>>: Hello and welcome to the MCLE Workers' Compensation Spotlight on Massachusetts Workers' Compensation. My name is Ryan Benharris. I'm an attorney at the law office Deborah G. Kohl in Fall River, Massachusetts. I personally represent injured workers on worker's compensation cases. That is all I've done for the past 17 years. We represent injured workers at the Massachusetts Department of Industrial Accidents, which is where all of the worker's compensation cases are litigated. We represent everybody from public employees to private employees. We handle all aspects of the worker's compensation world. Just by way of background, I have a bachelor's degree from the University of Massachusetts at Amherst. I got my J.D. from the Southern New England School of Law at Dartmouth, Massachusetts, which is now the University of Massachusetts School of Law. As I indicated, I've been a workers comp attorney for 17 years. In my time as a worker's comp attorney, I have authored in a portion of the LexisNexis Practice Guide on Massachusetts Workers' Compensation. I've also written for LexisNexis, in its capacity. I have served as the chair of the Massachusetts Bar Association section on worker's compensation. And I've also been a board member - excuse me - for the Worker's Injury Law and Advocacy Group, which is a national organization for attorneys who represent injured workers all over the country. I've been on that board and I've been a lecturer for that organization for about 10 years.

>>: And good morning. My name is Karissa Mayo. I am a defense attorney from Mellon & McCurdy. We are located in Boston. We represent self-insureds, workers comp carriers, TPAs, a variety of anybody that has rights - Massachusetts workers comp, we will represent them. We also handle subrogation in third parties for our clients. I've been doing this for 15 years. I graduated from Johnson & Wales University with a bachelor's degree. I went to law school at the Massachusetts School of Law. Following law school, I kind of dove into this industry. I have a pretty extensive background in the second injury fund, which is something that we'll get to later on in our discussions. But it's specific to self-insured insurers in Massachusetts. I also am part of the Massachusetts Bar Association. I often regularly conduct seminars and trainings for our clients, providing them up-to-date changes in worker's compensation. I've done - I've also authored a couple of articles on the COVID-19 and the impact that that's had on our clients. And I look forward to discussing this with you all today.

>>: OK. So we are going to talk about the process on how to represent either insurer and employees - we're going to talk about, in the process, how to represent employees, insurers and employers in the worker's compensation field. For this portion of the lecture, I'm going to talk about representing an injured worker. So when somebody comes to my office and is looking for representation for an injury that they sustained at work, there's a lot of things that need to be done right away. So the first thing to note is that all of worker's compensation is statutory in Massachusetts. Worker's compensation is litigated under chapter 152 of the Massachusetts General Laws. Worker's compensation is an exclusive remedy for an injured worker. What that means is that the injured worker must go through the worker's compensation system. An injured worker cannot bring a lawsuit against their employer for negligence if they're injured at work. This is usually something that the injured worker doesn't know or doesn't understand when they become injured. And when they look for an attorney, it's something that they bring up. So what happens is, they'll come to our office and they'll be looking for representation on their case. And there are several things that should be done, if you're an injured worker, after you sustained an injury, that we check to see if they've already done. The first thing that an injured worker should do

immediately upon sustaining an injury at work, is they should seek medical attention. They should notify somebody at work that they've been hurt, if it wasn't a witnessed accident. And then they should seek medical attention. It's important, so that they get medical attention for any injuries that they may have sustained. As soon as feasibly possible, the injured worker should notify somebody at the employer and let them know that something happened. That's important because that creates a record, with respect to whether or not an incident took place and whether or not the factual evidence will begin to be established. So an injured worker should file a notice with their employer. However, it's not required that they do that. And the first thing that I tell my clients is, the only requirement that they have in their entire case is that they must bring a claim at the Department of Industrial accidents within four years of the date that they were injured or with the - or date that they reasonably knew that they became injured at work. That, essentially, is our worker's compensation statute of limitations. So that is something to know, as a practitioner, that if you have a worker's compensation situation, you need to have a claim filed on behalf of the employee within four years of the date of injury. Failure to file a claim with the Department of Industrial Accidents within four years of the date of injury will bar the employee from bringing the claim in the future. So when the employee comes to you and indicates that they have been hurt at work, you need to find out if a claim has ever been filed. If it's not, you likely want to file a claim. When the injured worker gets hurt at work, the insurance company will likely do an investigation after they find out that something happened. The insurance company will look into what happened to the injured worker. And if they determine within the first 28 days that the injured worker was injured at work, the insurance company can pay that injured worker what's called, without prejudice. They can pay them their benefits. The insurer - the insurance company can do that for 180 days, without prejudice. And within that 180 days, they can terminate benefits. Karissa will talk about how to do that later on. But what's - what you need to know, if you're representing a potentially injured worker, is that they can get paid, without filing any paperwork, by the insurance company, if the insurance company voluntarily pays them. Something to keep in mind is, if the insurance company makes a voluntary payment to the employee, that will toll your statute of limitations. So at that point, there is no longer the requirement to file the claim within four years, because payment to the employee of benefits under the Worker's Compensation Act tolls the statute of limitations. So let's talk about benefits and what an employee can get from worker's comp. The insurance company, if they are responsible for an injury - for an injury that happened at work, will pay the employee indemnity benefits, meaning a weekly check. They will pay for their medical treatment and they will pay for any permanent disfigurement and loss of function. Very notably, if the person is injured at work under the Worker's Compensation Act, the work - the injured worker cannot get pain and suffering. This is not a tort remedy and, therefore, there is no pain and suffering. So the injured worker will get paid under the statute. In chapter 152, section 34 indicates that the employee can get total disability benefits if they're unable to work in any capacity. Total disability benefits pay 60% of the employee's average weekly wage, for up to three years. After the end of the three years, the employee could collect partial disability benefits, under section 35, for up to four years. However, the insurance company can commence payment of section 35, the partial disability, at any time when the employee becomes partially disabled, meaning that if the employee is able to work in some capacity, but not in the capacity where they can make their average, weekly wage, the insurance company can pay them partial disability. So if a client comes to you and indicates that they're currently collecting benefits, you need to find out if they're collecting benefits under section 34, which is total disability, or section 35, which is partial disability. If there's any dispute, with respect to the disability

benefits that the employee you should be receiving, you need to file a claim. The claims filed at the Department of Industrial Accidents, and all claims are handled virtually, through the Department of Industrial Accident's digital management system at mass.gov/dia. You need to file a claim at the Department of Industrial Accidents for disability benefits. Once that happens, then the claim will be processed by the insurance company. You should indicate to your potential client that it takes time to get these cases processed. If an injured worker is not being paid anything, it can take approximately three weeks to get an event at the Department of Industrial Accidents, that we will talk about later, where the injured worker's case would first be heard by the Department of Industrial Accidents. Feasibly, it could take up to three or four months before the injured worker sees any money. This is a problem for injured workers, because many workers live paycheck to paycheck. And if they're no longer getting payment, this process could be lengthy and could require them to be without a money. That's why, as a practitioner, you need to be cognizant of the fact that there are time restraints and that these claims need to be filed timely, so that these injured workers can be taken care of adequately. When you're doing an intake with an injured worker, there are very important things to ask them. You want to ask them, obviously, their biographical information, their name, their age, their educational background, their vocational background. You want to find out if they have - what they've done for work. You want to find out who they worked for, get the who, the where, the when, the why - who they worked for, how long they've worked there for, how much they're being paid in that job. You want to find out how they got hurt at work. Who - were there any witnesses when the injury happened? Very importantly, you want to find out what body part was injured. Did they injure their back? Did they injure their leg? Is it a psychological injury? Under the chapter 152, psychological injuries are compensable. So if their incident involves post-traumatic stress disorder or some sort of anxiety or depression that was caused by the incident at work, that's a compensable claim. You want to find out who they reported the injury to. You also want to find out if the injured worker has ever been injured before, either at work or not at work. Because there are specific defenses that could be raised if this - if the injured worker was injured previously, had an injury to the same body part previously. And there are defenses to the defenses, if the injured worker was hurt at work previously, as opposed to if they weren't hurt at work previously, or if they were hurt somewhere else. You want to get all of that information and compile that, and a good intake, so that when you file your claim, those are questions that will be asked at the Department of Industrial Accidents. Once you have all that information, then you can adequately file your claim. You want to get medical records on an injured worker before you file the claim. All claims of the Department of Industrial Accidents need to be filed with accompanying medical records showing that the injury is causally related to this specific incident that happened at work. Finally, when you take a worker's compensation case, you need to acknowledge that the injuries that Massachusetts finds compensable, under the statute, are injuries that arise out of and in the course of the employee's employment. So the injury has to arise out of, and in the course of the employment. Further, the nature of the disability or the need for medical treatment needs to be causally related to an incident, or series of incidents, that happen at work. Having a good intake and having a good understanding of your new client will help you represent these people as they go through the process. Because it is a lengthy process, where injured workers often are very anxious and apprehensive about where their money's going to come from, where their medical treatment is going to come from, and how they're going to be able to live their everyday life. Because often these injuries have upended their entire ability to live.

>>: Thanks, Ryan. So from the other side of the fence, from the insurance side of the fence, I can't implore more to all of you, we are a very form-based system, with worker's compensation. We - there's numerous forms that we'll go into some detail, some of them today, but I do urge you to go on to the Department of Industrial websites. Because it will give you - it is a pretty friendly system that will provide you with all the numerical forms that we file throughout litigation. These forms are crucial for insurers in the Commonwealth. So on the onset of a claim, as Ryan indicated, doing intake, intake is just as important for the insurer. It's very important to keep an open dialogue, in asking employers to keep open dialogue with their injured worker. Oftentimes, injuries do get reported directly to the employer. And we ask the employers, you know, to get as much information and description of the injury that's being reported to them, noting if there were any witnesses to this injury. Also any prior injuries - getting that information is always better to have on the onset of the claim. Another thing to always keep in mind is identifying third parties. Where was the employee injured? What was the mechanism of injury? Oftentimes, if we have a slip and fall, there could be - someone could be responsible for plowing that - plowing that parking lot. So it might not necessarily be - there might be remedy for the insurer if they do - if the initial case does become compensable. Another thing to keep in mind is wages. Wages are crucial to get as much information from the employer - the rate of pay that the employee was making; how long they've worked there for; calculating average weekly wages can be an art, depending on the length of employment and nature of payment; and also discussing with that employer the nature of the relationship with the employee and taking that with a grain of salt. And also, you know, understanding that employers can get very nervous of worker's compensation claims and what impact they can have on their ratings and modifications, you know, an exposure for them. And so you want to keep an open line of communication with all parties in expressing to them the more information that you have on the onset helps us make determinations. Light duty prospects is also a great way, if someone is injured and they're unable to do the particular job, they were tasked with, pre-injury. There's potential to continue the employee's employment, doing something different for the interim and allowing that person to get medical treatment, if deemed compensable. With respect to forms that - the most - the number one form on the onset of a claim that you really would want your employers - and to be aware of is, that first notice of injury. That's the form 101. And it only needs to be - it's required to be filed if the employee loses more than five days of work. Generally, the employer will report that to the insurer, carrier, or TPA, and they will file that form. That - that's something that you want to keep your eye on and make sure that is, in fact, filed, because there can be a penalty, down the road, if they don't file that form. The other big indicator is determining whether you're going to pay or deny the claim. That is the - a decision that we need to make within the first 14 days of the claim. It's a critical period of time. And, again, we - the early onset of the claim, you want to be aggressive in getting as much information as you can from your client, so you can make an accurate determination as to whether this is a claim that we are going to voluntarily issue payment or we're going to maintain a denial. There are going to be circumstances where there's highly questionable claims that will be denied. But alternatively, there are going to be scenarios where, perhaps, there, you know, that there are claims and there are injuries, and voluntarily - payment should be initiated to allow the injured worker to get medical treatment and, hopefully, make a full return back to work. That period, as Ryan indicated, is called a payment without prejudice period. And if that is properly perfected, it allows the insurer 180 days to pay the employee indemnity benefits, without what we call, "accepting liability." And I use that in quotes, "accepting liability." What that essentially does - it's a powerful tool for the insurers, where it allows them to continue to investigate

their claim and it allows them to terminate or modify an employee's benefit, with seven days' notice to them, without having to go before an administrative judge. And that is the difference between having a case and perfecting the payment without prejudice period, versus exceeding the 180th day. Because after the 180th day is paid, the only way for an insurer to modify or terminate benefits is going to file a form 108 and going before an administrative judge. That requires litigation. That requires, you know, and that - you can - adding in three to four months into your claims process. So it is particularly important in the early onset. I personally always tell my clients to perfect that period, that payment without prejudice period, I believe strongly ensures a - it shows you fair weather at - better as an insurer for initiating and reviewing the claim than you do just a flat denial, based without any medical base. If you have medical records before you that support a documented injury and it also notifies - the employer's been notified, I think it's very resourceful for the clients and for the insurers to initiate payment on a without-prejudice basis and investigate the claim. This will allow you to explore and investigate, talk to potential witnesses. It allows - during this time, a lot of the adjusters will obtain recorded statements from the employee, getting an accurate understanding of what and how the injury occurred. There might be some conservative, medical treatments that the employee may need. For instance, an MRI or an orthopedic consult. This is the period of time where you can authorize these medical visits, get a clear history, get a clear medical plan as to what the employee will need for medical treatment and determine - and make determinations, moving forward. It also allows time for the employee's medical picture to improve. And that improvement may allow the employee to return back to work. I think many employees, and I'm sure Ryan can agree, do want to go back to work. You know, 60% of your average weekly wage is not 100%. So I think many injured workers do want to come back to work. They do want to improve their condition. Unfortunately, we often find that the - many - injuries that occur in a worker's comp and in industry are due to a physical job. So it does create, you know, issues in getting an employee back to, perhaps, what they were doing. But if you have a good relationship with your employer and are able to provide a light-duty job, it certainly can change the exposure and it can change the avenue that the case is on. You also want to note different evaluations that we will use as an insurer. Independent medical evaluations are, you know, an - are experts. Whether we find the specialty in which the employee needs - if the employee has an orthopedic injury, we generally will want an independent orthopedic doctor to evaluate the employee, if there's specific requests for treatment. I'm a big believer of conservative care, certainly is the way to at least initiate. But, you know, there will be requests for surgery and there could be complications, as Ryan indicated, where there is a significant prior medical history, and wanting to know that impact of that prior medical history. And, you know, what the employee needs for medical treatment. Is that impacting it? So that's a very good tool to always use and bring to your party's attention. If you do identify that there's a third party involvement, you want to be sure that notice is provided to that third party, so they're aware that there's a worker's compensation claim. And you provide them notice of lien so they're aware that you are, in fact, paying benefits associated with that injury. And you always want to keep an open line of communication with your employer and with the insurance adjuster. Because oftentimes with employers, this becomes very personal, as it does on the employee side, becomes a very personal - it's a person's livelihood, it's a person's business, and they feel, you know, very personally impacted by what's going on. So I believe that keeping open lines of communication among the parties is critical in keeping everybody on the same page and moving the case forward and moving towards, ultimately moving towards a resolution.

>>: Great. OK. Let's talk about sources of workers' compensation. Where do we get our worker's compensation laws from? If you are handling a Massachusetts worker's compensation case, your main source is going to be Massachusetts General Laws, Chapter 152. That is essentially where all of the rules and regulations are governed by the Commonwealth of Massachusetts for a workers' compensation case. Almost entirely, all of your practice will be statutory based. The claims are filed under the statute. The defenses are available under the statute. The procedure is defined under the statute. So you want to familiarize yourself with chapter 152, because it is essentially our entire textbook on how to handle these cases. There are some case laws that are - there are some cases that are available that have created case law. There are cases to become familiar with that the workers compensation - in the workers' compensation field. However, just remember, cases are decided by our reviewing board. So after a worker's compensation case has been fully litigated at the Department of Industrial Accidents, there is a reviewing board to review a judge's decision, and those cases are published. And those cases are, for all intents and purposes, are part of the law. If a aggrieved at the reviewing board, cases do sometimes go up to the appeals court and sometimes to the Supreme Judicial Court, where there are workers compensation cases that are heard there. But for the most part, the statute is going to be the textbook for how you are going to handle a worker's compensation case. Let's talk about the Department of Industrial Accidents. What is the Department of Industrial Accidents? The Department of Industrial Accidents is an administrative agency, under - operating under the Executive Office of Labor and Workforce Development. The Department of Industrial Accidents is not a branch of the judicial system. So this is different from the cases that you're handling when you go to district and superior court or probate court or small claims court. This is entirely different. It is an administrative agency, and as such, the employees of the Department of Industrial Accidents are employees of admin - of the administrative agency. There are five regions of the Department of Industrial Accidents. Its main region is in Boston. There is a region in Florence, Worcester, Fall River and Springfield. So when you file a claim, the Department of Industrial Accidents will figure out which region is closest to the injured worker and they will assign the claim to that particular region. Once the claim gets assigned to the Department of Industrial Accidents, there's going to be people that you're going to interact with on a regular basis at the Department of Industrial Accidents. Obviously, there would be lawyers, like Karissa and I. There are also other people that work at the Department of Industrial Accidents, and those people are important to know. So first, the Department of Industrial Accidents has a full staff of administrative staff and there are regional managers for each department. There are people that work at the Department of Industrial Accidents called conciliators. What a conciliator does, is a conciliator is assigned the claim once it gets filed, to hear whether or not the party that's filed the claim has the adequate and requisite evidence to get its claim assigned to the Industrial Accident Board to be heard by a judge. So when you file your claim for your injured worker, in about three weeks, you'll get a notice from the Department of Industrial Accidents that your claim was scheduled for conciliation. It's important to note that at the conciliation, you will not see a judge. Further, the conciliator does not have any statutory or regulatory authority to order benefits to your client or, in the alternative, to take your client off of benefits. So something to note from a practical standpoint, my clients always ask me when they get the notice of conciliation, is this when I'm going to get paid? The answer to your client is probably not. This is a time for the attorneys to sit down, discuss the case, and for the conciliator to look at if all of the evidence is in order. After the conciliators, the Department of Industrial Accidents has two kinds of judges. They have administrative judges, who are tasked with hearing the evidence in the case and issuing orders and

issuing hearing decisions, determining factual evidence on whether or not the injured worker should or should not be on benefits or the medical treatment, should or should not be paid for. The administrative judges have staff that work with them to help with scheduling and processing claims, but the administrative judges hear the cases. The Department of Industrial Accidents also has administrative law judges who are making up the reviewing board, which will hear appeals from the administrative judge's decisions. The administrative law judges are also tasked with hearing lump-sum settlements, which we'll talk about later. The Department of Industrial Accidents has a senior judge. This is a judge who is tasked with overseeing the day-to-day operations of the - all of the judges - the administrative law judge, as well as the administrative judge. The senior judge is also in charge of essentially overseeing all of the day-to-day activity of what's going on at the Department of Industrial Accidents itself. Our senior judge is named Omar Hernandez. He's been the senior judge for quite a long time, and he serves as the senior judge at the Department of Industrial Accidents. Finally, the Department of Industrial Accidents has a director. The director is appointed by the governor, under the Executive Office of Work - of - Executive Office of Labor and Workforce Development. Something interesting to note is that the statute, Chapter 152, doesn't talk about a director. It talks about a commissioner. We no longer have a commissioner. We used to have a commissioner, and they changed it to a director. So anywhere in the statute where it discusses a commissioner, you can essentially change that to director. Because the - there is a director of the Department of Industrial Accidents now, not a commissioner. Finally, something to note, the Department of Industrial Accidents works with a document management system to ensure that all of the claims are heard, what is basically, commonly known as paperlessly. So all of your documents have to be filed with the Department of Industrial Accidents and you need a user account for that. So when you get a worker's compensation case in, if you've never done one before, it's good practice to reach out to the Department of Industrial Accidents, either the main office in Boston, or the regional office that's closer to you, and discuss how to get an account. You can sign up for a DIA account right on their website, as well. But all of your documents needed - need to be filed paperlessly and through the document management system. Lastly, the Department of Industrial Accidents, as do the other courts in the Commonwealth of Massachusetts, is operating on what is commonly perceived as a hybrid system, when it comes to virtual and in-person cases. The Department of Industrial Accidents operates virtually, when it comes to conciliation and conferences, which we'll talk about in a minute, as well as settlements when there is what's called a lump sum conference. However, the Department of Industrial Accidents is open and - for in-person business, when it comes to trying a case, a hearing. And we'll talk about that in a bit. So if you have a case, the DIA, know that most of your proceedings, at least at the beginning of the case, will take place virtually. So let's talk about the steps for an employee, when they file a claim and where these claims go. So you filed your claim and it's - you've got a conciliation. So you get to the conciliation and you see the conciliator from the Department of Industrial Accidents. At the time of the conciliation, you need to have medical evidence that the claim that you filed is related to the injury that happened at work. Further, if you are asking for the injured worker to be paid weekly, indemnity benefits, either under section 34 or section 35, you need medical evidence indicating that the employee is either totally disabled or partially disabled. Finally, if you filed a claim under Section 34 A, which is the statute - the section of the statute that allows for permanent and total disability, you need to make sure that you have medical evidence that indicates that the employee is permanently and totally disabled. Note, for the purposes of these cases, worker's compensation in Massachusetts does not have a statute that indicates that you can collect permanent and partial disability. We do not have permanent, partial

disability here. We have three years of total disability and four years of partial. We then have permanent and total, if you can prove that - through medical evidence, that the employee is permanently and totally disabled. If they are not, then their benefits will expire in - at the end of the three years of total and/or four years of partial disability. After the conciliation is over, and the conciliations are held virtually, the case - if there's enough evidence to be shown that the case can move on, the conciliator will refer that case to the Industrial Accident Board. And what that means is that the case will be given to an administrative judge to hear the case at a conference. Conferences are statutorily granted under Section 10 A. And what Section 10 A indicates, is that the employee must be present, in front of an administrative judge, to present their case so that the case can be heard by the judge. At conference. the employee does not give testimony. No testimony is taken. But medical evidence must be presented to prove your case. If you're representing injured workers at a conference, you need to have all of your medical records submitted. And at that point, you make an oral argument to the judge asking the judge to order benefits for your client. The judge can order any benefits under the statute, but you have to ask for them. They have to be in the claim. Failure to ask for the benefits could prevent your client from getting the benefits that they are entitled to. Failure to properly file a claim for Section 34 or Section 35 benefits, or for medical treatment could prevent the judge from having the legal authority to order benefits. So you need to make sure that you ask the judge, in the proper forms, exactly what it is that you're looking for. At the conference, parties are required to submit a conference memorandum. And those can be found online. That's a form 140. And the conference memorandum allows for the parties to put in all of their claims and all of their defenses. Failure to put a claim into the conference memo or to raise an adequate defense under the conference memo, under case law, has indicated that the - that the party that failed to either put their claim in or ask for the proper defense could have lost that right to claim that benefit or raise that defense further. So that is a very important part of this case is when you fill out the 140, you need to make sure that you ask specifically for what you're looking for. At the end of the conference, the judge will issue a conference order. The conference order can either be an order to pay benefits or a denial. The judge could issue everything that you ask for. The judge could issue some of what you ask for. Any party aggrieved by the conference order has 14 days to file an appeal at the Department of Industrial Accidents asking for a hearing. If the case is appealed, then the judge will assign the case to an impartial medical physician. Your client will be sent to an impartial doctor to then look at their case to determine whether or not the need for treatment or the disability is causally related to the incident and whether or not the injured worker is disabled. After the employee has seen that particular physician, the case will be then assigned for a hearing by the Department of Industrial Accidents. Prior to the hearing, there will be a pre-conference hearing set up where the parties will be required to file a pre-hearing memorandum - again, raising all of their defenses, giving their statement of the case - and the case will then be assigned for a hearing. The hearing is an in-person event where you must have your client there. At that point, the employee can testify. You can bring witnesses to testify. You do not call medical experts to testify in worker's compensation cases. At the time of the hearing, the only medical opinion that matters is that impartial report under section 11a. Parties can challenge whether the impartial report itself was inadequate or whether or not the medical issues in dispute are so complex that they want more medical evidence to be brought into the case. However, failure to file a motion for that leaves the impartial as the only thing that the judge can use to make a determination medically on your client. So at that time you try the case, but medical experts do not testify. Typically, hearings last maybe for one day, sometimes two at the most. At the end of the

hearing, the judge will write a hearing decision. Those sometimes take up to several months. And then the judge can issue a hearing decision on whether or not benefits should be paid. Any party that's aggrieved by the hearing can then appeal it to the reviewing board to find out if the judge in the hearing decision abused their discretion or inadequately applied the law. And the reviewing board will look over whether or not that has happened. So if you're representing injured workers, one thing to note right off the bat is that this is not a short process. From beginning to end, from filing the claim to getting the hearing, sometimes that's about a year. There are times that your client could get benefits at the conference, which is about - usually about 3 to 4 months from when the claim is filed. That's the time that you really want to shoot for to try to get your clients on benefits if they're not. Because if they don't get on benefits at the conference, then it could be about six months before they have a hearing. Cases can also settle at any time. If a case settles, then you have to ask the judge for a lump sum conference. And judges will hear settlements that are in the best interests of the employee. And that's a statutory requirement. Settlements are also done in the private and industrial accidents forms. Those forms can be found online, and the settlements must be done in those proper forms in order to get approved.

>>: OK. And from the insurer perspective, going back to filing the claim and the claims process. So by way of speaking, the employee, to initiate litigation, files a claim. That's a form 110. Inversely, the way the insurer initiate litigation is by filing what we call form 108. That is a complaint to either modify or discontinue benefits. So there's going to be two instances where you're presenting yourself to the initial phase of litigation, which is the conciliation. When presenting your - when you're presenting and representing on in a complaint, you generally are going to know a lot more about what's going on in the file because you are initiating litigation and likely have filed the 108. When we - typically, there's times when we receive employee claims, and you might be getting the file for the first time an hour before you're set to appear. It's important to really use the conciliation time as an opportunity to get as much information as you can about the employee's claim in particular. There are times when the employee's claim is the first time that the employer or the insurer is getting knowledge of the work injury - particularly the insurer. If the employer hasn't reported it to the insurer, this may be the first time that you are getting information for your client. So you want to be mindful of getting all the information - witnesses, as I indicated earlier - all the information that I discussed earlier, you want to make sure you're getting all of that from your - from employee counsel at the conciliation phase. At this phase, also, it's important that if there is enough information that's provided to you to give you an idea that perhaps there's something there. There's medical evidence to show that there was a work injury - supporting a work injury. A lot of times at this phase, we will ask the conciliator to hold the employee's claim for typically a week or two weeks. Why we do this is to allow ourselves time to report back to our clients and say, hey, here's the information that we heard of. You know, Paul was injured and reported it to Harry. You know, can you reach out to Harry? Does he recall this happening? And getting more information because once we send - as the insurer, once we send the case forward, is - the way we terminize it - that costs us money. There is a referral fee that needs to be paid by the insurer. So it is important for us to look into and see what in particular the claim's for. If the claim is for an adjustment of an average weekly wage, you know, that's probably - likely something we can adjust at the conciliation level. There could be an instance where there could be an improper termination of someone's benefits - something that we can adjust and work out at the conciliation phase. If there's a benign or more conservative form of treatment, if it's, say, hypothetically, the employee is looking for a

week of physical therapy, might be worthwhile speaking to your client about potentially authorising - without prejudice, without liability - at the conciliation fees. That will save your client a lot of money and allow the benign treatment to get performed and then to have a bigger picture of where the case is moving forward. So I do think it's a great phase to - and don't be afraid to ask for time. Rarely do you have employee attorneys get upset and say, no, absolutely not. Certainly, as Ryan said, there can be urgency with someone getting paid. But generally, everyone relies in good faith to provide an update for at least a week to get some additional information - in particular, if this is in fact the first time you are hearing about the claim. If this claim is going to maintain our denials - so the form 104 is the form in which the insurers use to deny the claim. That needs to be paid - filed within the 14 days. That's done electronically, as Ryan indicated. All of our forms are electronically filed. So that's something that will need to be electronically filed. You want to make sure that is filed within the 14 days. As a practical standpoint, when I get claims and cases from clients, I always make sure to check if there is in fact a 104 that has been filed if it has not been done. So I do typically file those on behalf of my clients. They do need to be sent certified mail to the employee and to their attorney. Since COVID - and I think just times have changed - we do send copies via email to employee counsel and ask if they'll waive the notice requirement. And often that - they will do that as long as they've acknowledged that. So. After the conciliation phase, if this is the case that we're going to maintain our denial and our defenses, you want to make sure on that form 104 that you are checking off all the reasons in which you are denying the case. On the last page, there's a number of defenses that can be raised - jurisdiction, lack of notice to name a few. And then there's a catch-all at the bottom - pre-existing conditions or any other reason. I err on the side of caution, and I always check off all defenses. I preserve everything. It's better to be safe than sorry. You want to make sure that you're always including 17a. That is the insurer's number one defense which is related to pre-existing medical conditions. Even if you don't know about the person's prior medical history - which you probably don't at that point - make sure you reserve it. It's important to do so. You don't want to lose that defense moving forward. After the conciliation phase, Ryan indicated this moves on to conference. And that's really a very important step for the insurer. You're teeing up into the conference. That's when you're going to get assigned to a judge, and that's where that temporary conference order is going to be issued. So you want to be sure during that time period that you are getting as much information about this case, any potential witness statements you want to be subpoenaing, prior medical records - in particular, if you're seeing in post medical treatment that this person had a back injury and was in a motor vehicle accident two months before his work injury, you want to make sure that you're getting all those medicals. Because you want to get as much of a medical timeline as you can for this case so that you can compile your medical records and have your expert doctor provide you with an opinion as to the extent of the employee's disability, their ongoing need for treatment and disability. Those are the three major - and whether it's causally related to the work injury. Because certainly, there is going to be degenerative and underlying conditions that may be impacting someone's ability to work, but not necessarily due to the work injury. So those are the - that's the medical report that you - that really is so crucial. That independent medical examination is so critical for you to have at the conference level. It's - without one, you're really putting yourself at a prejudice for your client. I often recommend to my clients, I will schedule it for you. I will set this up for you. I always ask my clients to please allow me to prepare the cover letter. And, you know, a lot of the claims adjusters are extremely busy. They do form letters. And they don't have all the information that we have. So I always offer to prepare that cover letter to the doctor. And so we know that they've received

and been able to review all the medical records in which we have received. It's important to know at the conference level that can be a bit frustrating for both employers and employees. There is no testimony. So the employee doesn't provide any live testimony, nor does the employer. So when you have difficult situations with employers where it's a liability issue and they extremely oppose the claim, they don't feel that it happened, the employee faked the injury, they caused the injury themselves, it can be very difficult explaining to them we understand. However, there is medical evidence that does support an injury. So often what I do in those circumstances is I do ask the employer to fill out an affidavit. This helps - I will submit that as a non-medical exhibit to the judge, just so I can acknowledge to them that we do have a liability defense. There is an issue with liability in this case. Just so they're aware. And it helps keep the client a little bit happier knowing that their concerns have been raised. And, you know, if this matter goes to a hearing, certainly at that point they would have an opportunity to testify. You want to make sure you can provide the administrative judge and opposing counsel as much information as you can about the claim for that conference level. That temporary conference order, as Ryan mentioned, can be in place for an extremely long time and really drives the case and the exposure and where things are going. So you want to make sure that you're overprepared. During this time period - I know Ryan will have his thoughts on it, but we often assign surveillance to see, you know, people's level of activity. It's - you know, especially with someone who's reporting being physically - very physically incapacitated, it's a good idea to recommend to your client, why don't we assign some surveillance? Let's see what their level of activity is. One of the big ones now I think is more fruitful than surveillance is Facebook and social media checks. And fortunately, we have a lot of over-sharers. I'm sure you do on your own Facebook feeds. So injured workers tend to overshare as well. So that's something that I'm sure Ryan advises his clients to shut it down. But it is a source as well. So there's different sources to gather, and these are also ways for you to build your defense on the liability aspect and extent of disability. There are times at this phase of litigation when extent of disability is the main issue. We may ask our clients to obtain a labor market survey. So that is a report that is put together by a vocational counselor. We'll provide that counselor with information regarding the employee's prior medical - prior work history. We usually engage the employer as well. You know, what sort of jobs - you know, maybe if there was a job application that the employee filled out to see, you know, what sort of transferable skills. Certainly, it's a much easier argument as the insurer with a 35-year-old that they're able to obtain work in the open labor market versus a 65-year-old who's worked for the same company for 30 years. So that labor market survey can be used at the conference level. I don't often use it. It's something I typically - because they are expensive. And as you will find, insurers like to save their money sometimes. So it depends. If it's a case with a high value case, a younger person, I - you know, there might be - and it's pending on our complaint, it might be more resourceful for you to obtain that labor market survey earlier rather than waiting for hearing. So that's definitely something you'll want to discuss with your client. And - prior to - post-conciliation and pre-conference - I just want to go back to that for a second - is an opportunity, especially if we file a form 108 complaint to discontinue benefits or modify benefits. Oftentimes, that's a signal that we're looking to maybe resolve the claim or move the claim. You know, the person's reached a medical end result. The employer can't accommodate them or there's no job for them to go back to. The burden in Massachusetts is not that they can go back to their job, it's finding a job that they can do based on their age, education, work, experience and training. So oftentimes, strategically, you know, we file that form 108 to get the parties to the table. It can be difficult. We're remote now. So we used to be able to try to track people down in court. But sometimes it's just a

mechanism to get people to the table to discuss settlement, puts a little pressure on everybody, especially if you have a client that's looking to resolve the worker's compensation case. You want to note too with worker's compensation in Massachusetts, you are accepting medical treatment for the employee for their life related to the work condition as long as it remains reasonable necessarily and related. So that will remain open. There are opportunities in workman's comp to settle on what we call a no liability basis. They're rare. They're - it's not often. I mean, we do them. But oftentimes, once the case has gone past that 180-day period, it's an accepted claim. So you want to be mindful of the diagnosis in knowing - especially if someone's medical treatment has calmed down a bit and they're just treating conservatively, it's probably a good idea to start mitigating costs for your client and, hopefully, the injured worker can move on with their life and move into new employment opportunities. At the hearing phase, you know, prior to that we had the pre-hearing status conference. That has been new to us since COVID. I think it's a great opportunity for the parties to get together. Oftentimes, there is this black hole that cases kind of have, between the conference and the hearing. So the pre-hearing status conference does provide us with an opportunity to discuss the case, to discuss the impartial. There could be an issue at conference. Perhaps there was a medical dispute. The insurer doesn't want to pay for a surgery, the employee wants, and the judge may, in their conference, sort of defer to the 11 A to say, what does the impartial doctor believe this person needs? I personally live by the impartial. If the 11 A comes back and recommends that the person's surgery is reasonable, necessary related, as a practical standpoint, I think it's cost effective to talk to your client and approve the surgery and get this person on their way to recovery, if that is the sole issue. I think the impartial is a great opportunity to resolve an issue of extended disability, because those opinions are going to be the opinions that the judge relies upon. It'll help you evaluate your exposure for your client, when you're putting together a settlement analysis to them, and engages further settlement discussions with employee counsel. And also opens the door, what we've been doing a lot more of, is mediating cases. And that has been very, very resourceful. Pre-COVID, I probably did two mediations and, post-COVID, over 100. I mean, it's just a great opportunity. It's with - you can use the administrative judges at the Department of Industrial Accidents, which I highly recommend that you do. They are very knowledgeable of our laws. Certainly, you can use a private mediator. But I think that it's a great tool. It doesn't cost anybody anything to do that. And it provides you, if nothing else, opportunities to discuss the issues that are - the parties oppose on, and perhaps, creates opportunities for resolution. So I do urge you to look into mediating a case. It doesn't need to be in litigation to do, so if you happen to get a case and it's something that you think would be good for your client, if you have a difficult client. Sometimes employers can be difficult on certain issues. I invite them to come along so they can speak to the judge and have them understand their positions throughout the mediation. And that's very important. And I'll close with this, with Massachusetts, the workers comp settlements, the employer needs to consent to the settlement. They have to sign a form consenting to settlement. And that, again, can be problematic in a case that becomes personal. So I do urge, all the time, to stay as connected as you can with the employer. If you get a sense that there could be a potential issue with the employer, invite them along the process, give them the time. This is personal to them. This is their livelihood. Explain to them, let the judge explain to them why this is in their best interests to resolve the case and provide yourself with a smoother process in getting everything moved along.

>>: All right. We're going to move on to some practical points to remember when representing an injured worker. So I have three points to remember when representing injured workers. Point number one - know your clients. Know who this person is that you represent. Don't just know their background and how the injury happened. You want to know what they did before they were working. You want to know how they lived their lives. Because that's going to be a real important part of the case. What do they do all day? Who do they live with? How are they going about their day? Do they have any other hobbies or jobs that they were doing before they were hurt that they're not doing now, or that they're still doing now? All of those things are very important, because every single case at the Department of Industrial Accidents is different, based on who the injured worker is. You want to have a good line of communication with your client. Always be available to talk to them. Know that you could reach out to them at any time. Know that they will be able to - that you're accessible to them so that if they need anything, they can give you a call. It's very important to know your client. Point number two - it's equally as important to know the law. You need to understand the workers compensation law, under chapter 152. In knowing the law, you need to also be able to explain the differences between workers compensation and other types of laws to your client. Very often your client will come to you not understanding that this is not a tort case. They cannot get pain and suffering. They cannot get an apology from the employer. They're not going to have the opportunity to challenge the employer in court, most of the time. You need to be able to explain to your client what they can get on the worker's comp, and what they can't get, based under the laws. Workers comp is not going to pay them for their health insurance that they're no longer going to get. Workers comp is not going to pay them for, if they had a company car or some other fringe benefit. Worker's comp is a very, very specific set of benefits that they can get. A lot of times, clients will have other cases that they've had before, where they've had a lawsuit and they've been able to get punitive damages, they've been able to get injunctive relief. You can't get those at the Department of Industrial Accidents. And you need to be able to explain that to your client. From a practical standpoint, be able to differentiate these cases from other cases that they may have had. The last point is to be open to settlement. Settlement is very important, as Karissa explained in the worker's compensation, while cases can be settled under a variety of different ways. But when you're representing injured workers, explaining a settlement to a client is sometimes the most difficult, but the most important part of the entire case. The clients need to understand, first of all, that if they accept the settlement, that they cannot get any weekly checks, ever again, the settlement closes out their right to get weekly checks. As Karissa explained before, if the case is settled on a whiff-liability basis, meaning that the insurance company is accepting liability for the injury, treatment will be paid to your clients for medical treatment. The treatment will be paid for by the insurance company for the rest of their life, so long as they can continue to show that the treatment is reasonable, necessary and related to the injury. What right that they do keep, is that if the insurance company denies that treatment for any reason, they then can file a claim to the Department of Industrial Accidents to go before a judge and ask that that treatment be ordered. Explaining to a client that it's time to settle can be very hard. Oftentimes, clients don't understand that settlements, under the Workers Compensation Act, do not represent the fact that they may not be able to work in that job for the rest of their life. The settlements themselves, when it comes to money, represent how much weekly indemnity the person would have collected if they had remained on worker's comp. And remember, you can only get total disability for three years and partial disability for four. And that, for the most part, unless the injured worker is permanently and totally disabled and has been deemed that by a doctor, for the most part,

that is the value of most cases. That is the ceiling, all of the total and all of the partial. If the employee is deemed partially disabled before the three years of total are up, then the value of the case goes down to only how much partial is left. So being able to value a case and understand what the employee is settling for, is very important. Further, explaining to an employee that settlement effectively ends their weekly benefits, but also reduces any risk in going forward, where an administrative judge could take them off the benefits or reduce their benefits, a lot of times settlement is in their best interest, because they might make out better in a settlement than they would if they stayed on weekly worker's compensation payments. From a practical standpoint, I'll tell you that many of my clients, when their case is settled, get a sense of relief that their case is resolved, to an extent that they don't have to worry about where their weekly check is going to come from. But at the end of a lot of cases, clients also feel that the amount of money that they settle their case for, doesn't begin to put the pieces of their lives back together. And unfortunately, with worker's compensation, there's a giant divide between what you can get and what the injury has done to them and has done to their families. And you really, as a practitioner, need to be cognizant of the fact that even in settling the case, they may not be able to get their life back. They're just sort of getting to that step where they can move forward and begin to look for work or look into Social Security, either regular Social Security or Social Security Disability, if they're going to be disabled for a long period of time. But settlements are important because they resolve the employee's right to collect weekly benefits, but they also, feasibly, end the case when it comes to everything but future medical treatment.

>>: From the insurer's side, evaluating a case for settlement is equally as important, and we do use the same evaluations as an employee attorney. Typically, we are not in the same - we don't come to the same - agreement on the same amount. But we do generally always come to a compromise agreement. So, you know, that's certainly an art. And as Ryan indicated, you know, under the statute, you know, there's - it's the best of seven, in terms of being able to, you know, receive seven years of total benefits, absent Section 34 A benefits. So when evaluating a case to a client, you're - you need to provide them a cost-benefit analysis and why this is a good deal for them, to resolve the case. And oftentimes, you know, we will evaluate it based on the full exposure or the potential for a case to turn into a Section 34 A case, which would entitle the employee to ongoing compensation for their lifetime. Those are endless benefits, where they would get yearly COLA creases - increases, as well. So oftentimes it's an art, it's knowing what you've - what the employer and the insurer have paid, to date, what they could stand to pay if they continue to pay that case for seven years, and comparing it to whether it has a potential to be an employee that is permanently and totally disabled from the open labor market. You need to be mindful that a five-pound lifting restriction for a 65-year-old individual that's in a heavy, physical job is not a release. And you needing to compare releases and work restrictions in comparison to their age, their work history. What could be released for a 25-year-old and provide you with a work capacity would not apply to a 65-year-old. So there's a lot of factors when evaluating a case. It's not simply numbers. It's a part of it, but you really want your employer and the insurer to understand. Is the employee English speaking? What is their level of education that they've had? There's also the Office of Vocational Retraining, which is available to the employees at the Department of Industrial Accidents. That is available to them for up to two years from the date that they settle their case. So if you go past the two years, they're not going to be able to utilize that program. But it's a great program for injured workers to at least just go to the initial meeting and see if, perhaps, there could be some sort of placement. We, as

the insurer, will pay for that retraining to get them back into the workforce. As the insurer, we can refer people over ourselves. Oftentimes, I will do that. I will send a referral from the insurer, with an update - if I have an updated medical report that releases the employee to full duty, and I don't have a job for that individual, it's a good opportunity to, perhaps, ask the Office of Vocational Re-Training to meet with him, and see if perhaps is another opportunity to get the individual back to work. Because that's really the most important part. But being mindful to tell your client that that's still in order for you to close your exposure, that is a settlement. And settlement is - it shouldn't be perceived as giving up or we're done. It's simply, you're mitigating your client's exposure, the cost of the claim, and allowing the case to move on. Two more points, I'd just like to add, and I'll - are this. And they're more practical points, because I think Ryan's done a great job summarizing the best - the more perspective parts. But the Massachusetts worker's comp is a very small bar. You have to always keep in mind - I think it's very important when you practice in this area to know you are going - you have one client, but you are going to see the same attorneys over and over again. And while - what is very personal to an employee or very personal to an insurer, be mindful that you are going to be representing many clients and many insurers throughout your time at the Department of Industrial Accidents, and to really represent yourself and use candor that you want yourself to be remembered by. Because certainly, we all need to advocate for our clients and we all do so. But be mindful that you are going to be playing in the same sandbox, the - lot of the same people and same lawyers and same administrative judges. So you want to keep in mind that that is going to be something - a recurrent theme throughout your practice. And it's very important. I do find that in this bar, and I'm not saying this because we practice here, but we do get along very well. Everybody gets along very well. We tend to try to - everyone works in the best interests of their clients to move things towards a resolution and work that way. So that's just a really important part that I would just like to add, and I think you can wrap it up, Brian. Because I don't think I - that was just the one last thing I'd like to add.

>>: Great. In summary, we want to go over, just before we leave, some other types of cases that might arise from a worker's compensation case. So as any case that you might handle, no matter what type of law, someone might come to you with what looks to be a worker's comp case, but could have other elements to it. It's important to be able to identify if there are other cases inside of a worker's compensation case. And I'll explain in a second why it's important, because not only is it important to represent your client, but it might be important because of the - because of duties that you might have to that client. So the first and most common type of case that comes out of a worker's compensation case, different type of case, is a third-party case. So basically, you can never sue your employer in tort if you're an injured worker. However, if the injured worker's injury is the fault of a third party, that is not someone that works for or with the employer directly, you can bring a third-party lawsuit against that third party. And when I say whiff, I'm not including if it's different companies that are working together. But if it's a co-employee, there's no third party case there. But classic, third-party case, is if your employee is a truck driver and he's stopped at a red light and he gets rear ended. Well, he has two cases there. He has a worker's comp case that falls into chapter 152, and he's got a third-party case. He can bring a lawsuit against the person who hit him. Remember, that in any third-party case, the worker's comp insurer has a statutory lien to whatever recovery can be brought, can be - that is gotten in the third-party case. You want to be on the lookout for a third-party case, whether it be motor vehicle accidents or products liability cases, if somebody is injured by negligent machine work, other types of

third-party cases. The other reason why you want to just be cognizant of them, because they might be cases that you could help the employee with, you might have malpractice issues there. Remember that those cases have specific statutes of limitation on their own, and failure to notify your client that they might have a third-party case or they might have one of these other cases, that could create malpractice liability on you. So you want to make sure that if there is a potential third-party case or, any other type of case, that you're able to identify those cases and tell your client about it. Just a couple of other types of cases that I was thinking of when we were going through this, you're - if your client is disabled, they might be eligible for Social Security disability. That's an entirely separate application. It gets filed through the federal government. You do want to advise your client. Usually social - Social Security requires that you're physically unable to work for a year, whether it be that you're going to be unable to work for a year or you will be, or you've already been unable to work for a year. But if you are disabled, you might have the ability to collect Social Security disability. If your client is a public employee, if they work for the state or city or a town in Massachusetts, they can't get Social Security Disability, usually, because they're not paying into it. Instead, they're paying into a public retirement program and they might be eligible for what's called an accidental disability retirement. Accidental disability retirements are granted if the public employee can show that they're physically incapable of performing the essential duties of their job, that it's likely to be permanent, and it's from the natural and proximate result of an injury or series of injuries that happened at work. Be mindful that there is a two-year notice requirement, with respect to accidental disability retirement. If you fail to file the application for accidental disability retirement on your public employee within two years, you may - they may be barred from bringing an application in the future. There are specific things that toll that two-year notice requirement. But if you have a public employee, you probably want to be sure that they know about the potential to collect an accidental disability retirement. They might have employee discrimination issues - employment discrimination issues. They may have been discriminated against, based on their disability. So you want to be able to ask your client if those things happened at work. They might have unemployment issues that could tangle in with the worker's compensation case. And remember that those discrimination and unemployment have their own set of rules and their own set of facts. But if those are questions that are in there, you want to be able to address those with your client.

>>: And I'll just finish with this second injury fund. That is the biggie for insurance carriers and self-insureds. That can be - it's called section 37 of our statute. And that allows self-insureds and insurance carriers to - there's a fund that they pay into, as part of their premiums, where an employee who has a pre-existing medical condition, that is injured, and it allows the insurance carrier to get some reimbursement back, in certain cases where they've paid out benefits. There are many caveats with it. Because certainly it's a fund that there are certain requirements that need to be surmised before you can submit for reimbursement. One of the big things is that there is a pre-existing medical condition. That pre-existing medical condition does not need to be the same body part. So it doesn't necessarily need to be someone who had an injury to their back before this. It could be diabetes, is a medical condition that oftentimes is used, because it delays healing. You know, anybody with a preexisting back injury, typically that can tend to cause some aggravations with ongoing recovery for any upper-extremity, lower-extremity injury. So there - I've used psychological as a prior, we've used neurological. So it's - if you identify, in the course of looking through your file, that someone has a significant, you know, prior-work medical condition, it doesn't need to be work related, that's impacting, you know,

ongoing recovery, that's something that you want to take note of. Now that condition - the other - number two, is that the employer needs to know about it. That's the big one. And that tends to be the hurdle that's most difficult for the insurers to get beyond. That needs to - be the employer needs to be aware of it prior to the date of injury. It's not prior to the date of hire. It's prior to the date of injury. And certainly, with HIPAA requirements and non-disclosures, it can simply be a conversation that the employee had with their supervisor. Oftentimes, I'll ask clients to talk to the employer and say, hey, did Joe ever mention he had prior back surgery? Did you ever provide him with accommodations because he had issues with his back? I'm trying to get an idea - I will also ask for personnel files to see if anything - if there was a job application, where that was disclosed to the employer. That can also be used as, quote, "knowledge." And the easiest one is when there is, in fact, a prior work injury. That's typically the easiest. Certainly, the employer had knowledge of it and you're able to use that as your medical evidence. Part three is that you need to obtain a medical opinion to show that there - the ongoing disability was substantially greater, due to this preexisting condition. And the premise behind that is that the insurance company, we have to - we take employees as we find them. And that can be a difficult pill to swallow for a lot of employers. So when that becomes an issue with employers, I always like to pump them up with the second injury fund and say, you know, this is why this fund was created, because we do take employees as they are, even if they had a prior work condition. It's a 1% aggravation, which is merely nothing, for it to be transferred to another risk. So, you know, we do typically - are taking employees as they are. And certainly this fund goes back to World War II, I believe when I used to do all my presentating on this, and to encourage employers not to discriminate from people coming back from war who were - and missing limbs and not allowing them to work. So it's to encourage - it was to the - encourage the employers. And now we've evolved it into other, obviously, lesser medical conditions, but certainly that add to ongoing exposure for the insurer. And lastly, it doesn't apply in every case. So you have a, you know, a minor case. It's not going to apply the standard that the second injury fund will look at. Is that - the person either needs to be deemed perm total or an argument can be made that the settlement of the case is expressive of perm total exposure. So typically, you know, it's a case where the employee has exhausted a fair amount of their benefits and you settled the case with the anticipation in mind that this would likely have evolved into a permanent and total disability case. If they don't, you know, we want to make sure that the language that's included in your lump-sum settlement is reflective of that. And at that point, we can put that together and you would submit that to the second injury fund and they will make a determination as to whether they're going to accept the petition that you file. There's often a negotiation process. There are attorneys that work for the second injury fund that do negotiate back-and-forth with the insurance carrier. As I indicated earlier, Massachusetts is a rolling, medical submission. I mean, oftentimes it's rare that you're going to settle a case with a big surgery on the horizon. Most employee counsel would wait for that to happen. But we are finding with chronic pain management, a lot of the treatment that employees require for quite a period of time are quite expensive - Ketamine infusions, opioid drugs can add to there. So it's there's certainly value. And you're only allowed to go back two years to request your medical from the date you filed. Whereas when you lump-sum settle the case, we're working off the lump-sum settlement value.

>>: All right. So in closing, we - I just wanted to go over a couple things. First, thank you for allowing us to do this. We hope that this has been informative. I can attest that working in the workers compensation field has been a very fulfilling career for me. I just wanted to let you know that if you do

have questions that there are resources out there that you can reach out to first. The Department of Industrial Accidents is very, very open and responsive to questions. You can always call over there if you have questions about how to use their document management system, if you have questions about where to file a claim, if you need a referral to an attorney, they have lists of names of people that regularly practice in there so they can be a very good resource. On the Massachusetts Bar Association, as I indicated before, there's a section on worker's compensation that meets once a month at the Mass Academy of Trial Lawyers has a worker's compensation section that have - that regularly discussed cases. And of course, you can reach out to the MCLE. There are many lectures that are available. There is an annual worker's compensation seminar that comes up every November. That is very informative. There has been, in the past, a seminar once a year or so, where they indicate how you go from the beginning of the case to the end, and those can be very helpful. So look online, look at the MCLE and find those lectures. Finally, I've never done one of these without doing a shameless promotion. The LexisNexis Practice Guide to Massachusetts Workers Compensation, which I was a co-author of. My founding partner, Deborah Cole is one of the publishers of the book with attorney Michael Reidy, who represents injured workers, as well as insurers out of a warehouse in Massachusetts, two very well-respected attorneys in the field. The book is written by over 25 practitioners. I was one of them. There were attorneys in Attorney Mayo's office that wrote for the book, as well. So that is a really good sort of guide to go through the steps on how to handle a case. And finally, for from - my perspective, if you ever have questions, please feel free to reach out to me. My information is - will be contained in M.S. so feel free to reach out to me any time and I'm happy to answer any questions when it comes to representing an injured worker.

>>: Yes. And I would like to thank you, as well. I hope that this was helpful for you and I encourage you to look into the workers comp system. It is fun on both sides. We do find our way to have fun. And there is, I believe, an MCLE coming up for workers compensation in November. That will be in person. Definitely a good opportunity to attend. I would urge you to do so. You'll get a lot of good, up-to-date information about what's going on in the industry. And you can also find my information, which will be contained at the MCLE, as well. Thank you.