



Workers' Compensation Trends and the Impact on Employers' Best Practices: A Q&A with Mullen & Filippi

August 3, 2022

Moderator: Jennet Horder, VP, Claims Consultant

Q&A Monitor: JoAnn Gamoras, AVP, Claims Consultant




Panelist:




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Anne E. Hernandez
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Career Basics
Anne has been a Senior Partner at Mullen in Filippi since 1987. She has been the Managing Partner of the Santa Rosa office since 2002.

Education
Anne grew up in rural upstate New York and attended SUNY at Oswego. She spent one year at UCLA and realized snow was not the way to go. Viewing never to shovel the driveway again, she attended Loyola Law School in Los Angeles and has been firmly planted in California ever since. Anne started her legal career as a public defender in Los Angeles. After 3 years of defending the downtrodden, she moved to Santa Rosa for a new change in her profession to Workers Compensation. Anne, Santa Rosa, and Worker's Compensation proved to be a perfect fit.

Professional Membership
Anne has 2 favorable published Court of Appeal decisions in her credit. The Hutton case helped define causation percentages for psychiatric injuries. Always with her eye on the workers' compensation community she started the Northbay Workers' Compensation Association in 1994. She is the current legal advisor to CCOIPA and participates in seminars throughout California.

Personal Note
I am grateful and amazed that I still learn something new every day practicing workers' compensation. Anne has relatives she likes living in Jackson Wyoming. The Tetons are one of her favorite places. She enjoys her dogs, kids, and just about any adventure.

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Practice Areas
Workers' Compensation
Defense

Background
Admitted to Practice by the State Bar of California: 1983


Number of years in Workers' Compensation: 34

Number of years with Mullen & Filippi, LLP: 35


Education
Bachelor's Degree from State University of New York, Oswego, NY in B.A. in 1982
Juris Doctorate from Loyola Law School, Los Angeles, CA in 1983

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James M. Cotter
Managing Senior Partner
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Career Basics
Upon admission before all courts in California, Mr. Cotter practiced civil litigation for an established firm specializing in insurance defense and employment law, and then worked as a solo practitioner specializing in sports agency law, personal injury trials, contracts, and criminal defense. Since 2012, Mr. Cotter has focused on workers' compensation defense practice. Prior to becoming an Associate at Mullen & Filippi in 2016, he specialized in defending workers' compensation claims on behalf of large public entities, and also handled subrogation claims.

Education
Mr. Cotter received his law degree from the University of the Pacific, McGeorge School of Law in 2007. While studying there, he received a Wilbur Award for Academic Excellence, was on the Dean's List, and was a member of the Justice Traynor Honors Society. In 2004 he earned a Bachelor of Arts in Psychology from San Francisco State University.

Professional Membership
Mr. Cotter is a member of the State Bar of California and a former member of the Labor and Employment Law and Litigation sections of the State Bar of California.

Personal Note
As an attorney, I've been privy to stories and dramas both epic and tumultuous, and have had the honor of working with a wide variety of clients. Every case and every client presents new and interesting challenges. Each deposition is a window into a different life and each claim presents new questions and opportunities for the client and me alike. As Samuel Johnson once said, when a person "lives in London, he lives of it." The same could be said of litigation. What I love most about being a lawyer is "getting it right" by obtaining the best resolution available to my client under the law, whether that means recognizing the value of compromise or recognizing the value of a principled stand.

When I'm not practicing law, I'm instructing classes as a Black Belt in Brazilian Jiu-Jitsu. The mindfulness of drilling and the intensity of sparring are two modes in which I feel most fully human and alive. I also dabble in non-legal writing and have a passion. Don't ask me about it, I'll tell you.

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Practice Areas
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Defense

Background
Admitted to Practice by the State Bar of California: 2007


Number of years in Workers' Compensation: 11

Number of years with Mullen & Filippi, LLP: 6


Education
Bachelor's Degree from San Francisco State University, San Francisco, CA in Psychology in 2004
Juris Doctorate from University of the Pacific, McGeorge School of Law, Sacramento, CA in 2007

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Katherine A. O'Brien
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Career Basics
Katherine joined Mullen and Filippi in March 2016 as an Associate Attorney and became an Associate Partner in July 2016. She has practiced law in the area of workers' compensation since 2012, when she initially became a member of the State Bar of California. Prior to joining Mullen and Filippi, Katherine worked for a prominent California workers' compensation defense firm, where she co-managed four developing Los Angeles offices. She has practiced throughout Southern California representing the interests of insurance carriers, self-insured entities, and the California Insurance Surety Association and has appeared at numerous WCB district offices throughout the Los Angeles, San Diego, and Inland Empire regions.

Education
Katherine received her law degree from the University of La Verne College of Law in 2012. During her time at the University of La Verne, Katherine earned the CAJ Achievement Award for obtaining the highest grade in several of her law school courses. While in law school, Katherine spent summers interning at the Riverside District Attorney's three trial offices, where she conducted several preliminary hearings, argued motions and motions, and researched and drafted numerous written motions and trial briefs. In 2008, she earned a Bachelor of Arts in English Literature from University of Redlands, where she achieved the Dean's Honor List for a number of her semesters spent there.

Professional Membership
Katherine is a member of the State Board of California.

Personal Note
The past several years of my legal career, I have had the opportunity to work on various files with various clients, many of which I consider from the inception had inherent interest value in the mode of ongoing litigation. This offered me the ability to witness the life of a workers' compensation claim from the on-set through resolution. It has also taught me the importance of building and maintaining strong relationships with adjusters and has challenged me to develop the skills required to analyze the complexities of long-standing legal actions. As a result, I have acquired the ability to formulate concise and clear plans of action to ensure that all matters continue to move toward prompt conclusion.

Growing up in Palm Springs, I am an outdoor enthusiast and enjoy spending my free time participating in various outdoor activities including swimming and fishing. I also have a passion for both reading and writing and aspire to be one day author of a fiction novel. Otherwise, I can be found spending time with my family, friends, and my cocker spaniel, Noel.

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Disclaimer:

This Webinar is offered for informational and educational purposes only.

The cases reviewed can be impacted by legislative/statutory changes, appeals, and other case findings which can alter how you might respond to specific scenarios.

You will need to consult your attorney for the most recent laws affecting your employment practices, decisions, and claims handling strategies.



Why do you think we are seeing Southern CA attorneys so far North?

How might this impact a claim?

What are your thoughts on this continuing?



- Claim frequencies for the LA area continue to be significantly higher than the statewide average, while claim frequencies for the Bay Area are lower even after controlling for industry mix and wage level differences.
- The incidence of cumulative trauma claims is significantly higher in the LA area and most other parts of Southern CA.
- The share of indemnity claims that are open at 18 months (and 42 & 66 months) is significantly higher in Southern California.
- The share of open claims with permanent disability at 66 months is higher in Northern California regions.
- Medical-legal costs are significantly higher in the LA Basin.
- Paid allocated loss adjustment expenses (ALAE) are significantly higher in Southern CA regions.

Reference:

2021 WCIRB Geo Study – A Report on California Regional Differences,
https://www.wcirb.com/sites/default/files/documents/wcirb-geo-study-2021-final_0.pdf

Is there a lesson that an employer can learn from this case as they navigate through a workers' compensation injury claim?



Santa Cruz Superior Court Jury awards \$6.9m for compensatory damages and \$27.6m punitive damages as they found AP Keenan had conspired with Santa Cruz Unified School District to flout FEHA.

Why would an injured worker be eligible to receive temporary disability benefits even if they retire, resign, or are terminated?

And what about time off for attending medical appointments?



An injured worker can get up to 104 weeks of TTD (240 weeks for qualifying cases) if supported by a medical opinion. There have been many cases addressing various scenarios and eligibility for disability payments including when an employee retires, resigns, is terminated for cause, and time off for attending medical appointments.

Recent workers' comp cases:

Godinez v. the City of Los Angeles (2021)

Skelton v. WCAB (2021)

Corona v. California Walls, Inc., dba
Crown Industrial Operators (2020)

Ceballos v. TriMark Chefs' Toys (2020 - panel decision)

Salazar v. Kodiak Roofing & Waterproofing (2020)

Nelson v. SP Plus (2020)

Hernandez v. Bokisch, Inc (2019)

Spiva v. The Baby Connection (2019)

Rodriguez v. County of Monterey (2018)

How long does an employee have to file a claim for workers' compensation in CA?

What triggers the statute of limitation?



**Recent workers' comp case:
Akbar Matani v. IHSS, California
Department of Social Services**

A spouse, COVID19, and the workers' compensation policy – what and why are there concerns about the See's Candies, Inc. v. Superior Court of CA?



Thank You!



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