Syllabus – Personal Injury Practice – Fall, 2015

Instructor: Robert D. Armano, Esq.
265 Broadway, Rte. 28
Methuen, MA 01844
(978) 683-7704
E-Mail: robarmano@armanolaw.com

Texts: Automobile Liability Insurance Update (MCLE) – REALLY RECOMMENDED, Not Required
2013 Massachusetts Personal Injury Law Sourcebook & Citator (MCLE) – Recommended, Not Required
Workers’ Compensation (MCLE) – Recommended - Not Required

Grading Policy:
1. Demand Package – 25%
2. Final Exam – 75%
   Course Outline

I. Automobile Accident Claims:

August 18, 2015 - Auto Accident Intake, Initial Claim Evaluation & Insurers
- Client Interview
- 1st Party Coverage v. 3rd Party Coverage
- File Set-Up.
- Reserves & Disclosure of Policy Limits
- Documentation of Calls
- 3rd Party Requests for Statements &IME

August 20, 2015 - Ethical Considerations in Undertaking Representation
- M.G.L. c.221, §§43 & 44 Prohibition against employing runners; Disqualification for violation of §43.
- M.G.L. c.266, §111C – Fraudulently obtaining benefits under insurance contract; runners; punishment.

August 25, 2015 - Massachusetts Automobile Insurance Policy, 8th Edition

a. Compulsory Insurance–M.G.L. c.90, §34A
   - Bodily Injury to Others (discussion/case review):
     o Persons Covered - M.G.L. c.90, §34M; Skinner v. Royal Ins. Co. 36 Mass. App. Ct. 532, 633 N.E.2nd 432 (1994)(guest occupants right of recovery from uninsured provision) and
- M.G.L. c.175, §112C – Mandatory disclosure of Policy Limits.

August 27, 2015 - **Massachusetts Automobile Insurance Policy, 8th Edition (cont.)**

- **Personal Injury Protection (P.I.P.)—M.G.L. c.90,§34A & 34M**

September 1, 2015 - **Massachusetts Automobile Insurance Policy, 8th Edition (cont.)**

- **Personal Injury Protection (P.I.P.)—M.G.L. c.90,§34A & 34M**

September 3, 2015 - **Massachusetts Automobile Insurance Policy, 8th Edition (cont.)**

- **Personal Injury Protection (P.I.P.)—M.G.L. c.90,§34A & 34M**


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**September 8, 2015 - Massachusetts Automobile Insurance Policy, 8th Edition (cont.)**

- **Bodily Injury Caused by Uninsured Auto-M.G.L.c175, §113L**
  - **Notice** – MAIP 7th, p.32; *Goodman v. American Casualty Co.*, 419 Mass. 138, 643 N.E. 2nd 432 (1994) (prompt notice of uninsured claims);

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**September 10, 2015 - Massachusetts Automobile Insurance Policy, 8th Edition (cont.)**

- **Bodily Injury Caused by Uninsured Auto-M.G.L.c175, §113L**
  - **Amounts Recoverable** – MAIP 8th, p. 9
  - **Arbitration** - MAIP 8th, p. 9
  - **Permission to Settle** - MAIP 8th, p. 10

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**September 15, 2015 - Massachusetts Automobile Insurance Policy, 8th Edn (cont.)**

b. Optional Insurance:
- **Optional Bodily Injury to Others** (/discussion/case review)


September 17, 2015 - **Massachusetts Automobile Insurance Policy, 8th Edition (cont.)**

- **Optional Bodily Injury to Others (discussion/case review)**

September 22, 2015 - **Medical Payments Coverage (discussion/case review)**

- **Stacking of Med Pay Policies**;
- **Coordination of Med Pay & PIP Coverages** – *Massachusetts Division of Insurance Bulletin B-90-2 (February 21, 1990) & Massachusetts Division of Insurance Letter to Andrew Aloisi, Esq. dated February 25, 2003. Note: These documents can be found within MCLE’s Mass Motor Vehicle Torts, Volume 1, chapter 2, exhibits 2D & 2G. This volume is on reserve in the library!*
- **Metropolitan Property and Casualty Insurance Co. v. Blue Cross and Blue Shield of Massachusetts, Inc.,** 451 Mass. 389, 885 N.E. 2nd 825 (2008) (Coordination of Med Pay, PIP & Health Insurance);
- **“2008-12 Clarification of Coordination of Benefits under M.G.L. c.90, §34A and the Interrelationship by and among PIP, Health Insurance and Medical Payments.”** http://www.mass.gov The Circle is Complete!
September 24, 2015 - Massachusetts Automobile Insurance Policy, 8th Edition (cont.)
- Underinsured Motorist Cov. (discussion/case review)

September 29, 2015 - Case Evaluation, Demand & Settlement
- Valuing a Case
  o Special Damages – Medical Expenses, Wage Loss & Replacement Services.
  o General Damages – Pain & Suffering, Permanency & Disfigurement, Quality of Life, Future Medical Problems, Vocational Rehabilitation/Counseling, Liability, Social Security Life Tables.

October 1, 2015 - Case Evaluation, Demand & Settlement (cont.)
- Demand Preparation
  o Use of Experts
  o Preparation of Demand Letter
  o M.G.L. c.93A & 176D

NOTE: DEMAND PACKAGE MATERIALS PRESENTED!

October 6, 2015 - Case Evaluation, Demand & Settlement (cont.)
- Settlement & Release
  o Release Document
  o Settlements Involving Minors M.G.L.c231, §140C1/2.
  o Liens – Workers Comp, Hospital, Medical Providers and compromise of liens; Meyers v. Bay State Health Care, Inc. 414 Mass. 727, 610 N.E.2nd 303 (1993)(Proceeds received from Underinsurance coverage not subject to HMO’s statutory lien.) M.G.L. c.111, §§70A & 70B.
October 8, 2015 - **Litigation & Alternative Dispute Resolution**

- **Complaint** – Superior v. District Court
- **Discovery** – Interrogatories, Document Requests, Requests for Admissions, & Deposition Medical Certification - M.G.L. c.233, §79G

October 13, 2015 - **Litigation & Alternative Dispute Resolution (cont.)**

- **Alternative Dispute Resolution**
  - Binding High/Low Arbitration
  - Mediation

II. **Workers’ Compensation Claims:**

October 15, 2015 - **Overview of Massachusetts Workers’ Compensation**

- Intake Interview
- Amount of Weekly Benefit

October 20, 2015 - **Uninsured Employers**

- *O’Malley’s Case*, 361 Mass. 504, 281 N.E. 2nd 277 (1972); (Independent Contractor Designation to avoid Procurement of Workers’ Compensation Insurance)
- Uninsured Subcontractors – M.G.L. c.152, §18

October 22, 2015 - **Workers’ Compensation - Injury**

- Demand for Employee’s Statement - M.G.L. c. 152, §7B
- NOTE: DEMAND PACKAGE DUE!!

November 3, 2015 - **Workers’ Compensation Claims Procedure**
- 452 C.M.R. 1.01 thru 1.08

November 5, 2015 - **Workers’ Compensation Claims Procedure (cont.)**
- 452 C.M.R. 1.10 (Conferences)

November 10, 2015 - **Workers’ Compensation Claims Procedure (cont.)**
- 452 C.M.R. 1.11 (Hearings)

November 12, 2015 - **Workers’ Compensation Claims Procedure (cont.)**
- 452 C.M.R. 1.12 (Discovery and Depositions)

**Workers’ Compensation Claims Procedure (cont.)**
November 17, 2015 - Review for Final Exam (Auto & Workers' Compensation or Make-up Class)

November 19, 2015 - Review for Final Exam (Auto & Workers' Compensation or Make-up Class)

November 24, 2015 - Last Day of Class

November 26, 2015 - Thanksgiving Day!

December 1, 2015 through December 6, 2015 - Study Week

December 7, 2015 through December 19, 2015 - Final Exams

Personal Injury Final Exam - TBA

NOTE: ALL FINAL EXAMINATION SCHEDULING CONFLICTS MUST BE BROUGHT TO MY ATTENTION WHEN THE TENTATIVE FINAL EXAMINATION SCHEDULE IS RELEASED. STUDENTS WHO FAIL TO SERVE NOTICE OF A CONFLICT WILL NOT BE ACCOMODATED!

The instructor reserves the right to modify and/or amend the content of this syllabus.