

## Firm Successes

### Affirmation of Voluntary Recreational Activity



The Appellate Court affirmed a Commission Decision obtained by Capital Member [Rich Lenkov](#) that denied benefits under the Illinois Workers' Compensation Act after Petitioner sustained an injury during a voluntary recreational activity.

Petitioner worked at a university and fractured her ankle while participating in a costume contest as "Bicycle Barbie". She rode a bicycle as part of her outfit. While she attended a required work event, participation in the costume portion was entirely voluntary.

Key findings include:

- Petitioner provided no evidence that she was ordered or required to participate in the costume contest or to ride a bicycle.
- Communications, including a get-well card, confirmed that she was "encouraged" to dress up, emphasizing the voluntary nature of the activity.
- Participation in the costume contest was separate from mandatory work duties, and no other employees were compelled to join.
- Under Section 11 of the Illinois Workers' Compensation Act, injuries sustained during voluntary recreational activities are not compensable unless the employee is ordered to participate.



The Commission found that Petitioner's injury arose from a voluntary recreational activity. As a result, her claims for temporary total disability, past medical and prospective medical benefits were denied and the Commission's Decision was affirmed.

### Delayed Cervical Claim Rejected



The Appellate Court affirmed a Commission Decision obtained by Associate [Natalie Christian](#) that found that Petitioner's cervical spine injury was not causally related to her work accident.

Petitioner's shirt caught in a machine while working as a housekeeper. Petitioner sustained a superficial right shoulder laceration and strain. Right shoulder treatment proceeded for six weeks, during which Petitioner reported symptom resolution. Nine months after the accident, she treated for her cervical spine for the first time with a new physician who opined that her condition was related to the work accident.

Respondent's Section 12 examiner opined that Petitioner's cervical spine condition could not be traced to the work accident due to the lack of contemporaneous complaints and objective findings. The Commission found Respondent's expert more credible than Petitioner's treating physician and, as a result, denied related temporary total disability, past medical and prospective medical benefits for the cervical spine. The Appellate Court affirmed.

### Taylor Young Secures Denial of Compensatory Overuse Claim



Congratulations to Associate [Taylor Young](#) for securing a favorable Arbitration Decision denying benefits for Petitioner's left shoulder condition, which was found not causally related to the alleged work accident.

Petitioner was struck on the right side of his body by a motor vehicle while performing his job duties as a roll-off driver, sustaining a right shoulder injury as a result of the alleged work accident. He later asserted a left shoulder injury due to "overuse" while waiting more than a year for right shoulder surgery, relying on his treating physician's opinion that compensatory use can cause internal derangement and damage.

However, Petitioner did not identify a specific accident or subsequent injury to the left shoulder during treatment for the right shoulder, such as during physical therapy. The left shoulder condition was first documented one year after the work accident, and the symptoms appeared suddenly and severe.

The Arbitrator did not find the treating physician's opinion persuasive and concluded that Petitioner failed to meet his burden of proving that the left shoulder condition was causally related to the alleged work accident. Accordingly, related benefits and prospective medical treatment were denied.

## Ryan Dezonno Secures Two Zeros



Congratulations to Associate [Ryan Dezonno](#) for securing zero awards at arbitration on two consolidated cases, leaving our client owing nothing.

It was undisputed that Petitioner, a gym teacher, tripped and fell into a wall while playing dodgeball. She testified that after falling into the wall, she experienced several debilitating conditions that conveniently appeared years later. She saw her doctor once and never returned for additional appointments. She told her primary care provider that she was doing fine and suspended her own treatment.

Petitioner filed for FMLA due to her own chronic conditions 18 months later. After several extensions by the employer, Petitioner refused to return to work and was informed that she would be terminated. Upon hearing this, Petitioner attempted to change the narrative that her own chronic conditions were actually work-related.

This revisionist accounting of the facts did not convince the arbitrator. Petitioner never provided evidence to suggest that an accident or injury happened, despite claiming that she could never work again. At best, Petitioner had a black eye from falling into a wall, which promptly resolved. For those reasons, the arbitrator outright denied compensation in both cases.

## Legal Updates

### Pain Sufficient to Prove Causation

By: [Marcy Bennett](#)  
Income Member



In *Tazewell County v. IWCC 2025 IL App (4th) 230754WC*, the Illinois Appellate Court held that work activity that results solely in pain from a preexisting non-work-related condition can be compensable under the Act, absent a medical or diagnostic change in condition. Petitioner, a dental hygienist, complained of shoulder pain from repeated work activities. Although she did not claim a specific injury, Petitioner's treating physician opined that her repeated shoulder movements required to perform regular dental cleanings caused increased pain in her pre-existing shoulder condition.

Respondent's Section 12 expert agreed that Petitioner had a preexisting condition but noted it was only temporarily aggravated by Petitioner's work duties. The details and specificity of Petitioner's regular arm movements used to do her job were analyzed and compared by both doctors in arriving at their final opinions.



The arbitrator initially denied benefits, finding Petitioner failed to prove accident and causation. However, the Commission reversed, reasoning that Petitioner's increase in pain was sufficient to prove an aggravation of her preexisting condition. Respondent appealed. The Circuit and Appellate Courts affirmed. The Appellate Court found that Petitioner's pain demonstrated that her condition had changed, even absent tangible physical changes in her shoulder composition, and thus her job was a contributing factor.

This case marked a big change to the legal standard used in determining whether pre-existing conditions are exacerbated or accelerated by a Petitioner's acute accident or repetitive job duties. Undoubtedly, this decision makes it more challenging for employers to defend claims with pre-existing conditions.

#### Practice Tip:

Complete a thorough investigation into Petitioner's job duties and prior treatment, and tailor Section 12 interrogatories to address pre-existing conditions and the impact of the mechanism of the accident on current objective and subjective findings.

## No Penalties for Unaccrued Benefits

By: [Natalie Christian](#)  
Associate



In *Berndt v. Illinois Workers' Compensation Commission, 2025 IL App (3d) 240361WC-U*, the Appellate Court affirmed the Commission Decision reducing penalties awarded by the arbitrator, finding that penalties under sections 19(k) and 19(l) apply only to benefits that are due and accrued prior to arbitration.

The arbitrator awarded penalties and attorney fees under sections 19(k), 19(l), and 16 of the Illinois Workers' Compensation Act based on Respondent's failure to pay temporary total disability (TTD), permanent total disability (PTD), and medical expenses.



On review, the Commission held that penalties cannot be imposed for failure to pay PTD benefits that had not accrued prior to the arbitration hearing. Because PTD was not awarded until the arbitration decision, there was no prior obligation to pay PTD benefits. Accordingly, sections 19(k) and 19(l) penalties were unavailable for nonpayment of PTD.

Similarly, penalties may not be assessed for medical bills that were never submitted to Respondent for payment prior to arbitration. Petitioner had submitted only one unpaid medical bill before the hearing; the remaining medical expenses had been paid by another insurer and were not presented until arbitration. Penalties were therefore limited to benefits actually owed and withheld after proper submission. The Commission recalculated penalties and reduced the attorney-fee award.

The Appellate Court affirmed the Commission, noting that a Respondent cannot be penalized for failing to pay PTB benefits that had not yet been awarded, nor for failing to pay medical bills it was never given the opportunity to pay. Further, the Court rejected Petitioner’s arguments that res judicata or collateral estoppel barred the Commission’s review and reduction of penalties and acted within its authority in modifying the penalty and fee awards.

**Practice Tip:**

Respondent is not subject to penalties for unpaid benefits that have not yet accrued or for medical bills that were not properly submitted. *Berndt* provides helpful authority to challenge overreaching penalty claims.

## Firm News

### CLM 2026 Annual Conference

Capital Member [Kirsten Kaiser Kus](#) co-presented “Compassionate Claims Management: Supporting Recovery While Managing Risk” at the CLM 2026 Annual Conference at Disney’s Coronado Springs Resort.

**CLM**  
Affiliated with The Institutes

3/26/2026

**Compassionate Claims Management:  
Supporting Recovery While Managing Risk**



**Kirsten Kaiser Kus**  
Capital Member  
Downey & Lenkov LLC



**Stephanie Neuenfeldt**  
Regional Director  
EMC Insurance Companies



**Treesie Richins**  
Workers Compensation Manager

2026 ANNUAL CONFERENCE AT DISNEY'S CORONADO SPRINGS RESORT

## Welcome to the Team

Please welcome our new Illinois and Indiana Associate Attorneys [Derek Bushman](#), [Nial Vender](#), [Jaylen Johnson](#), [Kevin Mouayed](#), [Sophia Ateya](#) and [Austin Andreas](#).

They focus their practice on workers’ compensation and general liability, representing employers, insurers and businesses with a strategic and efficient approach to litigation.

**WELCOME TO OUR NEW  
ASSOCIATE ATTORNEYS**



**Derek Bushman**



**Nial Vender**



**Jaylen Johnson**



**Kevin Mouayed**



**Sophia Ateya**



**Austin Andreas**

## 2026 Leading Lawyers Rankings

Ten Downey & Lenkov attorneys have been selected for Leading Lawyers’ 2026 rankings.

Leading Lawyers provides rankings of the most respected and experienced attorneys nationwide, surveying peers on the quality, experience and reputation of other lawyers. Less than 5% of all lawyers licensed in each state have received the distinction of Leading Lawyer.

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

**DOWNEY & LENKOV ATTORNEYS DESIGNATED  
2026 LEADING LAWYERS**

**Capital Members**



**Storrs Downey**



**Rich Lenkov**



**Michael Milstein**

**Income Members**



**Marcy Bennett**



**Jessica Jackler**



**Brian Rosenblatt**



**Jeffrey Kehi**

**Of Counsel**



**Samuel Levine**



**Margery Newman**  
Advisory Board



**Warner Sabo**

**DL &**

**Leading Lawyers™**

## 2026 Super Lawyers & Rising Stars

Eleven Downey & Lenkov attorneys have been named by Super Lawyers for their excellence in their respective practice areas.

Super Lawyers recognizes attorneys who exhibit excellence in their practice based on professional achievement and peer recognition. The Super Lawyers list recognizes no more than 5% of attorneys in each state. The Rising Stars list recognizes no more than 2.5% of attorneys in each state.

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

DOWNEY & LENKOV ATTORNEYS RECOGNIZED IN  
2026 SUPER LAWYERS & RISING STARS LISTS

 <b>Starrs Downey</b> Capital Member <i>Super Lawyers</i>	 <b>Rich Lenkov</b> Capital Member <i>Super Lawyers</i>	 <b>Michael Milstein</b> Capital Member <i>Super Lawyers</i>
 <b>Jessica Jackler</b> Income Member <i>Super Lawyers</i>	 <b>Jeffrey Kehl</b> Income Member <i>Super Lawyers</i>	 <b>Brian Rosenblatt</b> Income Member <i>Super Lawyers</i>
 <b>Timothy Furman</b> Income Member <i>Rising Stars</i>	 <b>Kristin Lechowicz</b> Income Member <i>Rising Stars</i>	 <b>Abigail Ilivici</b> Associate <i>Rising Stars</i>
 <b>Samuel Levine</b> Of Counsel <i>Super Lawyers</i>	 <b>Margery Newman</b> Of Counsel <i>Super Lawyers</i>	 <b>RATED BY</b> <b>Super Lawyers</b>

## Sports and Entertainment Law Society Q&A Session

Income Member [Brian Rosenblatt](#) was a featured speaker at the Sports and Entertainment Law Society's Q&A session on IP and Entertainment Law.



## Artex Conference

Capital Member [Rich Lenkov](#) presented "Top 10 Ways to Win Your Workers' Compensation Claim" at the 2026 Artex Risk Management Conference in Orlando, FL.



## Magna March CLE Madness 2026

Downey & Lenkov was proud to sponsor Magna Legal Services' Annual March CLE Madness Conference in Las Vegas.

Capital Member [Rich Lenkov](#) moderated the panel discussion "My Heart, Not My Head: Jury Selection."



## Illinois Work Comp Connect Conference

Downey & Lenkov was a proud sponsor at the Illinois Work Comp Connect Conference in Chicago!

Income Member [Emily Schlecte](#) and Associate [Ryan Dezonno](#) had a great time connecting with fellow workers' compensation professionals and engaging in insightful discussions on the evolving landscape of Illinois Workers' Compensation.



## DL Webinars

### Recent Webinars

- Holiday Hits & Claims Tips - Lessons for Workers' Comp Resolution
- Tricks & Treats for Illinois Settlement Strategies
- Top Red Flags in Illinois Workers' Comp
- Workers' Comp Unplugged

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

### Watch Our Latest Webinar:

**Comp Chaos: What To Do When Everything Goes Wrong**

Comp Chaos:  
What To Do When  
Everything Goes Wrong

April 22, 2026

**DL** Downey & Lenkov LLC

[Click to View](#)



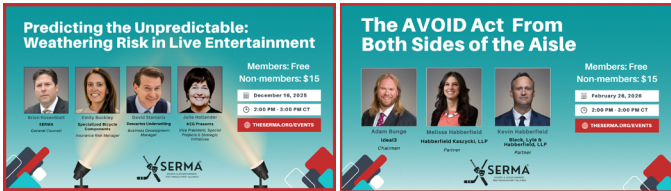
# SERMA®

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



## SERMA Webinars



## SERMANAR IV: THE SPORTS & ENTERTAINMENT RISK CONFERENCE

SERMANar IV took over Citi Field in New York City with packed educational sessions and standout moments throughout.



## Annual SERMASki 2026

SERMA hosted its annual SERMASki at Snowbird and Alta in Utah during the 2026 National Ski Areas Association (NSAA) Western Winter Conference!



## 16th Annual Monday on Main Street

The 16th Annual Monday On Main Street and 3rd Annual Legal Forum and Happy Hour was held in Park City, Utah.



## CONNECT WITH US

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# 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.



### – Amy Kristin Sanders on the Afroman defamation lawsuit

Amy Kristin Sanders  
John and Ann Curley Chair  
in First Amendment Studies  
Penn State University

“Part of their invasion of privacy claim, the deputies brought up the tort of commercial appropriation. It’s designed to protect your name, your image, your likeness and give you control over its use for commercial or other kinds of value. That said, a number of courts have recognized that there are instances where the First Amendment interest can outweigh your right to publicity. Here, the court said that as public officials, these deputies’ interest in their right of publicity was minimal in comparison to the First Amendment interest in promoting creative expression, commentary about law enforcement activities.”

[Listen to the full episode here](#)

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## Recent Topics

- Judge Alito’s retirement
- Pentagon Press Policy
- Chicago teen takeovers
- Mail-in ballots
- DOGE’s use of AI
- Kansas State basketball coach buyout

## Recent Guests

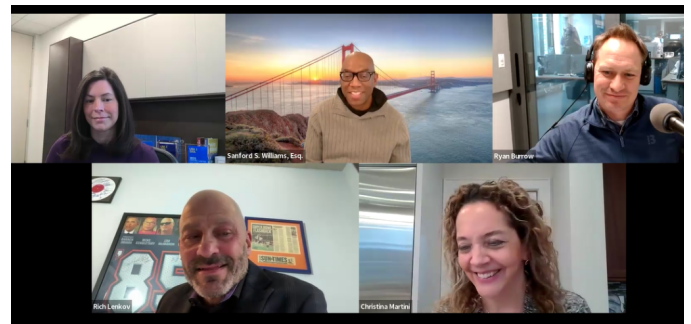
- Alderman William Hall
  - Chicago City Council, 6th Ward
- Amy Howe
  - SCOTUS blog Co-Founder and Reporter
- Deborah Witzburg
  - City of Chicago Inspector General
- David Riedman
  - Idaho State University Assistant Professor and K-12 School Shooting Database Founder
- Kam Buckner
  - Illinois State Representatives

[Howe on mail-in ballots, Sanders on Afroman defamation lawsuit, Martini and Susler on leveraging EQ for business development, and much more](#)

[City of Chicago Inspector General Advisory, DOGE’s use of AI, protein bar nutritional labels and much more](#)

[Buckner on Bears incentives, Riedman on Colin Gray trial, Feldman on Kansas State basketball coach buyout, Steele on Cook County property tax, and much more](#)

[Nancy Guthrie, Uber sexual assault verdict, Class Action Review and much more](#)



## Legal Face-Off’s Legal Grab Bag

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