

## JEWITT MCLUCKIE & ASSOCIATES LLP 2016 CONFERENCE AGENDA

**Mental Wellness in the Workplace: Understanding and Working with PTSD, Addictions and Depression** is an Ottawa-based conference exploring the numerous issues unions, human resources personnel, employers, lawyers, and disability advocates must consider when representing workers struggling with invisible disabilities and addictions.

The conference will focus on the various issues that arise when seeking accommodation for a worker diagnosed with an invisible disability including when and how to consider LTD as part of an accommodation strategy.

Experts in the field will discuss current issues dealing with assisting employees with addictions in the workplace including: privacy issues; culpable versus non-culpable behaviour; health and safety; and drug and alcohol testing; advanced accommodation, retraining and reintegration issues.

The conference will be held at CUPE, Local 503's Training Hall at 1505 Carling Avenue, Ottawa on Thursday, April 21<sup>st</sup>, 2016.

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### THURSDAY, APRIL 21<sup>ST</sup>, 2016

**8:30 a.m.**

**Registration Opens**

**9:00 - 9:15 a.m.**

**Welcome and Introductory Remarks: David Jewitt and Brian Madden (President, Ottawa-Carleton Public Employees' Union / CUPE, Local 503)**

**9:15 - 10:30 a.m.**

**Identifying Invisible Disabilities - David Jewitt, Moderator and Speaker**

- What is an invisible disability?
- How is an addiction a disability?
- Challenges in identification, disclosure, and confidentiality.
- The myth that employees with invisible disabilities and addictions can't handle the workplace.
- Additional considerations when assisting workers with invisible disabilities and addictions such as their gender, sex, age, race, level of education, and family status.

#### **Confirmed Speakers:**

Dr. Kim Corace, Project Director, Director Program Development and Research, [Substance Use and Concurrent Disorders, The Royal](#)

**Brian Madden**, President of CUPE, Local 503 [www.cupe503.com/](http://www.cupe503.com/)

**Fiona Gilligan**, Clinical Director, [Ottawa Anxiety & Trauma Clinic](#)

This panel has been accredited for 0 hour 40 min Professionalism Content by the Law Society of Upper Canada (LSUC)

**10:30 - 10:45 a.m.**

**Break**

**10:45 a.m. - 12:00 p.m.**

**CHOICE OF PANEL A or PANEL B:**

**PANEL A:**

**WSIB: The Most Current (& Complicated) Claims: Practical Tips for Drafting Claims & Appeals  
– Samantha Lamb, Moderator and Speaker**

Whether you are just starting to help members with their WSIB claims or have years of experience, you'll learn something new at this informative panel that will provide information on how to make complex claims for invisible disabilities.

**1. Mental Illness as a Workplace Disability**

- What is a Psychotraumatic Disability – how the WSIB does, and doesn't, recognize workplace mental illness and injury
- Bill 67: Presumptively recognizing PTSD for first responders – get the latest updates on the progress and impact of this Bill
- PTSD & compassion fatigue – how WSIB does & doesn't recognize injuries to 'helpers'
- Depression, Anxiety, and PTSD resulting from workplace harassment – does WSIB recognize this injury and how can I prove it?

**2. Invisible physical disabilities**

- If there's no x-ray or blood test that measures pain levels, how can we prove that the worker's pain prevents them from working?
- The worker forced themselves to keep working despite the pain and didn't see a doctor until they reached the point of total disability, now WSIB says there's no proof of a connection between the workplace injury from months ago and the current symptoms, what can I do?
- Relapses, recurrences and new injuries – the different ways WSIB deals with chronic, relapsing/remitting or degenerative illnesses & injuries

**Confirmed Speakers:**

**Murdell Moore**, Labour Representative at CUPE 503 [www.cupe503.com/](http://www.cupe503.com/)

**PANEL B:**

**The Discipline Dilemma: Punishing the Victim or Protecting the Enterprise? – John McLuckie - Moderator**

- When does an addiction excuse employee misconduct?
- What are the considerations to take into account when dealing with culpable conduct by an addict?
- When and how an employer can test for sobriety
- What are the parameters for employers requiring particular rehabilitation programs? Can they decide when, where, what type, duration, etc? Who has control over the after care?
- What to do if an employee fails a test
- Relapse: breach or cause for greater accommodation?
- What are the strategic considerations when considering addiction issues going before a labour arbitrator or before the Human Rights Tribunal?

**Confirmed Speakers:**

**Dr. Ron Seatter**, Registered Psychologist [www.seatterhealth.ca/](http://www.seatterhealth.ca/)

**David Patacairk**, Lawyer at Litigation and Labour Relations, City of Ottawa

**12:00 - 12:30 p.m.**

**Break – time to rest and get some lunch provided by Jewitt McLuckie & Associates LLP**

**12:30 - 1:30 p.m.**

**Keynote Speaker Presentation**

**1:30 - 3:00 p.m.**

**Getting the Accommodation “Right” for Workers with Invisible Disabilities and Addictions – David Jewitt – Moderator and Speaker**

Achieving accommodation for a worker with an invisible disability or addiction requires unique considerations and steps. This engaging panel will explore the accommodation process and plan with attention to these details.

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- Obtaining the right medicals:
  - Maintaining privacy versus obtaining sufficient information.
  - Can you talk to an expert or treating doctor about their report?
  - Does the Employer have a right to ask for more information, to challenge the information given, or to communicate directly with the worker's health care providers?
- Employer obligations when formulating an accommodation proposal:
  - Tolerating lowered productivity or performance standards.
  - Retraining and/or assigning alternate jobs on a trial basis.
- Union obligations when facilitating accommodation:
  - Assisting with reintegration.
  - What can you do if the accommodation plan conflicts with seniority?
- Realistic versus desirable accommodation plans:
  - Managing the worker's expectations.
  - What happens if the worker's job has changed or disappeared while absent from work?
  - Straight day shifts and/or no weekend work in a rotating shift world.
  - Temporal limits to the duty to accommodate.

### **Confirmed Speakers:**

**Judith Allen**, Labour Arbitrator

**Kevin MacNeill**, Employer Counsel, [Emond Harnden LLP](#)

**Spencer Jones**, CUPE Local 1764

This panel has been accredited for 0 hour 10 min Professionalism Content by the Law Society of Upper Canada (LSUC)

**3:00 - 3:15 p.m.**

**Break**

**3:15 - 4:45 p.m.**

### **CHOICE OF PANEL C or PANEL D:**

#### **PANEL C:**

**When Push Comes to Fight: Litigating the Claim – Randy Slepchik, Moderator and Speaker**

- Standard LTD contract terms as they relate to invisible disabilities and addictions
- Common denial reasons given by insurance companies and how to get around them

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- Tips for a strong initial claim
- What are the steps to appeal a denial up to and including a civil claim
- Litigation strategies
- Ethical Issues in Addressing LTD Claims
- Timelines and Limitations

This panel has been accredited for 0 hour 10 min Professionalism Content by the Law Society of Upper Canada (LSUC)

### **PANEL D:**

#### **Creating an Environment of Mental Wellbeing in the Workplace: Employees' Rights to a Fair and Respectful Workplace – Dina Mashayekhi, Moderator and Speaker**

- Unique concerns that arise in bullying and harassment against persons with invisible disabilities
- How to address Bona fide Occupational Requirements and at the same time avoid Stereotypical behaviour by Management and Co-workers
- Practical tips for positive Human Resource solutions to Harassment Complaints
- Bill 168 and the right to refuse – does an employee have the right to refuse work if they are being bullied or harassed at work?

### **Confirmed Speakers:**

**Lyne Wilson**, Director, Human Resources & Employee Relations at [NAV CANADA](#)

**Dave Gallson**, Associate National Executive Director, [Mood Disorders Society of Canada](#)

4:45 - 5:00 p.m.

**Wrap Up and Closing Remarks – Randy Slepchik**