.  
Savannah, GA 31401  
912-239-9910  
877-239-9910,  
Fax 912-239-9970

# Continuous Employment – Where Do We Stand?

By John Adkisson, Partner at Drew Eckl & Farnham, LLP, [jadkisson@deflaw.com](mailto:jadkisson@deflaw.com), (404) 885-6325

The Georgia Court of Appeals ruled on two cases involving the doctrine of continuous employment in 2017. The doctrine is most frequently applied to traveling employees. It provides that injuries to employees who are traveling for a business purpose are generally compensable, provided the injury occurs while the traveling employee is engaged in an activity within the time he is employed and at a place where he might reasonably be in the performance of that employment. Specifically the Georgia Supreme Court has held that: “activities performed in a reasonable and prudent manner for the health and comfort of the employee, including recreational activities, arise out of and in the course of employment for an employee who is required by his employment to lodge and work within an area geographically limited by the necessity of being available for work on the employer’s job site.” *Ray Bell Const. Co. v. King*, 281 Ga. 853, 642 S.E.2d 841 (2007) (finding the claimant’s accident compensable based on the doctrine of continuous employment when the claimant died in an accident after finishing a personal errand and driving back to either the job site or the employer provided apartment).

Prior to 2017, the most recent published decision on the continuous employment doctrine came in 2012 when the Court of Appeals ruled in *The Medical Center, Inc. v. Hernandez*, 319 Ga. App. 335, 734 S.E.2d 557. In that case, two employees were involved in a motor vehicle accident five minutes from the job site of their employer, Atlanta Drywall, in Columbus, GA while riding in the personal truck of a co-worker. Both employees lived in Savannah at the time of the accident. Every Monday morning, they made the four hour drive from Savannah to Columbus. They remained in Columbus for the work week in employer-provided lodging. On Saturday morning, the employees would drive back home to Savannah. The employees were not paid for travel time between Savannah and Columbus.

The administrative law judge (“ALJ”) denied the claims for workers’ compensation benefits. The State Board’s Appellate Division and the superior court both affirmed the ALJ’s decision. The claimants and The Medical Center, Inc. (party at interest) both appealed the decision to the Court of Appeals.

The Court of Appeals held that the continuous employment doctrine did not apply because the employees had not yet arrived at work on Monday morning when the accident took place. Instead, they were still on their way to the job site (i.e., “going to” work). The employees did not perform job duties from the time they left Columbus until they actually arrived at the job site on Monday. Therefore, the Court of Appeals affirmed the denial of the claims. The

Court pointed out that the continuous employment doctrine might have applied if the employees had been injured at some point after their work duties had begun on Monday.

In March, 2017, the Court of Appeals issued the first 2017 continuous employment decision in *Avrett Plumbing Company v. Castillo*, 340 Ga. App. 671, 798 S.E.2d 268. Castillo was employed by Avrett (based out of Augusta, GA). During the work week, the employer supplied Castillo with a hotel room in Augusta because he lived out of town. The employer also allowed Castillo to stay in the hotel over the weekends because the room was already paid for and would not be used by anyone else. However, Castillo did not work, was not paid, and was not on-call during the weekends. On a Sunday afternoon, Castillo was injured when he tripped and broke his ankle while running a personal errand (buying groceries).

The ALJ found that Castillo was entitled to workers’ compensation benefits because he was a continuous employee and “was required by his employment to live away from home while working.” The Appellate Division reversed the ALJ, finding Castillo was not required to be in Augusta on the weekend and he was not paid, was not “on-call,” and was not under Avrett’s control during the weekend. The superior court reversed the Appellate Division’s decision and reinstated the ALJ’s award of benefits to Castillo.

The Court of Appeals reversed the superior court, holding that the superior court failed to adhere to the “any evidence” standard of review because there was some evidence supporting the Appellate Division’s decision. Per the Appellate Division’s factual findings, Castillo was only present in Augusta as a personal convenience (due to financial situation and car troubles) so he could utilize housing gratuitously provided by Avrett. Therefore, there was some evidence to support the Appellate Division’s conclusion that Castillo was not in continuous employment on the weekend he was injured.

Three months later, in June, 2017, the Court of Appeals decided the case of *Kendrick v. SRA Track, Inc.*, 341 Ga. App. 818, 801 S.E.2d 911. Kendrick was employed by SRA Track, Inc. (“SRA”) to help repair railroad tracks in various states. On Sunday, January 13, 2013, Kendrick drove his motorcycle from his home in Georgia to a motel in Alabama where he planned to spend the night before beginning work on an SRA job on Monday morning. On his way to the motel, Kendrick was injured in a motorcycle accident. After the accident, SRA’s insurer provided Kendrick with a prescription card, which he used through December, 2013.

Kendrick eventually filed a claim for indemnity benefits related to injuries he sustained in his motorcycle accident. The ALJ found the accident did not arise out of or occur in the course of Kendrick's employment with SRA. The Appellate Division affirmed the decision of the ALJ. The decision was then affirmed by operation of law at the superior court because no order was entered within 20 days of the superior court hearing.

In addition to arguing the claim was compensable under the continuous employment doctrine, Kendrick argued that SRA was time-barred from controverting the claim because it had failed to file its notice to controvert "within 60 days of the due date of the first payment of compensation" as required by O.C.G.A. § 34-9-221(h), based on providing the prescription card. The Court of Appeals disagreed, finding the prescription card was not "compensation" under O.C.G.A. § 34-9-221(h).

The Court of Appeals also disagreed with Kendrick's contention that he was in continuous employment, concluding he was "not yet engaged in his employment at the time of the accident." Instead, the accident occurred as he was traveling to the motel the day before he was scheduled to begin work. Therefore, the continuous employment doctrine did not apply.

The recent decisions of the Court of Appeals reiterate the fact that cases involving continuous employment are fact-specific. Among other things, compensability turns on the timing of the accident, the timing of the "beginning" of the job, the reason for the lodging, and whether any "deviation" was ongoing at the time of the accident. In all of the recent cases, a difference in one fact could have resulted in a different outcome on the question of compensability. For example, if the claimant in *Ray Bell* had not returned from his "deviation," the claim would have likely been denied. If the claimants in *Hernandez* and *Kendrick* had been injured in motor vehicle accidents during the work week, the claims might have been deemed compensable. As for *Castillo*, changing the timing of the accident, adding a requirement by the employer to remain out-of-town over the weekend, or including a provision requiring the claimant to remain on-call could have potentially changed the outcome of the decision of the Court of Appeals. There have been no published decisions from the Appellate Division since the 2017 Court of Appeals' decisions.

*The opinions expressed within the newsletter are those of the authors and do not necessarily reflect the opinions of the State Bar of Georgia, the Workers' Compensation Law Section or the Section's executive committee*

## Kids' Chance Scholarship Named for Judge Zeese

The Hon. Gordon Zeese retired from the of Workers' Compensation July , 2017. To honor him, a of workers' compensation attorneys \$3,000 to present to ' Chance of to fund a scholarship his name. ' Chance awards scholarships to parents or guardians have been seriously or fatally injured an on-the-job . The organization is "near and dear" to Zeese's heart, as his daughter recently noted, and he was thrilled to learn of the donation.

Zeese is a of Duke University and the University of of Law. He served as an with the for 30 . During that time he won many awards, including the Bar of 's Thomas Burnside Excellence Bar Leadership Award (presented to an individual for a of to the legal profession and the system) and the Workers' Compensation 's Distinguished Service Award (presented to a member of the bench or bar has made outstanding contributions to the practice and/or development of workers' compensation law). Zeese served in numerous capacities with the Board and the State Bar, and he was equally active in various community organizations, never turning down a request for assistance. He is a true public servant and his leadership will be missed tremendously.



Blake Brantley and Judge Zeese are shown during the presentation to Kids' Chance at the Workers' Compensation Institute at St. Simons Island on Oct. 5, 2017.