



NEW JERSEY STATE BAR ASSOCIATION

DOMENICK CARMAGNOLA, PRESIDENT
Carmagnola & Ritardi, LLC
60 Washington Street, Suite 300
Morristown, NJ 07960-6859
973-267-4445 • FAX: 973-267-4456
dcarmagnola@cr-law.net

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Hon. Russell Wojtenko, Jr.
Director and Chief Judge of Compensation
N.J. Department of Labor & Workforce Development
Division of Workers' Compensation
1 John Fitch Plaza, P.O. Box 381
Trenton, New Jersey 08625-0381

RE: Feb. 14, 2022 Notice to the Bar Re: Workers' Compensation Court Reopening

Dear Director Wojtenko:

Please accept this correspondence in response to the Notice to the Bar that was issued on February 14, 2022, regarding the opening of the workers' compensation court facilities.

The New Jersey State Bar Association (NJSBA) welcomes the limited reopening of the workers' compensation courts; however, we are concerned that the Notice may overlook the efficiencies gained since March 2020.

Since March 2020, attorneys have represented injured workers and employers effectively and with adequate due process through the use of Microsoft Teams, telephonic conferencing, and email communication. Workers' compensation judges conducted live conferences and heard testimony from injured workers and experts remotely. The judges updated their docket by receiving information through fax or email. Practicing law with these tools is efficient and beneficial to injured workers and their employers, while providing a healthy and safe forum for our members to represent their clients.

Since the Notice was released, judges have interpreted its directives in various ways, with some requiring in-person attendance for routine matters and others requiring only the counsel for respondents to attend.

The Notice requires that certain trials be conducted "in person," which conflicts with N.J.A.C. 12:235-3.12(f). That rule states: "Testimony of witnesses by video teleconferencing procedures may be permitted for good cause by the judge of compensation to whom the case is assigned." The NJSBA believes that procedures going forward should be consistent with Court Rules and Regulations and consistent throughout the state.

While the safety of the court facilities is paramount, critical in these virtual times is poor internet connection in many of the court facilities. This condition makes access to file materials difficult and sometimes impossible. We believe the Division is aware of those vicinages with internet issues and we strongly urge that the upgrading of those facilities be prioritized.

The NJSBA has communicated to the Division several times during the COVID pandemic on how we can jointly work to create efficiencies. We believe that all involved have worked during the pandemic in a safe and effective manner, with even greater efficiency than pre-pandemic. We have learned that there is a better way to practice workers' compensation law, as have our neighboring states. New York and Pennsylvania have adopted virtual practice procedures as the norm.

We welcome the opportunity to work with the administration on these procedures, and offer the expertise of numerous members of the bar who are willing to assist in developing rules that are fair and effective to all concerned.

Respectfully yours.



Domenick Carmagnola, Esq.
President

cc: Jeralyn L. Lawrence, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director
Mark S. Setaro, Esq., chair, NJSBA Workers' Compensation Section