

Delaware Workers' Compensation

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Jessica L. Julian

How COVID-19 Is Affecting Delaware:

- The Industrial Accident Board issued an order on March 16, 2020, suspending/continuing all Board hearings until at least April 3, 2020.
- The Delaware Department of Labor has suspended all public access to all offices until further notice.

- Merit hearings and motions scheduled for March 16, 2020 through April 3, 2020 at the Delaware Department of Labor will be rescheduled for later dates.
- All appeals from Industrial Accident Board decisions are heard by the Superior Court and Supreme Court of Delaware. At this time, current mandates should not impact any appeals which do not require oral argument.
- All updates and orders from the Delaware Judiciary can be found at <https://courts.delaware.gov/aoc/covid-19>. ▶

New Jersey Workers' Compensation

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Gregory C. Bartley

How COVID-19 Is Affecting New Jersey Workers' Compensation:

- The New Jersey compensation courts are closed through April 3, 2020.
- Hearings, trials and witnesses scheduled between March 17, 2020 and April 3, 2020 will be rescheduled.

- Importantly, Emergent Motions will continue. As best as possible, these hearings will take place by use of telephone and video technology.
- Filings will continue electronically through Courts On Line.
- The New Jersey Workers' Department of Labor and Workforce Development website has information specifically for employers and businesses. For more info, go to: <https://www.nj.gov/labor/employer-services/business/covid.shtml>. ▶

This newsletter is prepared by Marshall Dennehey Warner Coleman & Goggin to provide information on recent legal developments of interest to our readers. This publication is not intended to provide legal advice for a specific situation or to create an attorney-client relationship. We would be pleased to provide such legal assistance as you require on these and other subjects when called upon.

What's Hot in Workers' Comp is published by our firm, which is a defense litigation law firm with 500 attorneys residing in 20 offices in the Commonwealth of Pennsylvania and the states of New Jersey, Delaware, Ohio, Florida and New York. Our firm was founded in 1962 and is headquartered in Philadelphia, Pennsylvania.

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Florida Workers' Compensation

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Heather B. Carbone

How COVID-19 Is Affecting Florida:

- The Office of Judges of Compensation Claims in Florida has ordered all mediations to be held telephonically through March 27th.
- The Office of Judges of Compensation Claims district offices remain open, and Judges of Compensation Claims are directed to use their discretion in managing their dockets.
- For DOAH hearings scheduled outside of Tallahassee, where telephone or video would be impractical, the hearings will be continued until the expiration of the Governor's initial travel prohibition. If the travel prohibition is extended, the need for additional continuances will be evaluated on a case-by-case basis.
- Any party with concerns or requirements regarding their ability to appear for a live hearing should communicate those concerns/requirements by motion to the appropriate Judge of Compensation Claims.
- For more information and updates, visit the website of the State of Florida Division of Administrative Hearings, Office of the Judges of Compensation Claims at <https://www.jcc.state.fl.us/JCC/>.

Workers' compensation carriers and TPAs are already receiving many workers' compensation claims for Coronavirus/COVID-19 exposure. In Florida, these claims should be treated as exposure and/or occupational injuries. Pursuant to FS 440.02(1) and 440.151(1)(a) and (2), these claims have a higher standard of burden of proof and require claimants to prove causation, using a clear and convincing burden of proof. For any questions or legal opinions on compensability, please contact us. ▶

News

We are proud to sponsor the annual Florida Bar Workers' Compensation Forum (April 15th to 17th) presented by the Workers' Compensation Section of The Florida Bar and the Association of Workers' Compensation Claims Professionals. **Heather Carbone** and **Kelly Scifres** (Jacksonville, FL) will be attending. On April 16, Heather will participate in the program "Average Weekly Wage and Indemnity Benefits (Other than PTD)." For more information, go to <https://www.wccp.org/>. We look forward to seeing you there.

On May 20th, **Michele Punturi** (Philadelphia, PA) is speaking at the 2020 CLM Workers' Compensation

and Retail, Restaurant & Hospitality Conference in Chicago. In "Survivor — Workers' Compensation Edition," Michele joins an industry panel to discuss how employers can survive and thrive in the workers' compensation claims management arena. For more information, visit <https://www.theclm.org/Event/ShowEventDescription/12673>.

Kelly M. Scifres (Jacksonville, FL) will present a webinar on the "Five Hour-Law & Ethics CEU for Adjusters" on June 4, 2020, from Noon-5 p.m. Enrollment is free. Please email KMScifres@mdwgc.com to sign up. Space is limited to the first 100 entrants. ▶

Pennsylvania Workers' Compensation

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Francis X. Wickersham

How COVID-19 Is Affecting Pennsylvania:

- Pursuant to Governor Tom Wolf's order directing the closure of all non-life sustaining businesses as of March 19, 2020, all hearings and mediations have been canceled through the end of March. The Bureau of Workers'

Compensation office is closed, as are all judges' offices. Oral arguments for cases on appeal with the Commonwealth Court have been postponed. Although April hearings are on the books for now, it would be safe to consider the dates as tentative, considering the magnitude and fluidity of the coronavirus crisis.

- The business of workers' compensation continues. The Workers' Compensation Office of Adjudication (WCOA) recently announced a plan to hold C&R hearings telephonically in all districts (Eastern, Southeastern, Central and Western). Requests for a settlement hearing can be made by emailing the judge manager of the district. If you have a claim that has settled and are seeking court approval of a C&R as expeditiously as possible, please reach out to your defense counsel so the necessary arrangements can be made.
- The WCOA is also looking into expanding the scope of telephonic hearings for other petitions, but nothing definitive has been decided.

Our department is committed to serving our clients and we will continue to update you on critical developments via Special Alerts during this time. ▶

Outcomes

Linda Wilson (Wilmington, DE) successfully defended a petition seeking to have a second injury deemed compensable. The claimant was previously found to have a compensable left knee injury and subsequently filed a petition seeking to have a back injury deemed compensable due to an altered gait from the knee injury. Linda's detailed direct examination of the medical experts and review of the claimant's medical records proved that, although there were references to an altered gait, the claimant's back injury was the result of an incident unrelated to the knee injury.

Linda also successfully defended another case where the claimant sought to have an additional surgical procedure deemed compensable. As a result of a back injury sustained in 1998, the claimant had undergone three back surgeries and was seeking to have a fourth surgery, based on testimony presented by a medical expert. Linda's aggressive cross-examination of the claimant's expert and presentation of testimony from a credible medical expert for the defense resulted in a defense verdict. ▶