



2019 Annual Meeting & Educational Conference

Confronting Unconscious Biases in Workers' Compensation Litigation

presented by:

Niki T. Ingram, Esquire

WHY DOES DIVERSITY MATTER?



IT'S THE RIGHT THING TO DO



Diversity matters because it impacts:

- **How we see things.**
- **What we see.**
- **What we hear.**

There are a multitude of studies and articles that reinforce why diversity is important.

- <https://implicit.harvard.edu/implicit/>
- <https://www.philly.com/news/court-reporter-stenographer-african-american-english-aave-philly-transcript-study-20190122.html>
- ***Uncovering the Hidden Prejudice that Shapes What We See, Think and Do*, by Jennifer Eberhart**





FACT SCENARIO

Injured worker was a 55-year-old man who had sustained a broken ankle in 2010. He had pins and screws inserted, but was able to return to work with the preinjury employer doing modified work. He was not able to work overtime with the modified job. He worked the modified job for three years with normal time off. The partial was approximately \$35,000. A reasonable demand of \$60,000 was made to settle the case. The employer offered nuisance value of \$5,000. Case could have settled for \$35,000.

FACT SCENARIO (CON'T)

- Injured worker was relatively soft-spoken but had a very strong wife who inserted herself in all negotiations and conversations.
- Self-insured client with a strong TPA, but it was the self-insured's money. The carrier did not want money to be placed on the case.
- In 2013, the injured worker sustained an injury to his knee on the same side of the body with a direct impact to the kneecap. This aggravated underlying osteoarthritis, which led to knee replacement.
- The knee injury also aggravated the ankle because of an altered gait. Then he had physical therapy as a follow up to the knee and for the ankle. Modified work was no longer available and the injured worker began to receive benefits at the rate of \$60,000 per year.
- A \$35,000 case became a \$150,000 case because the carrier didn't want to settle it.
- The question became why didn't the carrier want to settle the case.

PHRASES/STATEMENTS THAT RING BELLS

- **People like that don't know what to do with the money.**
- **Someone who lives in that neighborhood...**
- **A woman like that...**
- **I hate to give money to someone who has that kind of look.**
- **Thug.**
- **Calling an African-American man a boy.**
- **Illegal immigrants vs. undocumented worker.**
- **Bossy or sassy.**
- **They need to speak English.**
- **Why is she wearing that thing on her head?**

INSURANCE INDUSTRY STATISTICS

- **Insurance industry is largely white.**
 - 90% of agency principals/senior managers are white and 3% are black.
 - 85% of non-principal agency managers are white and 3% are black.
 - 88% of non-principal producers are white and 5% are black.
 - 85% of insurance customer service representatives are white and 6% are black.

**Findings from The Journey of African American Insurance Professionals, a report by Marsh and the National African American Insurance Association: <https://riskandinsurance.com/african-americans-in-insurance/>*



QUESTIONS?

Niki T. Ingram

Director, Workers' Compensation Department

Marshall Dennehey Warner Coleman & Goggin

215.575.2704

ntingram@mdwcg.com