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## The Importance of Seeking Information on Any Pre-existing Injuries

Whether or not an injured worker's pre-existing conditions represent a defense to the claim they can clearly represent a credit relative to any award of permanency. Prior claims filed with the Division of Workers' Compensation is the "low hanging fruit" and the first place the defense must look for prior awards that pertain to the current claim. Authorized treatment records need to be scrutinized by defense counsel for references to any and all pre-existing issues. An Index search and the personnel file may be another source to identify previous claims that may provide a credit. It is the employer's burden to establish this credit so we need to gather this information and make our case pursuant to the Supreme Court decision in *Abdullah v. SB Thomas, Inc.*

The 2016 case of *Todaro v. Gloucester County Corrections* made it clear that the employer cannot be overly broad in demanding all prior medical records in order to search for prior claims and evidence of a previous disability. The Workers' Compensation Court will not allow "fishing" expeditions. If there is evidence of prior claims that justifies further investigation, defense counsel should ask the Court to order either specific interrogatories (that the rules do allow) or a hearing where the employee can be questioned about these prior conditions and treatment as permitted in the *Todaro* case.

For more information please contact Robert R. Hanneman Jr. at 856.779.7010 or [rhanneman@wglaw.com](mailto:rhanneman@wglaw.com).

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