

# LESSONS LEARNED IN WORKERS' COMPENSATION CLAIMS

*In Part 2 of our series on claims that made their mark, A.I.M. Mutual supervisors discuss why these cases are so valuable in training and how they resonate years later.*

## One Shortcut Changes Lives

By: Lisa Battis, AIC

Regional Claim Specialist Supervisor

**I'LL NEVER** forget “Jim,” a maintenance worker who was highly dedicated to his job and even used to walk to work in snowstorms when others couldn’t get there. He knew the plant like his own home. One day he climbed onto a stool instead of using a step ladder and slipped. He injured his back and never returned to work.

Jim had preexisting back injuries, and this incident—which appeared minor at first—resulted in a drop foot, impairing his ability to walk. He had surgery, but unfortunately, his injury continued to be disabling. Nonetheless, he was always upbeat and wished he could return to work. (His wife did, too!)

I visited him on a regular basis, checking in on him and trying to settle his claim. He never did accept an offer, content to receive his weekly benefits.

I use this claim in training to demonstrate how important it is to remind policyholders to promote safety at their job sites. Even those employees who know their jobs inside and out can still get injured if they take shortcuts. This claim made me very aware of how a work injury can affect an employee’s life and family members’ lives in so many ways. Since then, every time I get a new assignment, I remember that a work-related injury

affects more than one person; it can alter an entire way of life for a family.

## Researching the Law

By: Aram Kalashian, Claim Supervisor

This claim made a lasting impression because it taught me the value of investigation, researching the law, and following litigation through to its conclusion.

This case was tragic: a death case involving an intoxicated employee. Due to flooding in the surrounding area, it appeared the employee was onsite to operate a water pump to safeguard the business. However, the pump was never started. Sadly an autopsy confirmed the employee, whose blood alcohol concentration was more than five times the legal limit, had drowned in standing water.

As the carrier, we felt the employee could not have been “in the course and scope of his employment or was a benefit to the employer” considering the high blood alcohol level; therefore, this was not a compensable workers’ compensation case.

The judge disagreed, ordering benefits paid under Section 7(A) of the law. That law, in summary, says that if an “employee is found dead at his place of employment, and is unable to testify . . . it shall be prima facie evidence that the employee

was performing his regular job duties on the day of injury or death.” The claim was ultimately lump sum settled.

Still, given the prior medical history, we had one more legal avenue: pursue recoveries via the Second Injury Fund. That, in fact, allowed us to recover more than half of the benefits paid (63.75%, close to the maximum allowed).

I use this case for training all the time. It illustrates three key sections of the law in Massachusetts: §27 Willful Misconduct of an Employee, §7A Presumptions—Employee unable to testify, and §37 Second Injury Fund recovery. This case has taught me to look deeper into possible Second Injury Recoveries and conduct more case law research on my files.

## The Opioid Red Flag

By: Keith Mailloux, Claim Supervisor

It appeared to be a clear-cut workers’ compensation claim. A Licensed Practical Nurse (LPN) was propping up a patient to dispense medication when the patient fell backward. The LPN reported she torqued her shoulder and lower back and went immediately for emergency medical treatment. These types of injuries are not uncommon in healthcare. We paid the claim as it appeared to be a compensable injury that arose out of and in the course and scope of her employment.

This claim happened in September

2011. Following this alleged work injury, the employee was hospitalized for extreme lumbar pain on several occasions. With prescriptions for Percocet becoming routine, we conducted an additional investigation which led to litigation and subpoena requests for past records. We discovered a history of opioid dependence going back to 2009 following a motor vehicle accident, which was not work-related. What's more, she was filing workers' compensation claims with multiple employers, with most of her injuries resulting in settlements, followed by a quick return to work with a different employer.

By late 2012, a court hearing determined there was persuasive medical evidence to support that narcotics were a driving force behind the employee's history of filing for workers' compensation injuries. The officer terminated both her indemnity and medical benefits.

I often use this case in training. It made me realize that you always need to do your due diligence and investigate every claim thoroughly even when the "facts" seem straightforward. Even though this claim has been closed due to inactivity for several years now, I still periodically run an insurance claim report out of curiosity. Since the 2011 work injury, she has reported five other claims with different employers.

#### Inspiration and Perspective

By: Kathryn Kelley, Senior Claim Supervisor

Even today, I'm still amazed when I think of "John" and how he came to terms with his devastating work injury. He'd fallen out of a tree, sustained a severe spinal cord injury, and was now a quadriplegic.

I visited with him at home shortly after his release from a rehabilitation facility. I was struck by how positive his attitude was. He seemed to accept what had happened and was moving on. He would be in a wheelchair for the rest of his life, yet he accepted that without complaint. His ex-wife also helped to care for him in the early months, taking him in to live with her. I thought that was a remarkable and unselfish thing to do.

I couldn't help but contrast this case with those I'd handled previously in my career as an auto claims adjuster. I handled total vehicle losses for a while, and so many times, people were irate, rude, and even depressed over the loss of a car. It may not be a fair comparison, but it puts things in perspective.

John was kind, easy to work with, and very appreciative of all we did with his injury management and workers' compensation benefits. It was an eye-opening experience for me. It added to my compassion and understanding of what workers with serious injuries must overcome. ■



## LISA BATTIS

**Lisa Battis**, AIC, Regional Claim Specialist Supervisor, has been involved with workers' comp claims for A.I.M. Mutual since 1994 and has been supervising the regional team since 2014. Prior to A.I.M. Mutual, she worked for Hanover Insurance, holding positions of increasing responsibility. Fluent in Portuguese, Lisa represents the company at Boston-area conciliation hearings.



## ARAM KALASHIAN

**Aram Kalashian**, Claim Supervisor, has supervised workers' compensation claims for over 7 years. He joined A.I.M. Mutual Insurance Companies in 2001 as a claim service representative and held various positions within the claim department. Aram has successfully completed and participated in several training programs and industry seminars focusing on fraud identification, litigation, and settlement negotiations. Aram holds an Associate's degree in Criminal Justice from Northern Essex Community College.



## KEITH MAILLOUX

**Keith Mailloux**, Claim Supervisor, has worked on workers' compensation claims for A.I.M. Mutual since 2003. Prior to being promoted to a supervisor in 2017, he held the position of Claim Technical Coordinator and was responsible for the training needs of the claim department. Keith, who is licensed in New Hampshire as well as Massachusetts, is also responsible for Longshore and Harbor workers' compensation claims. Keith holds Bachelor of Arts degrees in History and English from Merrimack College.



## KATHRYN KELLEY

**Kathryn Kelley**, Senior Claim Supervisor, supervises third-party recovery, second injury fund recoveries, and reinsurance reporting and updating. Prior to joining A.I.M. Mutual claims in 1997, she worked extensively in workers' comp and multi-line claims as a procedures auditor, adjuster, and in supervisory roles. Kathy holds a Bachelor of Arts degree in Psychology from the University of Massachusetts at Lowell.