

What You Need to Know about Entitlement on an Aggravation Basis

Workers' Compensation

Date: Wednesday, October 30, 2024 | 12:00 pm to 2:00 pm

Location: Webcast

Agenda: 12:00 pm Program Commences
2:00 pm Program Concludes



Webcast



This program contains:
2hr 0m of Substantive Content

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How does a worker's history of injury or evidence of a pre-existing condition affect their entitlement under worker's compensation law? What are the legal principles at play when a worker seeks entitlement on an aggravation basis? Join us to explore entitlement where a compensable accident aggravates or overlays a prior symptomatic or asymptomatic physical or psychological condition.

Hear from our expert faculty as they provide helpful insights on the common law, Workplace Safety and Insurance Board ("WSIB") policy, and Workplace Safety and Insurance Appeals Tribunal ("WSIAT") case law. We'll unravel how entitlement for an aggravation can be advanced and defended and share practical advice for worker and employer representatives through the exploration of a series of case studies. You'll walk away with a comprehensive understanding of the key concepts including:

- What is a pre-existing condition?
- When is a pre-existing condition or a pre-existing susceptibility relevant to a claim?
- What is an aggravation in the common law versus under WSIB policy?
- How can the common law concepts of thin and crumbling skull be effectively deployed?

Program Chair(s): **Julia Noble**, Associate Counsel to the Chair, WSIAT
Michael Edmonds, Associate Counsel to the Chair, WSIAT

Speakers: **John McKinnon**, Executive Director, Injured Workers' Community Legal Clinic
Hossein Moghtaderi, Filion Wakely Thorup Angeletti LLP

12:00 pm Welcome and Opening Remarks

12:05 pm **Foundational Principles of Aggravation**

John McKinnon, Executive Director, Injured Workers' Community Legal Clinic

- Key takeaways from the common law view of aggravations including concepts from *Decision No. 915* and *Athey v. Leonati*

12:35 pm **Analysis of WSIB Policy & WSIAT Jurisprudence**

Hossein Moghtaderi, Filion Wakely Thorup Angeletti LLP

- Review of WSIB's policy on aggravations and pre-existing conditions

1:05 pm Health Break

1:15 pm **Making the Case: Scenarios and Discussion**

Michael Edmonds, Associate Counsel to the Chair, WSIAT (moderator)

Hossein Moghtaderi, Filion Wakely Thorup Angeletti LLP

John McKinnon, Executive Director, Injured Workers' Community Legal Clinic

- Through an examination of various case studies, our Panel will provide their thoughts on:
 - When to seek entitlement on an aggravation basis
 - How to develop the theory of the case involving legal principles relevant to aggravation
 - What evidence medical or otherwise, to advance to prove the case

1:55 Questions and Concluding Remarks

2:00pm Program Concludes

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Questions? pd@oba.org