



NEW JERSEY STATE BAR ASSOCIATION

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March 27, 2020

Hon. Robert Asaro-Angelo, Commissioner
New Jersey Department of Labor and Workforce Development
1 John Fitch Plaza, P.O. Box 110
Trenton, New Jersey 08625

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

Dear Commissioner Asaro-Angelo and Director Wojtenko:

On behalf of the New Jersey State Bar Association (NJSBA), I thank you for your leadership under these unprecedented circumstances, and for your remarkable efforts to keep our state's residents strong, safe, healthy and on a positive track to recovery.

New Jersey attorneys are also making extraordinary efforts to continue to meet the legal needs of their clients while complying with the various restrictions in place, particularly those imposed by Executive Order 107 (EO 107). They are working remotely, participating in virtual proceedings and contacting clients through any available means.

As you know, the Division of Workers' Compensation has been shut down since March 17, 2020, with no firm date about when workers' claims will again be addressed. In contrast, the state's superior courts have remained open, operating virtually whenever possible. In an effort to ensure that New Jersey's injured workers continue to receive their statutory benefits in a time of financial stress, just as other litigants' rights continue to be met in the superior courts, the NJSBA requests that you consider instituting the following processes in the Workers' Compensation division. If followed, these processes would comply with EO 107 and promote the efficient resolution of workers' compensation claims without the risk of spreading the COVID-19 virus through personal interaction.

The NJSBA recommends instituting the following procedures for as long as EO 107 remains in place:

- Conduct telephonic hearings via phone or web-cam with judges, wherever they reside.
- Judicial executions of consent orders, so benefits can be voluntarily paid to injured workers upon agreement.
- Use of Courts-on-Line to upload Orders for Judges to execute on-line and circulate without in-person attendance.
- Continue to run lists in the Division.
- Give priority to Motions for Medical and Temporary Disability and Settlements.
- Require lawyers to review lists daily and within three days business days of the list being posted in Courts On Line, adjourn all matters which are not ready to either conference or settle.
- Where the parties agree, allow the acceptance and review of settlements by affidavit, including the attorneys' affidavits related to stipulations of facts, issues and the settlement. Execute orders and distribute them to the parties through Courts-on-Line.
- Where the parties or the court must conference a matter, allow the conference to occur by telephone as the preferred method.
- For those matters that need to be addressed by phone or video, 5 business days prior to the court hearing date, divide each hour into 15-minute segments, assigning the parties one or more segments, depending on the nature of the conference or settlement. This would allow for up to 28 daily segments.
- Where telephonic or video conferencing of a matter is requested, require the parties' attorneys to work together to arrange the video or telephone conference on the day the matter is normally listed at the time assigned by the court.
- Assign a morning segment to settled matters.
- Schedule conferences to take place following settlements.

In addition, in this unique period, the NJSBA, upon recommendation of its Workers' Compensation Section, respectfully requests your attention to and consideration of reinstating regular quarterly meetings of the Commissioner's Advisory Council on Workers' Compensation. This Advisory Council, consisting of highly skilled professionals from business, government, industry, and law, historically has contributed positive ideas to address complex concerns associated with the best interests of the employees and the employers of the State of New Jersey. Based on this history, we believe the Advisory Council would be beneficial and provide useful recommendations and guidance to both of you, especially during these trying times.

Thank you for your attention to these issues. The NJSBA stands ready to assist you in implementing these recommendations and assisting in any other way to ensure our workers' compensation courts can continue to operate under the circumstances with which we are confronted.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Evelyn Padin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Evelyn Padin, Esq.
President

cc: Kimberly A. Yonta, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director
Steven Cohen, Esq., chair, NJSBA Workers' Compensation Section