

A dark gray, stylized world map is centered in the background of the slide, showing the continents in a lighter shade of gray.

Key Decisions, Trends, and Legislation in Workers' Compensation and ADA Law

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Changes in Personnel at the Board

- Two of the best Administrative Law Judges retired
- Bangor Mediator retired
- Advocate program in turmoil
 - Frequent turnover
 - Cases not moving forward
 - Two non-lawyers now Advocates

Important Appellate Division Cases from 2024

- 17 Appellate Division Decisions issued
- Two newest ALJ's the "most appealed"
- Eleven appeals by the employer
- Five by the employee

Law Court 2024

- Only two cases taken by the Court in 2024
- Both vacated the Appellate Division decisions
 - *Dennis G. Crosen v. Blouin Motors, et al.*
 - *Steve L. Michaud v. Caribou Ford-Mercury, Inc., et al.*

Legislation 2024

- 39-A M.R.S.A. § 104-A (actually enacted in June of 2023)
- *Laureen Fama, et. al v. Bob's, L.L.C., et al.*

2024 Trends in Workers' Compensation

- Still a very employee-biased Board
- Revision and near-complete overhaul of the judicial doctrines of *res judicata* and *collateral estoppel*
- Section 207 Independent Medical Evaluators becoming endangered species
- Section 312 Independent Medical Evaluators list
- Labor Market Specialists also becoming endangered species

Federal ADA Updates:

- *Stanley v. City of Sanford* – US Supreme Court
 - Can former employees sue for disability discrimination on post-employment benefits under ADA?
- *Jones v. Georgia Ports Authority* – 11th Circuit
 - Courts are likely to side with businesses & their internal return-to-work policies for medical accommodations.
- *Yanick v. The Kroger Co.* – 6th Circuit
 - Employees do not have to submit formal accommodation request if they are struggling with tasks or have an obvious disability.
- EEOC
 - Inflation of Civil Monetary Penalty for violation of notice-posting requirements
 - Title VII, ADA, PWFA

Local/New England ADA Updates:

- *Rios v. Centerra Group LLC* – 1st Circuit
 - ADA is not a license for insubordination in the workplace.
- *Stratton v. Bentley University* – 1st Circuit
 - Employee must demonstrate clear causal connection between protected activity and adverse employment action in a discrimination claim.
- *Caruso v. Delta Air Lines, Inc.* – 1st Circuit
 - Employee must cooperate in interactive process in good faith, otherwise employer cannot be held liable for failure to provide reasonable accommodation.
- *Remillard v. Southern New Hampshire Health System, Inc.* – District of New Hampshire
 - Sometimes, if enough of a safety issue exists, providing accommodations may not be possible.

Scenario #1: Jordan

Jordan is a project manager at a healthcare nonprofit. Recently, Jordan was diagnosed with moderate hearing loss and began using hearing aids. Despite this, Jordan finds it challenging to participate in team meetings and video conferences due to overlapping conversations and poor audio quality. During in-person meetings, Jordan struggles to follow conversations, especially when multiple people talk simultaneously or when background noise is present. In virtual meetings, poor microphone quality and lack of closed captions make it difficult for Jordan to understand colleagues. Jordan also finds phone calls particularly challenging, as hearing aids amplify background noise.

Scenario #2: Tom

Tom is a warehouse worker at Stellar Logistics who sustains a back injury while lifting a heavy package. He has been employed as a warehouse worker for 5 years. Tom requires surgery on his back and 6 weeks of physical therapy to recover. After completing physical therapy, Tom should be cleared to return to work with restrictions, including avoiding heavy lifting and prolonged standing.

Scenario #3: Lila

Lila works as a marketing coordinator at an Advertising firm. One day, she reports experiencing severe wrist pain, claiming it is the result of repetitive strain from using her computer for extended hours at work. She files a workers' compensation claim for treatment, but the employer's insurer disputes whether the injury is workplace-related, arguing that Lila's wrist condition could be due to non-work activities, such as playing tennis, which Lila is known to do.

The background of the slide is a black and white photograph of a complex hedge maze. The maze is composed of tall, dense hedges that form a series of winding paths and dead ends. The perspective is from within the maze, looking down a path that leads towards the center. In the background, beyond the maze, there are trees and a glimpse of a building.

QUESTIONS?

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