

# EWC NEWSLETTER

*Resources to Help With Your Biggest Challenges, Insights From Industry Experts.*



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SERVICE



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NSM360  
COMPLETE MOBILITY SOLUTIONS

## A Better Solution for Your Injured Worker's Mobility & Accessibility Needs

**BY BRENDAN SWIFT, VICE PRESIDENT NATIONAL WORKERS'  
COMPENSATION PROGRAM AT NATIONAL SEATING & MOBILITY**

**National Seating & Mobility (NSM)** understands the mobility and accessibility needs of an individual when they experience a serious work-related injury. When someone sustains a work-related catastrophic injury, their life – and their family's life – changes immediately and dramatically. Most everything the injured individual used to do without assistance will now require intervention by a caretaker, medically appropriate equipment and possibly even adaptive home and vehicle modification solutions. Our NSM360 National

Workers' Compensation Program helps our clients gain self-reliance and independence in and around their homes and communities. Most importantly, we collaborate with our workers' compensation partners to ensure a fully integrated solution to meet all the requirements of our injured workers.

### **Who is National Seating & Mobility (NSM)?**

Since 1992, NSM has been providing mobility solutions designed to be comfortable, safe and work completely in sync with each client. Our focus

OCTOBER 1, 2020

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is to deliver independence and self-reliance to clients, regardless of age or physical challenge; to offer reassurance to families and caregivers; and to provide flexible, highly professional clinical support to health care professionals. To provide the highest quality and safe care for our customers, we have a coordinated team of dedicated professionals to support each client through each step of the process. Thanks to our talented, hardworking team of people, we're able to accomplish our mission – one mobility solution at a time.

### What types of services does NSM provide?

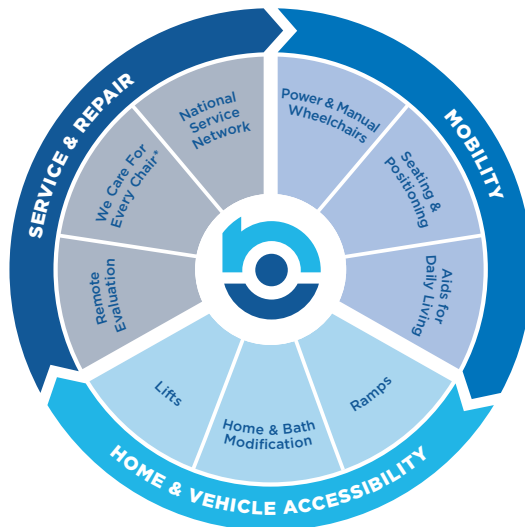
NSM offers a turnkey solution for all aspects of mobility, accessibility and service. This includes simple to complex mobility equipment including power and manual wheelchairs, accessibility equipment including lifts, permanent and temporary ramps, DME discharge equipment, bath and shower equipment, home construction and modification solutions, and vehicle modifications. We also provide repair and maintenance services on all equipment to ensure safe and quality performance.

### How large is NSM's network of locations and certified professionals?

NSM has 155 locations across 46 states, including Alaska and Hawaii. We have the largest national network of more than 900 certified ATPs and technicians across the nation.

# NSM360

## COMPLETE MOBILITY SOLUTIONS



All ATPs and technicians are employed by NSM to ensure the smoothest discharge and transition home experience for our injured workers.

### How does NSM perform Home Modifications and Home Construction Solutions?

NSM manages and maintains a national network of fully vetted, licensed and insured General Contractor partners. We have a dedicated home modification project management team that consists of deeply experienced workers' compensation, project management and construction professionals.

### How do I submit a mobility or accessibility referral to NSM?

Referrals can be submitted to our National Workers' Compensation Service Team. They are available 8 a.m. - 5 p.m. EST through email at [CustomerService@NSM-Seating.com](mailto:CustomerService@NSM-Seating.com) or by calling 1-800-509-4886.

### What are NSM's service and communication commitments?

NSM will acknowledge new referrals on the same day they

are received, and we will work to schedule the evaluation based on the injured worker's earliest availability. Updates on active cases will be proactively shared with our partners every two business days.

### What makes NSM360's program and service offering different?

NSM is a one-stop mobility, accessibility and service solutions partner giving workers' compensation organizations the convenience of working with one trusted company. With almost 30 years of experience serving millions of clients across the nation, you can feel confident we know how to handle each injured worker's case with the care and service levels they demand.

### How does NSM measure success?

Our NSM360 Program provides a fully integrated solution for each injured worker's case. Many of our payer partners used to select multiple providers for each equipment or modification need. They recognized this led to increased administrative costs and many times decreased customer satisfaction. Our priority when caring for every client is to deliver quality and safe equipment on time to ensure best-in-class outcomes. Currently, NSM delivers equipment on average within 30 days and receives Press Ganey customer satisfaction scores on average higher than 90 out of 100 nationwide.



*Having spent most of my career in Health Plan and Payer Operations, both in the group health and workers' compensation areas of the business, I have seen firsthand how important it is for a service provider to offer a proactive and dedicated service model. NSM has implemented a best-in-class, turnkey service solution that provides proactive case management and communications throughout the process that our valued workers' compensation payer partners and their clients deserve.* – Brendan Swift, Vice President National Workers' Compensation Program

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# Progressive Web Apps: A Better Way To Manage Your Claims Process

BY STACIE PIRRONE, HEAD OF NORTH AMERICA OPERATIONS AT ENTANDO

Efficient processes are paramount when managing a workers' compensation claim. From an employee's perspective, the process is often quite frustrating with lengthy paper forms or clunky online claims processes that lead to delays and complications in getting clarity from the onset. Furthermore, inefficient claims systems can overtax your claims departments, from the call center to the claims managers and adjusters, keeping claims from being resolved in a timely manner.

To achieve both customer and employee satisfaction, as well as speed and quality of service, all stakeholders in this process must find new ways to efficiently receive and process claims.

One solution to this need can be found in developing a progressive web application (PWA). A PWA offers the feature functionality of a native mobile or desktop app but is accessible through a web browser on any device.

Recently, we built a PWA for an insurance company to streamline case management. Prior to developing this software, policyholders needed to file claims by way of a massive stack of paper documents that were processed manually. The progressive web app enabled them to automate much of the process by allowing policyholders to file claims instantly from their phones with incident descriptions and photo documentation.

The benefits of this solution include greater efficiency and accuracy of information and the ability to close cases more quickly. Anyone who works in this kind of case management knows that cost efficiency accompanies a speedy resolution of a case. By enabling employees to file claims instantly from anywhere and automatically initiating the claims process, you increase your team's productivity and lower claim costs.

For an employee filing the claim, their experience is also vastly improved. They experience a more intuitive claims process online, rather than calling the incident in or needing to wade through paper forms that must be submitted to a central office, faxed, or digitized and sent by email. This online reporting system will result in a faster triage process and assist the employee through the claims and medical management process. Anyone who has been injured on the job knows how vital it is to get medical attention and benefits adjudicated as quickly as possible.

Every successful company strives to serve and care for their employees and protect their organization at large. Building a progressive web app for your claims process can help you do just that.

## We can help.

Entando is the leading micro frontend platform for building enterprise applications on Kubernetes. We help enterprises build cloud-native, user-friendly applications that help them reach their business goals—including progressive web apps.

With Entando, you can innovate new online experiences more quickly with customized blueprints that enable you to swiftly create micro frontends and assemble them into an application. Then reuse components across multiple projects via the Entando Component Repository, saving money and increasing development speed. You can also scale quickly and effectively with Entando's custom Kubernetes operator, automating the deployment of applications that always perform optimally.

The Entando platform is open source with available enterprise support and services. [Get started](#) on the platform today, and [get a quote](#) to see how we can help you build better apps faster.

## 3 KEY BENEFITS OF A PROGRESSIVE WEB APP FOR YOUR CLAIMS PROCESS

◆ Easy and intuitive process for employees, as well as claims managers and adjusters

◆ Faster turnaround time for resolving claims

◆ Streamlined communication and increased accuracy of information



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KEGEL, TOBIN & TRUCE APC PRESENTS

George the Bartender's Dispatches  
From Online Happy Hour

# Determining an Occupational Disease Injury Date When All the Days Just Bleed Into One

BY MEG MATASCI, SENIOR ASSOCIATE ATTORNEY AT KEGEL, TOBIN & TRUCE

*Update: Governor Newsom signed Senate Bill 1159 into law on September 17, 2020. Please refer to the new Presumption Rules under SB1159 to include definition of "date of injury" as the last date worked prior to positive COVID-19 test and that the presumption that COVID-19 was industrial is rebuttable.*

FROM MY BAR AT HOME - Summer days tend to blend together. When the kids are out of school and spending the day by the pool or chasing bubbles at the park, time seems to slip by. But this summer (really most of this

year) is particularly Groundhog Day-ish, with each day very much resembling the one that came before due to the ongoing safer-at-home measures and social distancing.

On one of these summer days (who knows which one), my favorite adjuster, Ned Ryerson, called me up on the phone. He breathlessly told me that his first COVID-19 claim had passed his desk, and he wanted some advice about whether to admit or deny the claim.

The claim had been filed as a specific injury. It seemed very unlikely to Ned that

the applicant had contracted the virus on the exact date they alleged in their Application, particularly since it can take some people close to two weeks before they even begin to exhibit symptoms. He wanted to know if he could deny the claim on that basis. He exclaimed, "How on earth could the applicant know exactly what day they were exposed?!"

While I appreciate the vigor with which Ned investigates his claims, and as much as I hate to be the bearer of bad news, it was my duty to tell him I didn't think that strategy would get him very far. I sent him

a copy of a panel decision issued on January 13, 2020, *Nate Leggette v. CPS Security*, 2020 Cal. Wrk. Comp. P.D. LEXIS 3. Although the holding issued in January when many of us were still happily attending parades and licking doorknobs, the reasoning would likely apply to our current COVID-19 world.

In *Leggette*, the applicant worked as a security guard at a construction site bordered on two sides by standing bodies of water, where he was bitten by mosquitos nightly while on the job. He ultimately was hospitalized for West Nile Virus and filed an Application for Adjudication of Claim alleging industrial injury due to the disease on a specific basis. The date of injury was asserted as September 23, 2018, the applicant's last day worked.

The Workers' Compensation Judge (WCJ) found that the alleged specific injury could not be supported because there was no evidence that the applicant suffered the mosquito bite, which resulted in the occupational disease on that exact date. The WCJ issued a take nothing, and then the applicant filed for reconsideration, which was granted.

In their opinion, the Appeals Board (WCAB) disagreed with the WCJ that the applicant had not met his burden in establishing AOE/COE. What followed was a discussion of the unique nature of occupational diseases. While occupational diseases are commonly described in conjunction with cumulative trauma injuries within the California Labor Code, they do not necessarily occur on a cumulative trauma basis. Ultimately the WCAB held that it was appropriate for the applicant to have alleged his injury as having occurred on the specific date on which he would have last been exposed to the disease.

As a reminder, California Labor Code Section §3208.1 describes specific injuries and cumulative trauma injuries as follows:

An injury may be either: (a) "specific," occurring as the result of one incident or exposure which causes disability or need for medical treatment; or (b) "cumulative," occurring as repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment.



### GEORGE'S KTT APEROL SPRITZ

Fill a wine glass with ice.  
Add equal parts Prosecco  
and Aperol with a splash  
of club soda. Serve with an  
orange slice and enjoy!

Although there are many references throughout the Labor Code to "occupational disease," there is no explicit definition. In *Leggette*, the WCAB relied on a definition gleaned from the 1999 California Court of Appeal case *General Dynamics Corp. v. Workers Compensation Appeals Bd.*, 1999 Cal. Wrk. Comp. LEXIS 5336. This case involved asbestos exposure and whether or not an applicant's earlier Compromise and Release could resolve an asbestos

injury, which was not known to exist at the time of the earlier settlement. The WCAB summarized the definition of an occupational disease as "one where the symptoms are latent after exposure."

The term "occupational disease" is used in two Labor Code sections that are most commonly used in understanding cumulative traumas. First, the term appears in Labor Code §5412, which advises that the correct date of an occupational disease or cumulative trauma is "...that date upon which the employee first suffered disability therefrom and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment."

Next, the term appears in Labor Code §5500.5(a), which states that "liability for occupational disease or cumulative injury claims ... shall be limited to those employers who employed the employee during a period of [one year] immediately preceding either the date of injury, as determined pursuant to Section 5412, or the last date on which the employee was employed in an occupation exposing him or her to the hazards of the occupational disease or cumulative injury, whichever occurs first."

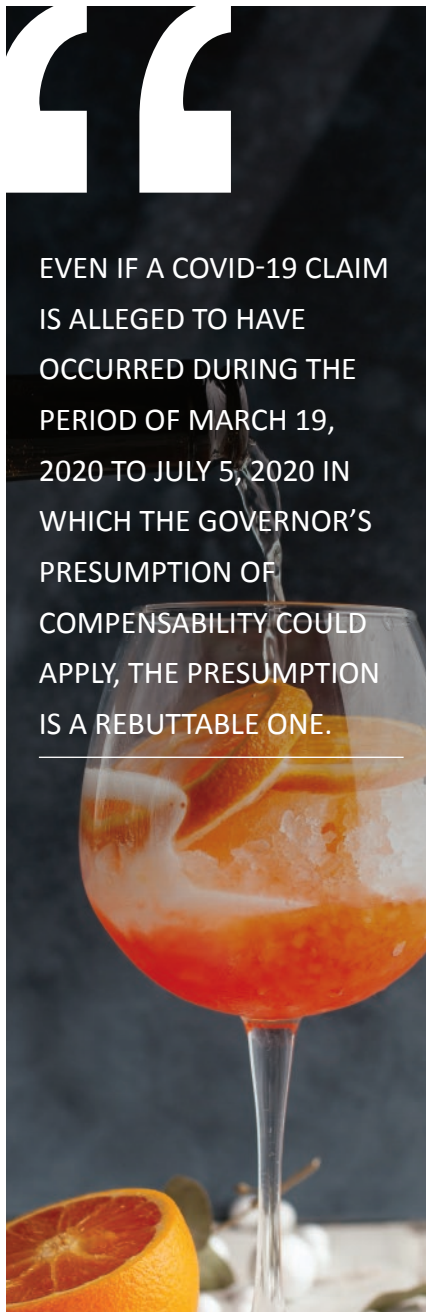
Despite the fact that occupational diseases are paired with cumulative traumas in these two code sections, the *Leggette* decision finds that the two concepts remain distinct. In other words, an occupational disease is not necessarily a cumulative trauma. Notably, the WCAB explained in *Leggette* that the applicant had no obligation to prove the exact date of his exposure. Instead, by alleging a specific date of injury for the West Nile Virus claim, the applicant had correctly complied with the language of 5505.5(a) regarding the last date of employment involving hazardous exposure.

I told Ned that this line of reasoning would likely apply to his coronavirus claim. The fact that the applicant had alleged a specific date of injury without evidence as to exactly when he was exposed was not a good enough reason to deny the claim.

I reminded dear Ned that, as with any other case, there was still an investigation that needed to be done. Did anyone else in close contact with the applicant test positive, at work or at home? Are there any

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EVEN IF A COVID-19 CLAIM IS ALLEGED TO HAVE OCCURRED DURING THE PERIOD OF MARCH 19, 2020 TO JULY 5, 2020 IN WHICH THE GOVERNOR’S PRESUMPTION OF COMPENSABILITY COULD APPLY, THE PRESUMPTION IS A REBUTTABLE ONE.



credibility issues which raise red flags about the motivation for the claim or which may show some reason to doubt the applicant’s assertion that this was contracted at work? Is there any indication that the applicant risked

it all to belt out the song from *Shrek* with thousands of other motorcycle enthusiasts at Smash Mouth’s big performance at the Sturgis Motorcycle Rally earlier in the month?

“Bing!” Ned exclaimed. The applicant WAS a big Smash Mouth fan and had been on vacation the week of the rally. He had even bragged to coworkers that he was going to get out to see America on his Harley. Ned would dispatch investigators to the applicant’s social media pages to look for photos of him in South Dakota (or “The Tropical Dakota” as it is commonly referred to) with the other bikers. If the applicant was attending large gatherings, there could be a question as to whether any exposure occurred in the workplace.

I hung up with Ned, hoping that he would refer the file over for my handling so I would know how the story ended, and returned to my own endless time loop. Get up. Jog. Lawyer. Parent. Disinfect. Manhattan with two cherries. Sleep. Repeat.

**DISCLAIMER:** All characters at my home bar are fictional, and the storyline is simply a product of my active imagination.

I would like to take this opportunity to remind our loyal Lobby Bar/Home Bar patrons that a timely and thorough investigation is key in every claim. Even if a COVID-19 claim is alleged to have occurred during the period of March 19, 2020 to July 5, 2020 in which the Governor’s presumption of compensability could apply, the presumption is a rebuttable one. An investigation could produce the information necessary to make a good faith denial. And as my colleague Tony Macauley wrote in his piece on our Kegel, Tobin & Truce blog, there could be constitutional challenges to the presumption, which you can read about [here](#).


While *Leggette* lacks the designation “significant panel decision,” Joe Truce, formerly a managing shareholder at our firm and creator of *George the Bartender*, always

liked to remind me of one of his favorite portions of the Labor Code, subtitled “Specific Additional Evidence Allowed” §5703(g), which states in relevant part as follows:

The appeals board may receive as **evidence either at or subsequent to a hearing**, and use as proof of any fact in dispute, the following matters, in addition to sworn testimony presented in open hearing: ... (g) Excerpts from expert testimony received by the appeals board upon similar issues of scientific fact in other cases and the prior decisions of the appeals board upon similar issues. (emphasis added)

He would also draw our attention to California Evidence Code §452(d), which provides that judicial notice may be taken of “Records of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.”

We’re still making our own doubles for now. May George guide my hand. Bottoms up, friends, and keep washing your hands.



KEGEL, TOBIN & TRUCE, A.P.C.

**THINK A COLLEAGUE MIGHT ENJOY THE EXPLOITS AT THE LOBBY BAR?**

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<sup>1</sup> Fun fact: Anne Rice, noted horror author whose work includes *Interview with the Vampire* and *The Vampire Lestat*, served as an influence for the original script of the film *Groundhog Day*.

<sup>2</sup> A copy of *Leggette* can be obtained via email request.

<sup>3</sup> Legend has it that the Manhattan was invented by New York City socialite Ms. Jennie Jerome, aka Lady Randolph Churchill, in the mid-19th century at a party for the newly elected Governor of New York, Samuel J. Tilden, held at the estimable gentleman’s club called the Manhattan Club. Debatable perhaps because at the time, Lady Randolph was in fact in England and very much pregnant with one Sir Winston Churchill, but I digress.

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# The CorVel Corner:

## Critical Incident Stress Debriefing

CONTRIBUTED BY CORVEL

Early and effective intervention following a traumatic event can be crucial, especially in times like these. At CorVel, we've found that Critical Incident Stress Debriefing, or CISD, is an effective approach to support employees who have witnessed or experienced a traumatic incident at work. CISD helps employees express feelings and concerns related to stressful events. Motor vehicle accidents, machine injuries, electrical shocks, violence, thermal or chemical burns, witnessed fatality, and weather-related incidents can have a

significant impact on an individual's physical and mental health. The primary objectives of CISD are to provide emotional support to reduce the long-term impact of the incident, accelerate recovery, restore morale, keep employees at work, and help recognize people who may need additional services.

The CISD technique can be used one-on-one or in a group setting. This approach allows for emotional ventilation, education on stress management and stress reactions, and reassurance that the stress response is controllable and recovery is possible. CISD also educates employees on signs and symptoms that may arise in the future, including information on preventing or mitigating post-traumatic stress disorder or PTSD.

Research on [CISD effectiveness](#) shows that individuals who are provided CISD within 24 to 72 hours after the initial critical incident experience less psychological trauma. At CorVel, we have case managers certified in CISD to provide the additional support needed to help employees following a traumatic incident. For employers, this reduces the number of stress claims, the amount of lost time, and the duration of permanent disability among affected employees.

With the notable impact the pandemic has had on frontline and essential workers, many are now experiencing Post COVID-19 Traumatic Stress Syndrome (PCTSS). To

mitigate the effects of this stress, CorVel is offering PCTSS debriefing to affected employees, whether or not they've had coronavirus themselves. PCTSS debriefing is a form of CISD that helps employees reintegrate into the workplace feeling encouraged and enthusiastic about returning to work following the stress and trauma experienced.

By providing an immediate, appropriate response to critical stress – whether it be following a traumatic incident or from the effects of COVID-19 – CISD helps employees feel cared for by their employer and provides the support needed for a successful recovery and return to the workplace.

**CorVel is here to support our partners and the community. For more information on how our claims teams and medical management teams can help you, contact us today. You can reach Laura Day, Vice President, Regional Sales, at [Laura\\_Day@corvel.com](mailto:Laura_Day@corvel.com).**



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