

ALL ABOUT CLAIMS

Issue 42
September 2015

All About Claims is a newsletter published by the Colorado Division of Workers' Compensation designed to provide information to claims practitioners. Please send comments or suggestions for future topics to Adam Gardner by emailing adam.gardner@state.co.us.

Grace for the Journey



Pat Clisham has been an icon in the Colorado workers' compensation system for longer than most can remember. Few start a career in the system by deciding the merits of workers' compensation cases, then leave to become a high profile litigator, and then return to public service. In addition to managing Prehearing Conference and the Director's Office of the Division of Workers' Compensation, Judge Clisham takes a rotation on the docket each week. She's skilled at striking a balance

between parties—and has the distinction of being one of the nicest, most refreshingly plain speaking individuals to serve Colorado's community of employers and injured workers.

Maybe you can start by telling us a little bit about yourself...

I was born in Baltimore, Maryland. My dad worked for the space industry, so when I was 10, we moved to Lompoc, California, which is near Vandenberg Air Force Base, where he worked. When I was 14, he was transferred to Denver, so I've lived in Denver since I was 14, and I consider myself almost a native. I went to high school, college and law school here in Colorado; I went to CSU for college. I graduated in 3 years, because I was anxious to get going I guess. I graduated magna cum laude from CSU and then I took a year off, which not many people know, and I was an editor for trade magazines for a year. Then I went to law school. When I first came out of law school, I was hired by Legal Aid Society of Metropolitan Denver, and assigned to the Brighton, Colorado office, which was a great place to learn how

to practice law, because I just walked in and immediately had a caseload of something like 200 people with all sorts of problems and issues. Brighton, Colorado was a rather wild west type of town at the time and I was a female attorney, which was one of the worst things I could have possibly thought of to be in Brighton. That was in the days before there were a lot of female attorneys. I did that for about a year and a half; learning how to deal with all sorts of situations, all sorts of judges, all sorts of people. Again, it was a great way to get introduced to the reality of the legal practice. I was asked to go to the attorney general's office and represent the state side of things. In the AG's office, I represented the Department of Social Services, Department of Health, Department of Corrections and, once in a great while, did Department of Education work, but a little bit of 3 or 4 different areas. I did that for about 4 years. And then I took a little bit of time off. I just took a summer off; I wanted to move on, but I wasn't sure what I wanted to do. When I was off, I was contacted by the head of the Hearing Officers for the Division of Administrative Hearings. I had tried a case for the personnel board before I took my summer off and she had been the hearing officer for the case. She called me during that summer and said "I'd like you to be a hearing officer," that's what administrative law judges were called at the time, and I said "okay, I'll think about it," and I did. So I was hired as a temporary hearing officer and was tested for and became a permanent hearing officer. About 3 or 4 years later, they started calling us Administrative Law Judges.

Was that with the Department of Education?

No, at the beginning, interestingly, I did personnel board, medical board, dental board, and at the time, there was a teacher tenure system, so I did a lot of teacher tenure cases. I did that for the first year I was there. At the end of the first year, my boss came into my office and said,



"You know, I'm losing a judge in Workers' Compensation and it's really a good ol' boys club and I'd really like to have a woman in there. Would you be willing to do it?" and I, thought "Sure how hard can comp be?" So, then I started reading the statute – we didn't even have that many rules then; we only had 7 pages of rules, but I started reading the statute and the rules and the case law, and I was amazed that none of this made sense, because the case law didn't seem to jive with the statute. It was a pretty interesting transition, and of course, it was a good ol' boys club at the time and, at the time, I looked young, so I looked like I was a teenager, which drove some of the older attorneys a little bit nuts, but eventually, we all came to respect each other. So that's how I got started in Workers' Comp. I didn't go to law school and say, "Gee, I think I'll be a workers' compensation person." I was an ALJ for Workers' Compensation for 7 years. Then I decided to go into private practice and did that for 26 years. And here I am – back full-circle doing public service, which I do love. It's funny, when I first left the state I thought I'd come back to public service, but when you get going in private practice for so long, you think, "Oh, I probably never will." So I feel very happy and honored that I got the chance to come back.

What aspects of this work do you find most fascinating?

Hmm...people. I love workers' comp in general, just because, first of all, it's intellectually challenging. The law is not static; it is always morphing into different things. I love the medical aspects and just learning all the medical background and things like that. It's just the most interesting study in human nature there could be, I think. Between seeing how the different parties interact; seeing what happens when lives are shattered when someone sustains an injury, or seeing people whose lives maybe aren't quite so shattered, but they certainly can make something out of an injury. So kind of seeing all aspects of, you know, the claimant, who's in a bad situation; the employer, who's also in a bad situation because they have a hurt employee, and sometimes that hurts the employer too; the insurance company and the attorneys and just seeing how they all interrelate and the effects of a workers' compensation injury on people. And I failed to mention how the doctors are in the mix there too. So it's just a fascinating area. I just think if you like to study human nature and you like intellectual challenge, and if you like medical knowledge, it's the area for you. And litigation, it's definitely litigation driven; that's the other thing that drew me into this – I was not the type to be a contract reviewer or anything like that. This area is constantly being redefined by litigation, so I love that too. In my new role, some of the same things apply, in a way. It's still kind of the study of human nature and I like (hopefully) helping people get through problems – how do you deal with this or how do you deal with that. We have really good people here, so it's really fun just dealing with them.

What are some of your favorite hobbies?

Well, I love kickboxing, which not many people know. My friends know that if I haven't been to kickboxing for a few days, not to be too nasty with me. I'm a voracious

reader; I read almost everything, except I'm not really a science fiction fan. I like fantasy, fiction, non-fiction, and biographies. For some reason, sci-fi just doesn't do anything for me. And I like to cook. I also like to hike and walk, go to movies and things like that...

We hear you like lacrosse...

I am a lacrosse fan, actually. That goes back to when my daughter was in 7th grade. She started playing lacrosse and back then almost no one played lacrosse in Colorado. There were probably only 3 or 4 private schools that played, and she went to a private school, and there were probably 3 or 4 public schools that played and that was it. So it was kind of interesting, because it was not a known sport at the time, but yes, I do really enjoy lacrosse. Not playing it, but watching it. (Gee, I wonder who you heard that from...)



Past or present, who do you look to for inspiration? Can you name a person who has had a great impact on your life?

I would say, first of all, my parents, who are now both deceased. My mom was very forceful in her thoughts that girls could be able to do anything they want to. My dad was an inspiration because he had only a

high school education, but he ended up becoming an aerospace engineer by self-teaching. He was very much into learning for the sake of learning, not for the sake of spitting things out or memorization. So, for example, when we got behind in the space race with Russia, he decided to teach himself Russian so that he could read their scientific articles and see what he could glean from them. Both my parents were very inspiring people, so I'd say, primarily they were the ones who inspired me most in my life.

And, as of present, I think the people around here really inspire. People really do a great job and they, for the most part, enjoy their jobs and they see different aspects of things and I'm very inspired by them.

Do you have any advice for others seeking a career either in workers' compensation or public service?

Well, if you seek a career in public service, I would advise you only to do that only if you really care about people, because, let's be honest, it's not the greatest monetary reward system to be in public service, so you have to get your rewards internally. But if you really care about helping people or moving things forward, I think it's really a great thing to be in; so I would say if you fit that category, then go for it. If you don't, probably, you should belong somewhere else. Workers' Comp, for the same thing I said before, if you like intellectual challenge, and litigation, if you're in it as an attorney. I think one thing you can appreciate as an attorney is we do have a small bar that, for the most part, gets along with each other, very unlike other areas of law, where things can be so contentious. You can be fighting someone in the workers' compensation system and do a really good job representing your client and then go out and have a beer with that person. So that is a big change from other areas of the law. But, in general, just Workers' Compensation again, I think is fascinating because the law is not stationary, it's always developing,

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the issues are always interesting and changing and sometimes complex, so just in general, I think the whole area of workers' compensation is one of the most fascinating areas you can be in.

Are there any cases that have had a major impact on your career?

I was involved in many cases, a lot that went all the way to the Supreme Court, often times as an amicus lawyer and sometimes as the lawyer. But one case that I am actually very, very proud of is about 4 years before I left private practice, I was contacted by an attorney who does not do Workers' Compensation law about a claimant he had represented in third-party actions, who, unfortunately, started off with a very minor workers' compensation injury of an amputation of a tip of a finger and ended up with RSD [Reflex Sympathetic Dystrophy Syndrome]. During a medical procedure, he ended up being basically over-sedated and ended up with lots of brain damage. He lives at Learning Services, which is for developmentally disabled people. This was during the economic downturn, and he had gotten some very large awards, but one was a jury award, and I don't want to get into all the details because it's just too difficult to understand, but because of the

way the law was at the time, this award that he was granted was funded by the insurer and he was running out of funds, basically. But there was a question about how this really should have been allocated, and so I spent basically four years, just trying to bring myself up to speed on these really complex issues. This was a case of first impression in Colorado. We ended up going to hearing. I won the hearing; it was appealed all the way up to the Supreme Court, and I won. This man now is assured of a life at Learning Services, which is the best placement for him, for the rest of his life. Everyone thinks of me as a respondent's attorney, which I was, but I did take this claimant's case and really feel good about helping him out because it was a pretty devastating case. The case was Rodriguez vs. Hertz and the Colorado Guaranty Insurance Fund. And it's something people don't know about me because everyone knows I was a respondent's attorney, but I did do occasional claimant work. That one I was very proud of because it was so hard, it took basically three years to get it ready to go to trial – it was so complex.

What is your greatest attribute? Something that has served you well...

I actually think the fact that I am a pretty calm person and I can see other people's points of view, which kind of sounds as if it's contradictory to being an attorney, but I think, because I could see other people's points of view that, first of all, it helped me prepare cases better because I understand where other sides were coming from. But just in other aspects of my life, I think it's helped me to get to where I am, as well as being able to deal with people and issues without going too far off the deep end and I like to try to get people to collaborate and cooperate. I think the fact that I am perceived as, and I think I am, a pretty fair person, and I listen to people, can understand where they're coming from, and I do like different types of people and

diversity; so I think that serves me well because I don't stick on one thought as being the only potential right way of doing things or one person's way of doing things as being the only right way. So I think you can gather a lot of life experience from being open to other people and other experiences. And I think I've been that way.

Is there anything you would like people to know about you that people are not likely to know about you?

Right now, I have a granddaughter, who just turned 16 months. Not a lot of people know about this. That's been just a total joy and a wonderful thing. I just wish she lived closer to me. So that's fun; I love being a grandmother and I love spoiling that kid, of course. Other than that, a lot of the attorneys know I kickbox, but a lot of people around here don't know that particularly. Oh and I worked as a nursing assistant once—for one day!



What would you like to do? Are there things that you haven't done yet, personally or professionally?

Not much professionally anymore. I've been really blessed in being able to do just tons of things professionally. If and when I ever retire, I think the thing I want to do, which you just don't have a lot of time in the state to do, is travel a lot more. Because I do love traveling and I've been a few places overseas and lots of places in the United States, but there are so many more places to go and places to visit, even many of the places I've been. So I'd love to travel more; that's probably the main thing. Other than that, the only other thing I'd like to accomplish in life is to live long enough to see my granddaughter grow to an adult and see what my daughter and her husband and my step-grandson become as they grow older. Really, I've been very lucky in that I've done a lot professionally and it's just kind of more the retirement of traveling and spending more time cooking and reading and stuff that I don't have time to do now. But right now, that's not enough to make me want to retire, so I'm here.

Have you always wanted to work in the legal field? What lead you to practice law?

Interestingly enough, when I was in the 6th grade and living in the small town in California, my teacher had a friend who was a woman lawyer who came and talked to my class about being a lawyer. And so at the time, I thought, "Wow that sounds really neat, I'd like to be a lawyer." Then I went to college and I thought I was going to be a psychologist. I had some psychology teachers who were just begging me to be a psychologist, but as I went through college, and in college, even though I went through in 3 years, I actually had extra credits than what I needed to graduate, because I was just so interested in so many different things, and as I went through that process, I had a lot of friends that were becoming lawyers and I kind of went back to my 6th



“It goes back to being pulled out of the hat.”

grade goal of becoming a lawyer. So the answer is, yes, I wanted to be a lawyer for a long time except for a while when I might become a psychologist. And my daughter is actually a clinical psychologist. Somehow, the genes just rubbed off I guess.

Did that interest in psychology serve you well?

Yeah, I think it did, because, again, I listen to people and I don't just judge the first thing they say as being what it is necessarily. I try to really listen to where they're coming from and what the underlying things are that they might not be saying that might be motivating them or guiding them or whatever. So I think probably, a little bit of psychology is helpful in being a lawyer. Being a mother was very helpful in being a lawyer and it was especially helpful when I ran law firms. So yeah, a little bit of psychology and a little bit of mothering has done me well too.

We have a lot of new workers; people in the work place, what kind of advice would you give them? Are there things to avoid? Are there things to tackle? Things they should do in a certain order? What would you tell them?

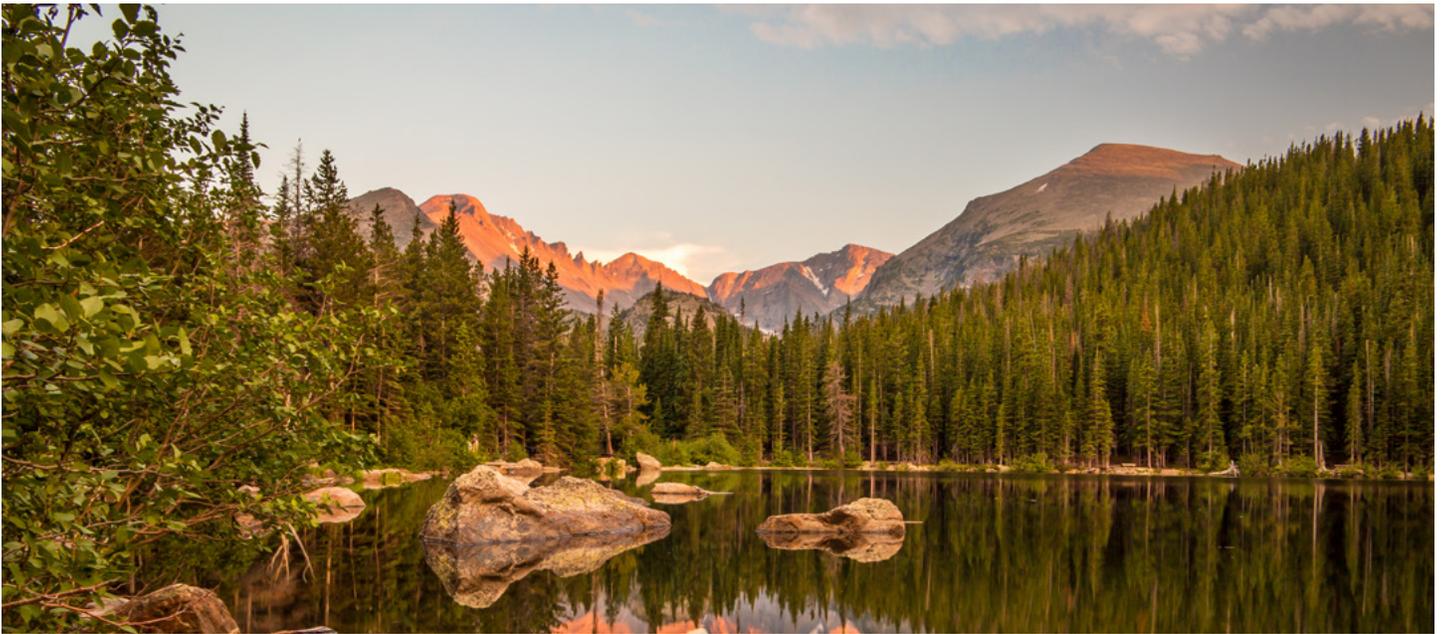
Well, it's so hard now, because we're in a totally different kind of world. So, for example, shared work now, is a big deal... shared economy. So I think for younger kids



starting out, it's a little different from when I started out - where you had a goal and you just kept working towards it. Sometimes they have to think about what their goal is and I don't think that's necessarily bad. So my advice would be, "If you're going to be in the work force, you have to do what you like, because if you don't do what you like, it's just a job. Whereas, if you do things that you have a passion for, or at least that you enjoy, then you're earning money and it's not painful earning that money." The path is different for everybody, but I think for a lot of younger people, unfortunately, the world isn't quite the same as far as you're not just going to fall into a job right away and you're going to follow that job throughout or even use that as a spring board. I think they might have to start with lower expectations and just keep going, keeping their positive attitude that whatever skills you learn in every job, really, they carry you through. So even though you might be in a job that's not your real goal, as long as you enjoy it and you're learning skills, it's perfectly okay.

Is there anything that you'd like to say in closing?

Mainly, I'd say, "Thank you," to Paul [Tauriello] for hiring me as a PALJ and now putting me in this job also; I really do appreciate the opportunity of coming back to the state.



Use of PAs and NPs in Colorado Workers' Compensation Claims

All Workers' Compensation claims (medical only or lost time claims) shall have an Authorized Treating Physician (ATP) responsible for all services rendered to an injured worker by any Physician's Assistant (PA) or Nurse Practitioner (NP). The ATP provider must be immediately available in person or by telephone to furnish assistance and/or direction to the PA or NP while services are being provided to an injured worker. Services provided by PAs or NPs must be within the scope of practice and comply with all applicable provisions of the Colorado Medical Practice Act or the Colorado Nurse Practice Act. For services performed by an NP or a PA, the ATP must counter sign patient records related to the injured worker's inability to work resulting from the claimed work injury or disease, and the injured worker's ability to return to regular or modified employment. The ATP also must counter sign Form WC 164. The signature of the physician provider shall serve as a certification that all requirements of this rule have been met. The ATP must evaluate the injured worker within the first three visits to the physician's office.

New Accreditation Requirements for Prior Authorization Review

Since its inception in October 2013, the Division has received nearly 2000 Medical Billing Disputes. Over the past year, we have begun to receive disputes around the handling of prior authorization requests, either in violation of Rule 16-9 & 10, which defines the timelines and processes for Prior Authorization, or Rule 17, the Medical Treatment Guidelines (when indications of the Medical Treatment Guidelines are met, no prior authorization is required.) Currently, Rule 16 requires those reviewing prior authorization requests to be a physician licensed by the State of Colorado in the same or similar specialty as would typically manage the medical condition, procedures or treatment under review. Effective January 1, 2016, the physicians or chiropractors performing this review shall also be Level I or Level II Accredited. This means physicians reviewing requests will have received education on their role in the workers' compensation system, the special administrative and legal requirements for medical providers who treat injured workers and an introduction to the Division's Medical Treatment Guidelines.

Medical Fee Schedule Seminar Dates and Locations:

Thursday, September 24, 2015; 1:00 p.m. to 5:00 p.m. at the Memorial Administrative Center, Class Room B, 2420 E. Pikes Peak, Colorado Springs, CO 80909

Friday, October 9, 2015; 1:00 p.m. to 5:00 p.m., Department of Labor & Employment, 12th Floor Executive Conference Room, 633 17th Street, Denver, CO 80202

Thursday, October 15, 2015; 1:00 p.m. to 5:00 p.m., Department of Labor & Employment, 12th Floor Executive Conference Room, 633 17th Street, Denver, CO 80202

Register at:

https://www.colorado.gov/pacific/sites/default/files/2015_Medical_Fee_Schedule_Seminars.pdf

**SAVE
THE
DATE!**

WHAT'S NEW?

The Division has released an update to a publication and a new form! These new publications are available both online and in hard copy through our Customer Service Unit:

- [Employee's Guide \(Spanish version\)](#), August 2015
- [Certificate of Mailing](#)— Must be attached to any order going to Prehearings and Settlement.



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