



DAILY NEWS

TUESDAY November 8, 2011

Opening Session Awards Ceremony



PRESIDENT'S PICK

NASP President Ken Levine chose Laura Schmidt and John Whitsell as the recipients of the President's Award. "For the past year, these two have been working incredibly hard to make the conference look so seamless and provide so much value," says Levine.



BOARD MEMBER OF THE YEAR

"Behind the scenes every year, the Board of Directors works to make NASP that much better than the year before. But every year, there is one standout, and this year that was Glenna Roberts," says Levine.



AMBASSADOR AWARD

For the first time in its history, NASP presented its Ambassador Award, which Levine described as "an award to recognize the ambassadors amongst our members. Those who 'sell' NASP not by peddling it but rather by supporting it and recommending it to colleagues, clients, and customers as an association that has strength and brings value." The inaugural award went to Rimkus Consulting.

SESSION PREVIEW

Unlocking Medical Record Mysteries

By Eric Gilkey

When it comes to medical records, you're either a giver or a taker. No matter which role you play, you have to know which hoops to jump through to get what you want. Attendees will learn all of this and more during this morning's session, "The Rules of Confidentiality: A Magical Mystery Tour," at 8:30am in Daytona 1 & 2.

"When it comes to the area of medical records, it's just a convoluted mess of various statutes that on one side give protections to patients, and on the other side provide avenues for payment and healthcare operations," says James Bruner, director of legal relations for ACS Recovery Services. "So you have these competing forces with their statutory constructions behind them, and it can confound an attorney as well as any other adjuster or paralegal working on a file to make sure you meet with all of these different levels of statutory requirements."

With that in mind, Bruner plans to kick things off with a discussion of the very basic, starting with the

various levels of authority that govern health records. He will then address specific situations and problems, trying to illustrate how various federal and state statutes come into play in certain scenarios.

"I'm hoping that attendees will develop a sense of confidence over their actions either in releasing records or in demanding that records be released to them," says Bruner. "That would be developing a confidence in knowing that they have surveyed or know how to survey all of the various laws that may be applicable to their request."

"For those who provide records, it's being certain that they have surveyed the laws and are confident that they can say 'yes' or 'no' in releasing records," he continues. "In essence, I want all attendees to leave with a confidence that they have done their due diligence in either protecting or gaining access to a record."

That confidence is more important than ever due to potential enforcement penalties. Up until several years ago, medical record

Medical Records, continued on page 3 ▶

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Today's Schedule

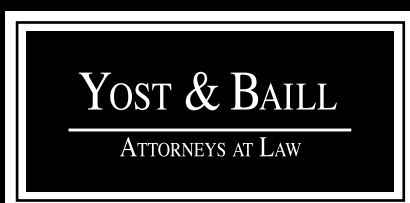
Track	Session Title	Room
8:30 am		
Auto	New Vehicle Technology	Tallahassee 1, 2, 3
Property	Recent Developments, Trends and Decisions in Property Subrogation	Miami 1, 2, 3
Health	The Rules of Confidentiality: A Magical Mystery Tour	Daytona 1 & 2
Management	How to Utilize SIU During a Subro Investigation	Captiva
Workers' Comp	Crashworthiness: The Second Collision	Sanibel 1 & 2
General	The Loss Control Defense	Naples
Product Liability	Failures of CPVC Plastic Sprinkler Pipes and Fittings	Sarasota
10:15 am		
Auto	How to Handle Resistant Uninsured Tortfeasors	Tallahassee 1, 2, 3
Property	Made-Whole Rule in Property Cases	Miami 1, 2, 3
Health	Tales of Transparency: How Greater Visibility and Insight Drive Recoveries	Daytona 1 & 2
Management	Subro Management Issues: No Magic Involved!	Captiva
Workers' Comp	Second Injury Funds: Still a Viable Recovery Tool?	Sanibel 1 & 2
General	FTCA: Critical Insights, Emerging Issues and Practical Strategies	Naples
Product Liability	Fan Motor Subrogation	Sarasota

Track	Session Title	Room
12:30 pm		
Auto	Auto Product Liability - A Look at Challenges During Trial and How to Avoid	Tallahassee 1, 2, 3
Property	Plumbing Fitting Failures...Got Bad Brass?	Miami 1, 2, 3
Health	Understanding How to Increase Healthcare Recoveries While Decreasing Risk	Daytona 1 & 2
Management	Your Next Subro Claims Rep	Captiva
Workers' Comp	State Specific Subrogation: Coast To Coast	Sanibel 1 & 2
General	Getting the Most Education From Your NASP Membership	Naples
Product Liability	Propane...A Product Subject to Strict Liability?	Sarasota
2:00 pm		
Auto	Trailer Instability - It Might Be More Than Driver Negligence	Tallahassee 1, 2, 3
Property	Keys to Identifying Subro in Commercial and Construction Claims	Miami 1, 2, 3
Health	Health Reform Update	Daytona 1 & 2
Management	Tools for the Effective Arbitration Manager	Captiva
Workers' Comp	Hidden Dangers: A Product Manufacturer's Failure to Warn	Sanibel 1 & 2
General	Subro Ethics	Naples
Product Liability	Window Installation: Understanding Opportunities for Subrogation	Sarasota

Who do leading insurance companies call when they have a combine fire?



Dave Taylor, Esq.
dtaylor@yostbaill.com



Be sure to attend Dave's session entitled "Large Farm Machinery Losses" on Monday, November 7th at 10:30 a.m. in the Sarasota room.

Dave's cell: 612.310.4540

Today's Schedule

Track	Session Title	Room
3:45 pm		
Auto	Auto Meets Health: Panel Discussion Re: Coordinating Health/POP MedPay Claims	Florida Exhibit Hall A
Property	Advanced Workshop on Spontaneous Combustion Fires	Miami 1, 2, 3
Health	Auto Meets Health: Panel Discussion Re: Coordinating Health/POP MedPay Claims	Florida Exhibit Hall A
Management	Personnel Issues in Today's Environment	Captiva
Workers' Comp	Issues in Construction Accidents	Sanibel 1 & 2
General	"Gross Negligence" - What Is It and How to Use It to Increase Your Recoveries	Tallahassee 1, 2, 3
Product Liability	Electrical Blanket and Heating Pad Fires	Sarasota

► **Medical Records**, continued from page 1

privacy breaches were not a major issue because federal agencies like the Office of Inspector General didn't receive the necessary funding for enforcement. It was something to be reported if it occurred, but there was very little HIPAA enforcement. As with the tide and wind directions, things have changed.

Bruner says there is a lot of mystery to medical records, and there is a fair amount of magic in getting them released.

"There have been a number of big-dollar cases that we will be discussing that show how privacy breaches can be very, very costly to a company," says Bruner. "So I would say that this is a very big issue, and it's getting bigger and more complex as technology speeds ahead—and it's only going to get riskier. We're

moving exponentially faster towards more risk."

Bruner says there is a lot of mystery to medical records, and there is a fair amount of magic in getting them released, which inspired the name of the session.

"You have to be like Houdini to do the necessary contortions to get the records out in some cases," he says. "We're hopefully going to help unlock some of those chains in our presentation." ✨



James Bruner

Session Info

Who: James Bruner, Director of Legal Relations, ACS Recovery Services

What: The Rules of Confidentiality: A Magical Mystery Tour (Health Track)

When: 8:30 am

Where: Daytona 1 & 2



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ATTORNEY ADVERTISING

SESSION PREVIEW

Getting State-Specific with WC Subrogation

By Eric Gilkey

Hey workers' comp adjusters: If you are looking for state-specific help in answering subrogation questions related to your particular line of business or to expand your knowledge of other jurisdictions, plan to attend today's session "State-Specific Subrogation: Coast to Coast."

In this unique presentation, attorney Joseph Nemo will lead a panel of experts in helping workers' comp adjusters get those tough, targeted questions answered by drilling down into particular states rather than looking at things from a national perspective—a view workers' comp adjusters rarely have.

"Workers' comp subrogation is different than other types of subrogation because with workers' comp, subrogation laws are controlled by state statutes," says Nemo. "As a result, you have 50 different 'languages' that control how and when you can get recovery and how much recovery you can get."



Joseph Nemo

This will be the fourth year for the presentation, which has now covered 15 states. The goal is to eventually cover all 50.

"The reason we started doing this session is that it can be hard for workers' comp adjusters to go to a national convention

because of a lot of the content appeals to such a wide range of folks," says Nemo. "That's great, but a lot of times those on the workers' comp side end up with some very specific

Session Info

Who: Joseph Nemo, Attorney and Chair of Subrogation Department, Arthur Chapman Kettering Smetak and Pikala, P.A.

What: State-Specific Subrogation: Coast to Coast (Workers' Comp Track)

When: 12:30 pm

Where: Sanibel 1 & 2

questions based on the nuances of the particular states in which they have files, and they don't know what to do or how to get answers."

During the session, attorneys will speak about the nuances and the challenges of recovery in their particular jurisdictions. They will discuss the tougher aspects of the relevant state laws as well as the nuts-and-bolts

aspects for adjusters who wish to pick up a jurisdiction. As in past years, three states will be addressed directly: Michigan, Connecticut, and Oklahoma.

"I think it's been an enlightening session every year, especially for adjusters who handle more than one state in terms of recovery," says Nemo. "I have a lot of clients who handle three, five, or even nine different jurisdictions. With the recovery statutes being different in every state, it becomes an awfully large task to learn and keep up with case law changes, not to mention legislative changes to statute structures."

Nemo offers handouts and slides for each jurisdiction every year, so by the end of this process an adjuster will end up with a compendium of resource materials

Workers' Comp, continued on page 7 ▶

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SESSION PREVIEW

To Catch a Leak

By **Drew Choiniere,**
Contributing Editor

Let's say you've just built your dream house—a cozy, two-story, American neo-classical home. It has perfectly stained oak floors, a paint color that's just the right shade of green, and a fireplace mantel that not only keeps up with the Jones', but surpasses it. Now imagine that you go on vacation, only to return to find your newly minted home full of water gushing all over your hard work and investment.

In a session titled, "Plumbing Fitting Failures...Got Bad Brass?" attorney David Taylor and metallurgic engineer David Kramer will tackle both the legal and scientific sides of an issue that is becoming more and more prevalent in the residential plumbing

industry—the sudden breakdown of brass plumbing components.

For Kramer, the failure of these fittings is nothing new. He notes that the problems continue to occur because Chinese and other off-shore suppliers are making components cheaply and quickly out of questionable brass.

"Brass is a common material used in plumbing applications," says Kramer. "But when suppliers use a lower grade brass that contains a higher level of zinc, it can cause problems when the fittings are exposed to water, especially the kind of water found in Midwest states. It often results in stress corrosion and cracking."

These cracks, which typically occur sometime between six months and four years after being installed, can cause an unimpeded flow of water into a home.

During their presentation, Kramer will delve more deeply into the metallurgic components and the failings of these mechanisms. He admits the metallurgic community has known about these brass problems for over 100 years, but with the increase in demand for cheap, hastily made products from foreign markets, he sees where many might ignore the obvious warning signs in front of them.

Co-presenter Taylor will also explore a number of different class-action suits and other subrogation matters being brought against manufacturers that pertain directly to these kinds of plumbing failure claims. He will discuss how to go about subrogating these claims and when to bring in an expert to analyze and preserve the site.

For Kramer, he hopes that his portion of the presentation is insightful because insurers need to be made

Session Info

Who: David Kramer, Metallurgical Engineer; Crane Engineering; and David Taylor, Attorney, Yost & Bail

What: Plumbing Fitting Failures...Got Bad Brass? (Property Track)

When: 12:30 pm

Where: Miami 1, 2, 3

aware of the problem so they can properly identify a culprit.

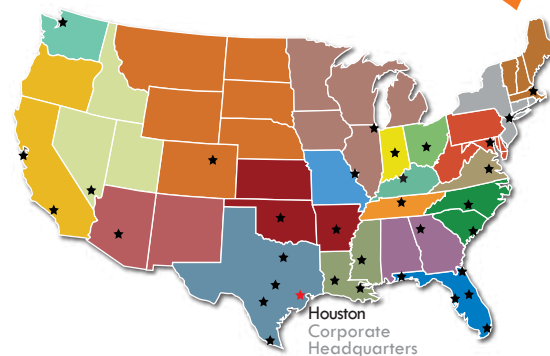
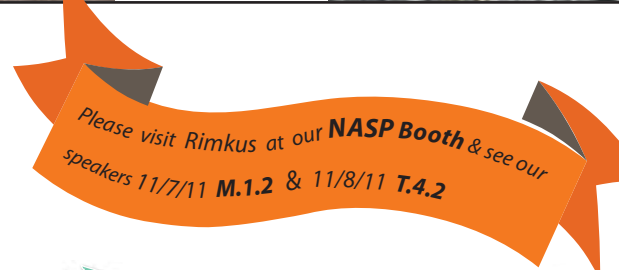
"I hope I can help companies develop an understanding that these leaks, these water damage claims, could be the work of broken brass fixtures," says Kramer. "They need to see that these potential damaging problems could be the work of a leaking fixture that could have been easily replaced or repaired." *



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- Fire Origin & Cause Determination
- Safety / Guarding / Warnings Evaluation
- Financial Forensics
- Sprinkler System & Failure Analysis
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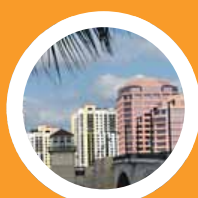
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Sessions at a Glance

The Loss Control Defense (General)

“In the last several years, we’re starting to see defendants in subrogation cases using the loss control efforts of the subrogating insurer against them. For instance, there is potential for a comparative fault defense if they can establish that a loss control person told an insured about a hazard, but the insured did nothing about it. I want to get a feel from other people around the country if they’re seeing this and if we are responding in a reasonably uniform manner as subrogation lawyers.” *



Kevin Smith

Who: Kevin Smith
When: 8:30 am
Where: Naples

How to Utilize SIU During a Subro Investigation (Management)

“Typically, SIU is involved in arson and fraud, but I think that more and more companies are beginning to use information that SIU develops to assist in a subrogation investigation. I think SIU is growing and becoming more involved. In the investigation of an arson claim, for instance, information an SIU uncovers may very well give rise to a subrogation claim. I think that kind of information is starting to be shared more often, and I think technology is helping.” *



Matthew Peaire

Who: Matthew Peaire, Andrew Scanlon, and Robert Swann
When: 8:30 am
Where: Captiva

Second Injury Funds: Still a Viable Recovery Tool? (Workers’ Comp)

“Second injury funds are a dying breed, but I think it’s important for a workers’ compensation professional to have a good, solid understanding of what is still out there and what can be done about it. I want to make sure they understand where they can still file claims and also where the pitfalls are. There is a lot of ‘law by rumor’ out there when it comes to second injury funds. But there is still money out there to be had, you just have to be aggressive about pursuing it.” *



Mark Nevils

Who: Mark Nevils
When: 10:15 am
Where: Sanibel 1 & 2

► **Workers’ Comp**, continued from page 4

on every state—if they attend every year. But that’s not all he hopes they leave with.

“My hope is that attendees take away a basic understanding of how workers’ comp subrogation recovery works in the states we’ll be discussing,” he says. “Also, I hope they will have an understanding of some of the unique challenges in those jurisdictions with respect to recovery. That includes things such as how and when they can initiate action, or how to counter tactics utilized by an employee’s attorney to try and reduce a recovery.

“Every state has its own set of issues and challenges with recovery that are different from other states,” he continues. “So our goal is that people will walk away with an understanding of what the challenges are in these particular jurisdictions, and provide them with a set of tools to help them address those issues while maximizing recovery.” *



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