



**GETTING WHAT YOU PAY FOR**  
 The Nuts and Bolts  
 (and maybe the greasy, messy part too)  
 of a C & R

Presented by:

Shawn C. Gooden, Esquire  
 Thomas Cook, Esquire  
 Elizabeth Shreve

May 16 – 17, 2016




---

---

---

---

---

---

---

---



By Shawn C Gooden

Fulton Bank Bldg  
 200 North 3<sup>rd</sup> St./ Suite 9a  
 Harrisburg, PA 17101

(717) 237-6940  
[www.wglaw.com](http://www.wglaw.com)




---

---

---

---

---

---

---

---

Calhoon & Associates, P.C.

By Thomas Cook

2411 North Front Street  
 Harrisburg, PA 17110

(717) 695-4722  
[www.pa-workers-comp-lawyers.com](http://www.pa-workers-comp-lawyers.com)




---

---

---

---

---

---

---

---

## INSERVCO INSURANCE SERVICES

By: Elizabeth J. Shreve  
Claims Technical Specialist

Inservco Insurance Services  
P.O. Box 3899  
Harrisburg, PA 17105

800-356-0438

Weber   
Gallagher

---

---

---

---

---

---

---

---

## GETTING WHAT YOU PAY FOR

Weber   
Gallagher

---

---

---

---

---

---

---

---

## JERRY ATRICK



Weber   
Gallagher

---

---

---

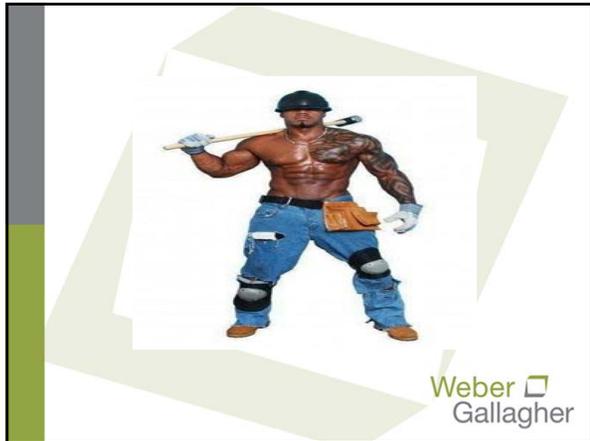
---

---

---

---

---



---

---

---

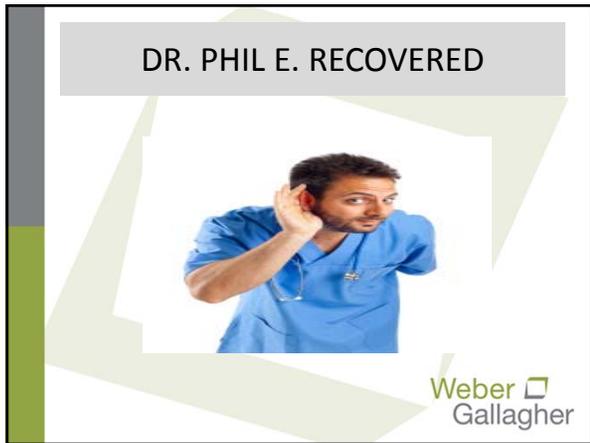
---

---

---

---

---



---

---

---

---

---

---

---

---



---

---

---

---

---

---

---

---

## SHOW ME THE MONEY!!!



Weber  Gallagher

---

---

---

---

---

---

---

---

## HOW DO THESE FACTORS IMPACT THE SETTLEMENT VALUE OF THE CASE?

Weber  Gallagher

---

---

---

---

---

---

---

---

## WHAT ABOUT THE ADA CLAIM

- Intended to provide protection for “disabled individuals”
  - Who is a “disabled” individual?
    - Substantially limited in a major life activity
    - Having a WC injury does not necessarily render an individual “disabled”
  - Requires “reasonable accommodation”



Weber  Gallagher

---

---

---

---

---

---

---

---

**GET OUT!!**



Weber  Gallagher

---

---

---

---

---

---

---

---

**RESIGNATION**

- Lee v. Unemployment Compensation Board of Review

Weber  Gallagher

---

---

---

---

---

---

---

---

**RESIGNATION**



Weber  Gallagher

---

---

---

---

---

---

---

---

**RESIGNATION**

Resignation states: "I waive any and all claims relating to my work injury(ies) that I have or may have against [Employer] including but not limited to, any claim under the Americans With Disabilities Act of 1990, as amended, the Pennsylvania Unemployment Act, as amended, or the Pennsylvania Human Relations Act, as amended.

Weber  Gallagher

---

---

---

---

---

---

---

---

**RESIGNATION**

- Court held that "a claimant quits voluntarily without good cause when the claimant resigns in order to settle a workers' compensation claim."

Weber  Gallagher

---

---

---

---

---

---

---

---

**MSA**

Weber  Gallagher

---

---

---

---

---

---

---

---



---

---

---

---

---

---

---

---

MSA

- Do the parties always need to consider Medicare's interests?

Weber Gallagher

---

---

---

---

---

---

---

---

MSA

- How is that accomplished

Weber Gallagher

---

---

---

---

---

---

---

---

MSA

- Is an MSA required?

Weber  Gallagher

---

---

---

---

---

---

---

---

MSA

- Must the MSA be submitted to CMS for approval?

Weber  Gallagher

---

---

---

---

---

---

---

---

BENCH ORDERS

Weber  Gallagher

---

---

---

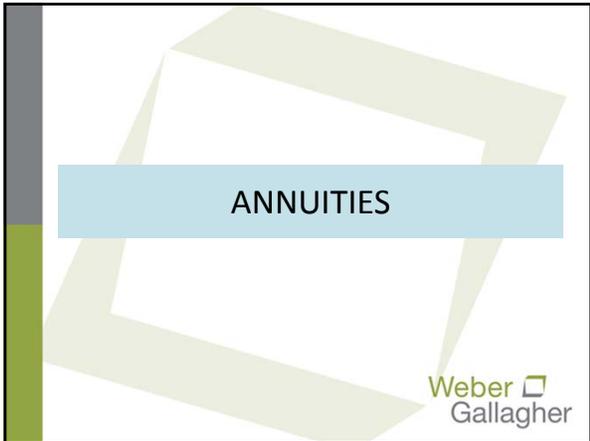
---

---

---

---

---



---

---

---

---

---

---

---

---



---

---

---

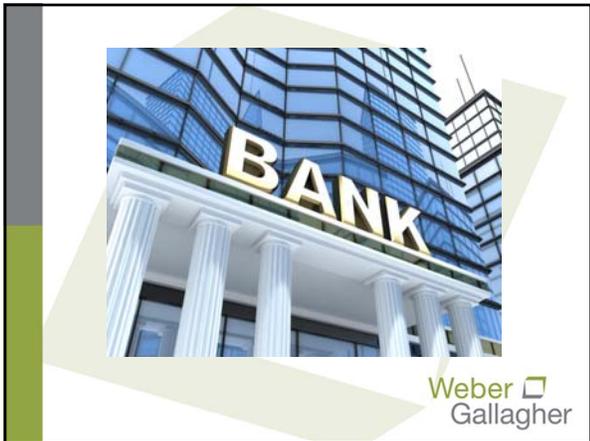
---

---

---

---

---



---

---

---

---

---

---

---

---

**SUPERSEDEAS FUND REIMBURSEMENT**

- How is this relevant?

Weber Gallagher

---

---

---

---

---

---

---

---

**SUPERSEDEAS FUND REIMBURSEMENT**

1. Request for supersedeas in a proceeding under Section 413 (Petition) 430 (Appeal)
2. Request denied.
3. Payment of compensation continued
4. Fund determination that compensation was not, in fact, payable.

Weber Gallagher

---

---

---

---

---

---

---

---

**SUPERSEDEAS FUND REIMBURSEMENT**

- Department of Labor and Industry has no standing to challenge the validity of the decision.

Weber Gallagher

---

---

---

---

---

---

---

---

## SUPERSEDEAS FUND REIMBURSEMENT

- If the parties expressly provide that a pending Petition shall remain open for adjudication, they may proceed with Compromise and Release of future compensation without affecting potential Supersedeas Fund Reimbursement.

Weber   
Gallagher

---

---

---

---

---

---

---

---

## AFFORDABLE CARE ACT



Weber   
Gallagher

---

---

---

---

---

---

---

---

Weber   
Gallagher

Weber   
Gallagher

---

---

---

---

---

---

---

---