



State of Washington

**Board of Industrial
Insurance Appeals**

REBOOT 2022

GREATER TACOMA CONVENTION CENTER

FRIDAY, OCTOBER 21, 2022

8 A.M. TO 4:30 P.M.

\$125

5.25 CLE Credits

Including 1.0 Ethics Credits

Agenda

8 a.m.	Registration Light Breakfast	Registration Pre-function East
9 – 9:15 a.m.	Welcome <i>Board Members</i>	Ballroom
9:15–10:15 a.m.	If I Only Misbehave on Zoom, is it Still an Ethical Problem (?), and Other Observations Your Kindergarten Teacher Already Taught You <i>Neil Gorrell – Moderator</i> <i>Lynn Hendrickson, Karolyn Klohe, and Steve Pfeifer – Panel Members</i>	Ballroom
10:15 – 10:30 a.m.	Break	
10:30 – 11:30 a.m.	COVID: Impact of Legal and Cultural Shifts, including Pandemic Dynamics, on Present and Future Litigation at the BIIA <i>Chris Swanson – Moderator</i> <i>Lance Palmer – WISHA</i> <i>Leslie Birnbaum – Non-presumption Compensation Appeals</i>	Ballroom
11:30 – 11:45 a.m.	Top 5 Board Decisions You Need to Know Brian Leech	Ballroom
11:45 – 12:45 p.m.	Boxed Lunch Provided	Pre-function East

Afternoon: Select One Breakout from Each Session

	Breakout A	Breakout B	Breakout C	Breakout D
Session 1 1 – 2 p.m.	Appellate & Significant Decisions Update <i>Lance Palmer</i>	Could it Have Gone any Worse? Current and Emerging Evidentiary Challenges <i>Chris Cicierski</i> <i>Jeff Friedman</i>	Last Call: Post-Final-Order Relief at the BIIA <i>Brian Watkins</i>	Truth, Reason & Presumption <i>Donna Rae</i> <i>Sara Dannen</i> <i>Karolyn Klohe</i>
2 – 2:15 p.m.	Break			
Session 2 2:15 – 3:15 p.m.	Prove it or Lose it: A Review of Prima Facia Elements for Key Workers' Comp. Issues, and Whether or When Objective Findings are Required <i>Stephen Pfeifer</i> <i>Anamaria Gil</i>	My Deadline is Today, How and With Whom Do I File This Thing?! (Communication With the BIIA: The Dos and Don'ts) <i>Cheryl Carlson</i> <i>Anne Kysar</i>	The Ins and Outs of Firm Assessments <i>Janene Sohng</i> <i>Cody Costello</i>	Mediation is a Team Sport: How to Get Better Results <i>Meng Li Che</i> <i>Cindy Morgan</i>
3:15 – 3:30 p.m.	Break Refreshments Provided			
Session 3 3:30 – 4:30 p.m.	Scope of Review: A Look at Common, and Not-So-Common, Issues Arising from Regularly Appealed Department Orders <i>Kylee Redman</i>	Clearing the Cache: Self-Insured Claim Adjudication Penalties <i>Lynn Hendrickson</i>	Q&A with Board Members and Chief Judge <i>Holly Kessler</i> <i>Isabel Cole</i> <i>Jack Eng</i> <i>Anita Booker-Hay</i> <i>Brian Watkins - Moderator</i>	Equitable Relief Puts on a Few Pounds with Applegate <i>Tim Blood</i>
4:30 p.m.	Adjourn			

See last page for further descriptions

Registration

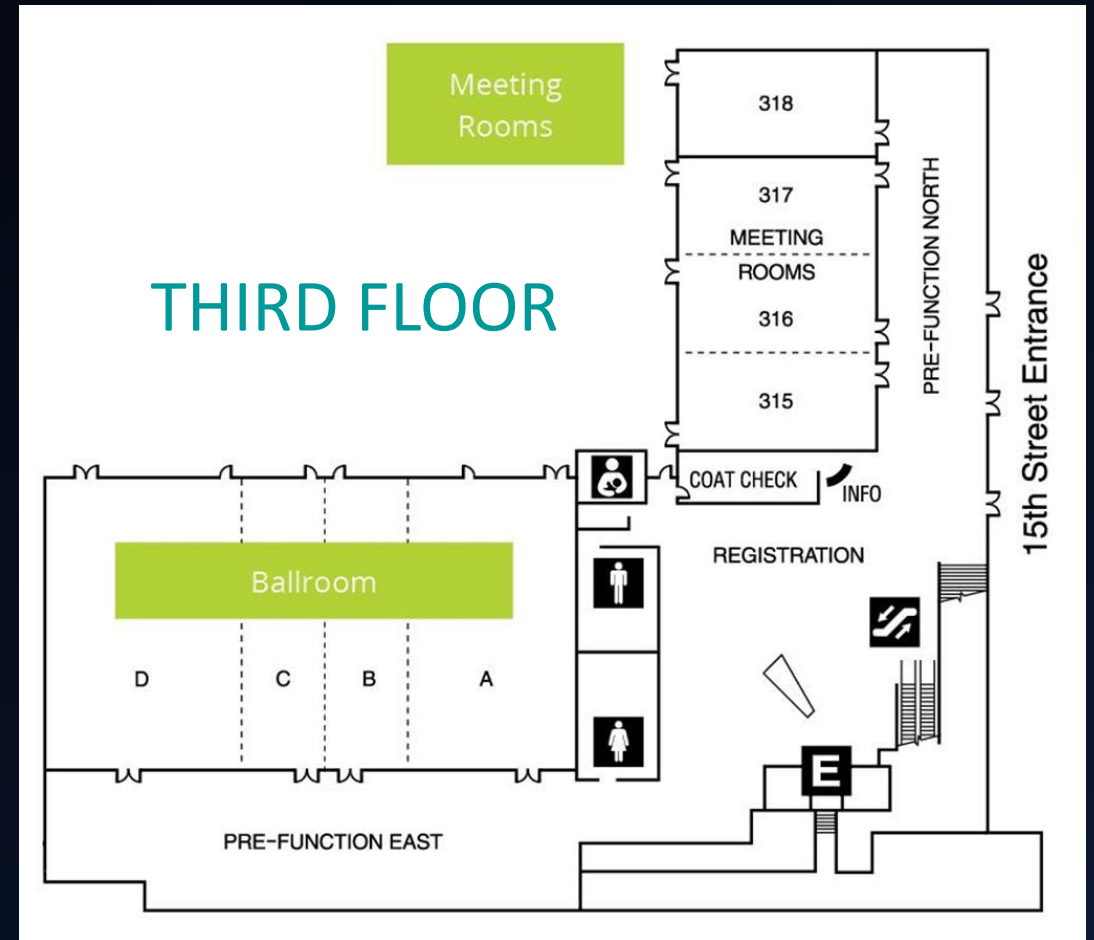
- Click [here](#) to register.
- We will send you an invoice for payment. Sorry, we cannot process credit cards.
- Watch for a confirmation email!

Greater Tacoma Convention Center

1500 Commerce St.
Tacoma, WA 98402



<https://tacomaconventioncenter.org>



Breakout Descriptions

	Breakout A	Breakout B	Breakout C	Breakout D
Session 1	<p>Appellate & Significant Decisions Update</p> <ul style="list-style-type: none"> • Important reported appellate court cases • Significant Decisions of the Board 	<p>Could it Have Gone any Worse? Current and Emerging Evidentiary Challenges</p> <ul style="list-style-type: none"> • Discovery of electronic evidence • The five hurdles in getting the electronic evidence admitted • Expert witnesses 	<p>Last Call: Post-Final Order Relief at the BIIA</p> <ul style="list-style-type: none"> • Post-final order motions • PFR extensions • Interest orders 	<p>Truth, Reason & Presumption</p> <ul style="list-style-type: none"> • Presumptions generally: no stranger to the courtroom • The policy basis for presumptions • Presumptions statutes in Washington Workers' Comp: Firefighter/Police, COVID, and Hanford
Session 2	<p>Prove it or Lose it: A Review of Prima Facie Elements for Key Workers' Comp. Issues, and Whether or When Objective Findings are Required</p> <ul style="list-style-type: none"> • Prima facie elements for common issues • Burden of proof • When objective findings are required 	<p>My Deadline is Today, How and With Whom Do I File This Thing?! (Communication With the BIIA: The Dos and Don'ts)</p> <ul style="list-style-type: none"> • What's being filed and when? What and what not to file when appeal in mediation vs. hearings • Where and how to file. Online filing, other rule-recognized methods, acceptable formats, and eliminating (unnecessary) duplicates • The why behind the filing rule, legal requirements for records, and records retention 	<p>The Ins and Outs of Firm Assessments</p> <ul style="list-style-type: none"> • Premium reporting & calculation • Covered worker definition & exclusions • Penalties & personal liability 	<p>Mediation is a Team Sport: How to Get Better Results</p> <ul style="list-style-type: none"> • Effectively partnering with opposing parties • Effectively partnering with your mediator • Extended mediation • Orders on Agreement of Parties • CRSA
Session 3	<p>Scope of Review: A Look at Common, and Not-So-Common, Issues Arising from Regularly Appealed Department Orders</p> <ul style="list-style-type: none"> • Defines Scope of Review in the context of the BIIA • Distinguishes Scope of Review from Jurisdiction • Reviews orders frequently seen from L&I and explores what issues may be encompassed therein • Discusses factors the BIIA considers when determining which issues are included in its scope of review of an L&I order 	<p>Clearing the Cache: Self-Insured Claim Adjudication Penalties</p> <ul style="list-style-type: none"> • Analysis of current statutory, regulatory, and case law related to self-insured/third-party administrator penalties • Overview of new rules for licensing and certification of third-party administrators • Outcome analysis of recent appeals before the BIIA 	<p>Q&A with Board Members and Chief Judge</p> <ul style="list-style-type: none"> • Ask questions about BIIA processes and procedures • Provide input on dispute resolution strategies and process improvements • Discuss the impact of recent law changes 	<p>Equitable Relief Puts on a Few Pounds with <i>Applegate</i></p> <ul style="list-style-type: none"> • The Board's relationship with equitable relief, pre-<i>Applegate</i> • The facts and holding of <i>In re Lyle Applegate</i>, BIIA Dec., 18 16730 (2019) • In <i>Applegate</i>, the Board untethers equitable relief from the similar facts requirement • Circumstances in which courts have granted equitable relief to claimants or employers