



## Legal Updates

### Correlation is not Causation!



By: [Emily Schlecte](#)  
Income Member

In *Ameren Illinois v. Illinois Workers' Compensation Commission* 2024 Ill. App. 5th 220606 (Ill. App. Ct. 2024) Petitioner worked as a gas journeyman repairing and replacing gas lines. He alleged that on 9/4/13 and 10/8/14, he was exposed to harmful chemicals which caused permanent damage to his lungs. He had a prior history of asthma with known flare-ups before the alleged exposure.

After the initial exposure, Petitioner claimed to have difficulty breathing, chest tightness and worsening asthma symptoms. Respondent obtained a Section 12 opinion from a pulmonologist who opined that Petitioner's respiration was unlabored as he was able to speak easily in complete sentences without stopping for breath. It was also noted that Petitioner's prior medical history of asthma flareups incurred no permanent partial disability as a result of his exposure. Petitioner's treating physician disagreed and opined that his asthmatic condition worsened as a result of the exposure and Petitioner sustained permanent damage to his lungs.

The arbitrator found that Petitioner failed to meet his burden of proof as to any indication of permanent aggravation or permanent partial disability in his underlying asthma. Therefore, Petitioner's claim for benefits was denied. The Illinois Workers' Compensation Commission affirmed. Petitioner appealed again and the Circuit Court reversed the Illinois Workers' Compensation Commission's Decision, finding it against the manifest weight of the evidence. Respondent appealed.

The Illinois Appellate Court reversed the Circuit Court and reinstated the Illinois Workers' Compensation Commission's Decision. Petitioner argued that under a chain of events theory, the Illinois Workers' Compensation Commission's Decision was against the manifest weight of the evidence and cited to Petitioner's worsening condition after the exposure. The Appellate Court disagreed and found the chain-of-events method of proving causation inapplicable because there was no previous condition of good pulmonary health.

Instead, the evidence showed that Petitioner's pulmonary health had not been good for years as he suffered from shortness of breath, coughing and wheezing.

The Appellate Court held that a correlation between Petitioner's exposure and his worsening condition did not prove causation. The Court further held that the Commission's reliance on Respondent's expert was not supported by the evidence.

#### Practice Tip:

Petitioner must prove that their condition arose out of and in the course of employment. Evidence of pre-existing health issues may be used to argue that the condition is not work-related.

### Accident not Proven by Chain of Events



By: [Abigail Iliovici](#)  
Associate

In *Ostrowski v. Ind. Univ.*, 237 N.E.3d 638 (Ind. Ct. App. 2024), the Appellate Court affirmed the Indiana Worker's Compensation Full Board Decision that Plaintiff did not qualify for worker's compensation benefits.

In June 2018, Plaintiff was diagnosed with atrial fibrillation and atypical atrial flutter. These issues were classified as permanent by Plaintiff's cardiologist. In July 2018, Plaintiff struggled to find a parking spot near the building where she worked and had to walk up a hill, after which she was out of breath, sweating and felt sick to her stomach. Plaintiff encountered a similar situation the next day. The following day, Plaintiff felt so ill she did not return to work and was instructed by her cardiologist to take eight weeks off due to her condition.

On 6/13/19, Plaintiff filed an Application for Adjustment of Claim. The single hearing member conducted a hearing where it was found that the alleged injuries were caused by "routine, everyday activities" and that the medical evidence supports Plaintiff's symptoms were temporary and could have occurred anywhere.

On appeal, Plaintiff argued that her symptoms were not caused by everyday activities but that she was forced to walk an arduous trek to her office building. Plaintiff further argues that the board ignored the fact that she was found to be completely disabled by her cardiologist.

The Appellate Court held that the walk to and from Plaintiff's office was an everyday routine. They further held that there was sufficient evidence to support the board's conclusion that Plaintiff's injuries did not arise out of her employment but were instead temporary in nature based on personal risks caused by her pre-existing medical conditions.

#### Practice Tip:

Even when plaintiff is injured during the course of employment, there still must be a causal connection between the injury and the employment before it can be said the injury "arose out of." If plaintiff's injuries originate with a pre-existing condition, they are not compensable under the Act.

## Firm News

### Fond Farewell to Capital Member Jeanne Hoffmann

After more than two decades with Downey & Lenkov, Capital Member Jeanne Hoffmann has departed the firm to take on new challenges.

As a trusted colleague, mentor and leader, Jeanne's expertise and dedication made a lasting impact on our firm, colleagues and clients alike. While we will miss her presence, we are deeply grateful for her many contributions and the legacy she leaves behind.



## 2025 Leading Lawyers and Super Lawyers®

Eleven attorneys at Downey & Lenkov have been recognized by Super Lawyers® as leading practitioners in their fields. 10 attorneys have also been selected for Leading Lawyers' 2025 rankings.

Capital Members [Rich Lenkov](#) and [Storrs Downey](#); Income Members [Jessica Jackler](#) and [Brian Rosenblatt](#); and Of Counsel [Samuel Levine](#) and [Margery Newman](#) have been selected on both esteemed lists.

Read the full press release [here](#).

We are pleased to announce our 2025 Super Lawyers & Leading Lawyers

#### Super Lawyers®

 Storrs Downey
 Jessica Jackler
 Kirsten Kaiser Kus
 Jeffrey Kehl
 Timothy Furman
 Kristin Lechowicz
 Rich Lenkov
 Samuel Levine
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 Brian Rosenblatt
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 Marcy Bennett
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 Storrs Downey
 Jeanne Hoffmann
 Jessica Jackler
 Rich Lenkov
 Samuel Levine
 Michael Milstein
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**Downey & Lenkov LLC**



## Dinner with the Doc

Capital Member [Kirsten Kaiser Kus](#) presented at Dinner with the Doc in Valparaiso, IN.



Kristen joined Dr. Neel Jain of Lakeshore Bone & Joint Institute and Michelle Trotter of Athletico Physical Therapy to discuss multidisciplinary perspectives surrounding worker's compensation injuries. Attendees gained valuable insights from each expert's unique perspective.

## Women in Workers' Compensation Luncheon

Downey & Lenkov was proud to sponsor the Alliance of Women in Workers' Compensation Illinois Chapter luncheon and panel discussion at the Chicago Athletic Association.

This inspiring event supported AWWC's mission to champion the personal and professional development of women in the workers' compensation industry.



Income Member [Emily Schlecte](#) and Associate [Natalie Christian](#) were in attendance.

## Valparaiso Pop Warner Sponsor

Downey & Lenkov is a proud Gold Sponsor of Valparaiso Pop Warner, led by Capital Member [Kirsten Kaiser Kus](#) as President, an organization that provides young athletes in Northwest Indiana with football and cheer experience. Through active participation, the program teaches fundamental values, skills and knowledge that can be used throughout their lives.

[Learn more about Valparaiso Pop Warner](#)



## 2025 Best Law Firms® Ranking

Downey & Lenkov has been named in the 2025 Best Law Firms® rankings by Best Lawyers®. This year, we were selected as Tier 1 in Construction Law and Construction Litigation nationally and regionally. Additionally, we've been ranked regionally for Workers' Compensation.

For details about our rankings, visit our profile [here](#).



## Welcome to the Team

Please join us in welcoming our new Illinois Associate Attorneys [Abdu-Raheem "A.R." Igbadume](#) and [Benjamin DiBlasi](#).



A.R. concentrates in workers' compensation and general liability. He is a dedicated attorney who is committed to protecting his clients' interests and has extensive experience in trying cases, delivering oral arguments and successfully handling arbitration and appeals.



Benjamin is an accomplished attorney with extensive experience handling general liability cases. His diverse legal background includes condominium law, products liability, real estate, construction law, professional liability and business law. Throughout his career, Benjamin has demonstrated a strong commitment to providing strategic counsel and effective representation across various industries.

## CLM Magazine

Capital Member [Kirsten Kaiser Kus](#) is featured in The CLM Magazine's latest article: "Celebrating Authenticity" which highlighted the Women's Forum topics and panelists at CLM's Annual Conference in Dallas.

Kirsten's story is a powerful reminder that you don't have to choose between a thriving legal career and a fulfilling family life. As she says in the article: "I want my career, and I want my family. You have to have a great support system...don't be shy, ask for help."

Read the full article here: [Celebrating Authenticity](#)

**FIRM NEWS**

**KIRSTEN KAISER KUS IS FEATURED IN THE CLM MAGAZINE'S LATEST ARTICLE: CELEBRATING AUTHENTICITY**



**Kirsten Kaiser Kus**  
Capital Member



## 2025 CLM Annual Conference

Capital Members [Michael Milstein](#) and [Kirsten Kaiser Kus](#) presented at the CLM Annual Conference in Grapevine, TX!



Michael Milstein co-presented "Using Structured Settlements to Assist with Life Care Planning" alongside Caryn Siebert, Bert Dizon and Gerardo Monroy to explore how structured settlements can effectively assist with life care planning and manage rising claim costs.



Kirsten Kaiser Kus co-presented "Resolving Workers' Compensation Claims Involving Challenging Claimants" with Alicia Hitchcock, Stephanie Neuenfeldt and Treesie Richins to discuss innovative approaches to keep claims progressing towards resolution while dealing with compliance issues, behavioral problems, threats and malingering.

## Celebrating International Women's Day

We continue to honor the incredible women whose talent, hard work and dedication help drive Downey & Lenkov forward. Your contributions are invaluable, shaping our success and inspiring those around you. Thank you for all that you do!



**INTERNATIONAL WOMEN'S Day!**  
MARCH 8TH

"As society sees what women can do, as women see what women can do, there will be more women out there doing things, and we'll all be better off for it."  
— Ruth Bader Ginsburg





## 2025 CLM Focus Conference

Capital Members [Kirsten Kaiser Kus](#) and [Michael Milstein](#) presented at the CLM Focus Conference in Lake Buena Vista, FL.

Kirsten shared key insights on emerging trends and risks in workers' compensation cases alongside Evelyn Eury, Attorney Ya'Sheeka Williams and Ron Carter.

Michael explored AI's impact on claims and litigation with Kevin Lederer and Marci Reading, diving into best practices and risk management strategies.



## Workers' Comp Unplugged

Join Downey & Lenkov Capital Member [Kirsten Kaiser Kus](#) and Cranfill Sumner Partner [Jennifer Morris Jones](#) for a virtual Town Hall to discuss tips and tricks for investigating and defending Indiana and North Carolina workers' compensation claims.

[Click here to register](#)



## DL Webinars

### Indiana Forms: Taking a Claim From Start to Finish

5/20/2025

Kirsten Kaiser Kus and Abigail Illovici



[REGISTER NOW](#)

## Recent Webinars

- Mastering Litigation Challenges: Strategies for Addressing Re-litigation, Frequent Flyers & Subsequent Injuries
- What Holiday Movies Can Teach You About Handling Claims
- Wisconsin Worker's Compensation - Investigation Strategies
- Erie Lessons in Illinois Workers' Compensation
- Always Be Closing – Top Indiana Workers' Compensation Tips
- Ask Us Anything - Illinois Workers' Compensation

If you would like a copy of our other prior webinars, please email us at [mkt@dl-firm.com](mailto:mkt@dl-firm.com).

## Watch Our Latest Webinar:

### Worker's Compensation - Ask Us Anything, Settlement Strategies



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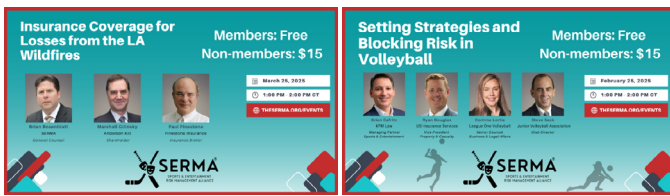
# SERMA®

Sports & Entertainment Risk Management Alliance (SERMA) is the first risk management association devoted entirely to the sports and entertainment industries. Our mission is to be the world's foremost resource for information and networking in the sports and entertainment risk industries. We strive to provide a respectful, transparent and inclusive dialogue where members can share ideas, best practices and strategies in managing risk and claims. Visit [www.theserma.org](http://www.theserma.org) for more information.

## The SERMAPod



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## Stadium Managers Association

SERMA Founder & CEO Rich Lenkov was a featured speaker at the Stadium Managers Association Annual Seminar on February 12, 2025 at Omni Rancho Las Palmas in the Coachella Valley, CA. Rich discussed "Top 5 Legal Issues Every Stadium Manager Needs To Know."



## SERMANar III: The Sports & Entertainment Risk Conference

SERMANar III was held at Paramount Studios in Hollywood for three incredible days of education and networking. It was an unforgettable experience that brought the sports and entertainment risk management community together. A huge thank you to everyone who joined and to the amazing sponsors who helped make it all possible!





# LEGAL FACE-OFF

## 10TH ANNIVERSARY



Legal Face-Off is a fast paced, high energy legal podcast dealing with the hottest issues of the day. Rich Lenkov and Christina Martini provide a point/counterpoint perspective on a variety of breaking legal news topics.



**- Dave Ring on the public perception of the Menendez Brothers re-hearing**

Dave Ring  
Taylor & Ring  
Trial Attorney

"The recent documentaries that have been on Max and Netflix, I think, raise public awareness hugely. Those documentaries had a certain theme to them and threw a lot of sympathy at the Menendez brothers. But I still think there are two camps out there. There's the camp that thinks they were treated unfairly back at their second trial, that they've served their time, the abuse wasn't taken into account enough and they kind of shouldn't be serving life in prison. Then there's the other camp who thinks they were motivated purely by greed and money, those were brutal murders of the parents and they should never be released. I think it's still as polarizing as it was in the late 1980s-early 1990s."

[Listen to the full episode here](#)

## Recent Topics

- Judge Hannah Dugan
- Karen Read trial
- Diddy's jury selection
- NCAA settlement
- DePaul lawsuit
- Menendez re-hearing

## Recent Guests

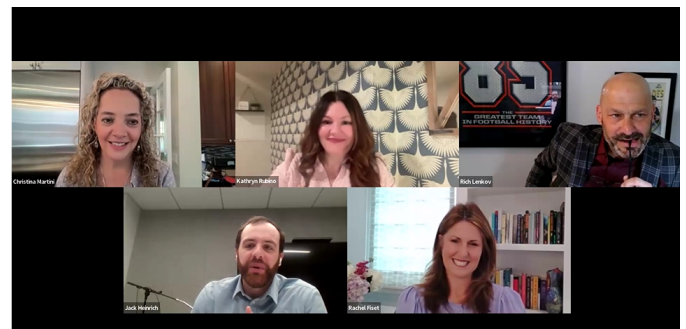
- Gerard Filitti
  - Lawfare Project Senior Counsel
- Noah Henderson
  - Loyola University Chicago Quinlan School of Business Clinical Instructor of Sport Management and Director of Sport Management Program
- Jason Kilborn
  - University of Illinois Chicago of Law Professor
- Elisabeth Semel
  - UC Berkeley Law Chancellor's Clinical Professor of Law and Co-Director

[Menendez re-hearing, DePaul lawsuit, abortion abolitionist movement and much more](#)

[Petrigh on Magione death penalty, Colangelo on Karen Read case, Henderson on NCAA settlement, and much more](#)

[Domestic violence arrests, First Amendment retaliation claim, latest in Trump watch and much more](#)

[Nunziata on FBI Deputy Director selection, Semel on new Glossip trial, Murphy on 'Legally Blonde' teaching techniques, and much more](#)



Legal Face-Off's Legal Grab Bag

## CONNECT WITH US

Please Follow Us on [Facebook](#), [LinkedIn](#), [Twitter](#), [Instagram](#) and [Subscribe on Apple Podcasts](#). Send us your questions and we will answer them on air — **nothing is off-limits**.

Want to be a guest on a future episode? [Contact us](#).