

**WORKERS' COMPENSATION**  
**Thought Leadership Compendium 2023**



## Workers' Compensation Thought Leadership *Compendium*

At Goldberg Segalla, we write more than briefs and motions. Many of our attorneys are well-respected authors, with a long list of credits in leading national and industry-specific publications.

Our attorney-first-writers use their diverse knowledge to provide you with in-depth analysis of the legal challenges and opportunities facing your business. They share insights through targeted newsletters, blogs, and email alerts, appreciated by our clients and widely recognized in the broader legal and business world. In addition, Goldberg Segalla attorneys develop and present complimentary, live, and interactive webinars that explore the practical implications of trends and developments in the law.

This 2023 Workers' Compensation Thought Leadership Compendium gives you a snapshot of the information and insights published by the attorneys in our Workers' Compensation practice group in the past year, and provides you with direct links to each client alert, webinar, and article.

If you are not already receiving our regular client alerts and webinar invitations, we encourage you – and anyone on your team – to sign up to receive them by visiting the [Publications page](#) of our website.

### ALERTS

#### **Impact of Cannabis Legislation on Maryland Workers' Compensation Claims: What Changed in Maryland?** **November 16, 2023 →**

Maryland's Cannabis Reform Act took effect July 1, 2023, following the November 2022 referendum in which Marylanders voted to legalize cannabis for adult use. The new law allows, among other things, adults 21 or older to legally possess up to 1.5 ounces of cannabis flower.

#### **PEO Reporting Requirements Regarding Employee Separation to Change Under New Law** **November 7, 2023 →**

PEOs operating in New Jersey should be aware that S2357 was signed into law in November 2022 as P.L. 2022, c. 120 ("the Act"). According to its provisions, the Act went into effect on July 31. While the Act has not changed the reporting requirements discussed below, they will be changing in the near future regarding separation of employment.

#### **UPDATE: Maryland Workers' Compensation Law Impacted by Three New Bills | October 10, 2023 →**

The 2023 legislative session of the Maryland General Assembly concluded with a total of three bills that passed, which impact Workers' Compensation law in Maryland. The new laws take effect on October 1, 2023. There were several new pieces of legislation proposed that could have negatively impacted the defense bar, but that were ultimately not passed.



### **Is a Workers' Compensation Claimant Entitled to Temporary Total Indemnity Benefits after Retirement in Connecticut? | September 18, 2023 →**

The Appellate Court of Connecticut recently released two decisions – *Martinoli v. Stamford Police Dep't* and *Cochran v. Dept. of Transportation* – that will change the way the Workers' Compensation Commission applies Conn. Gen. Stat. § 31-307 (a) in a setting where a claimant voluntarily enters retirement and later claims entitlement to temporary total indemnity benefits.

### **New York Workers' Compensation Form Filing Update: Section 21-a and Claims Paid Without Liability September 14, 2023 →**

Workers' Compensation Law (WCL) § 21-a allows a payer to make temporary payments of compensation, if unsure of the extent of its liability for a claim, for up to one year without prejudice and without admitting liability.

### **New York's Minimum Weekly Workers' Comp Benefits to Increase Under New Law September 11, 2023 →**

New York Gov. Kathy Hochul has signed legislation (S1161-A/A2034-A) to increase the minimum weekly compensation for individuals who receive workers' compensation benefits. The new legislation increases the minimum benefits for workers' compensation to better protect low-wage workers who are injured and cannot work.

### **Florida Practice Tip: Using the 120-Day Pay and Investigate Rule to Your Advantage September 8, 2023 →**

Employers and carriers know Florida law requires an insurance company to accept or deny a workers' compensation claim after one is reported within 14 days after an accident, or a Petition for Benefits is filed.

### **Fraud Doesn't Pay in New York – August 2023 Update | August 30, 2023 →**

An overview of recent decisions, demonstrating the board's continuing attitude toward 114-a. The Board has consistently broken down the severity of the violation into essentially two categories: mandatory and discretionary. The mandatory penalty correlates to the number of weeks, equivalent to what we are able to definitively prove. This typically runs from the first date of surveillance, or the first date we can prove an inconsistent statement, through to the date of the judge's decision. The longer the period and scope of the evidence, the longer the mandatory period.

### **Heat-Related Illnesses under New Jersey Workers' Compensation Law | August 10, 2023 →**

With summer in full-swing, record heat waves continue to make headlines across the country. For employers whose employees work primarily outside, there is always the possibility that an employee may suffer a heat-related illness or heatstroke while on the job. This alert addresses several considerations employers in New Jersey will want to keep in mind if they are ever faced with a New Jersey workers' compensation claim for a heat-related illness.

### **New Jersey Passes Law to Increase Medical Expert Fee to Maximum of \$1,000 | July 25, 2023 →**

On July 20, 2023, New Jersey Governor Phil Murphy signed Senate Bill No. 3309, which amends the New Jersey Workers' Compensation Act to increase the maximum allowable evaluating physician fee from \$600 to \$1,000.

### **Form Filing Update: NY WCB Distinguishes Between TTD and PPD Benefits | July 6, 2023 →**

With the July 3 discontinuance of New York Workers' Compensation Forms C-25 and C-27, insurers must now use one of two other forms depending on the situation.

### **Canadian Wildfire Smoke and Potential Workers' Compensation Claims | June 8, 2023 →**

As the smoke from the Canadian wildfires makes its way south to the eastern seaboard of the United States, what do we do with employees who are claiming smoke-related injuries? The answer likely differs between jurisdictions. However, there are certain guiding principles and questions to ask that can help with the analysis.

### **Fraud Doesn't Pay in New York – May 2023 Update | May 31, 2023 →**

An overview of recent decisions, demonstrating the board's continuing attitude toward 114-a. The Board has consistently broken down the severity of the violation into essentially two categories: mandatory and discretionary. The mandatory penalty correlates to the number of weeks, equivalent to what we can *definitively* prove. This typically runs from the first date of surveillance, or the first date we can prove an inconsistent statement, through to the date of the judge's decision. The longer the period and scope of the evidence, the longer the mandatory period.

### **Workers' Compensation Board Further Scrutinizing Section 32s with Releases and Resignations April 26, 2023 →**

We've seen in the last month a significant increase in the number of Section 32 Agreements that a Workers' Compensation Law Judge has either disapproved, or to which they have demanded revisions, due to a general release or resignation attendant to same.

### **Investigating Jurisdiction Defenses in Medical Provider Claims Concerning Construction Workers in New Jersey | March 16, 2023 →**

On October 27, 2020, the New Jersey Appellate Division issued an unpublished decision that set forth the framework to determine whether a New Jersey court can exercise jurisdiction over a medical-provider bill dispute. In *Anesthesia Assocs. of Morristown v. Weinstein Supply Corp.*, 2020 N.J. Super. Unpub. Lexis 1892, the appellate court reiterated that in order to exercise jurisdiction over the medical provider claim, the court must also be able to exercise jurisdiction over the underlying workers' compensation claim, as the medical provider claim is related to the workers' compensation claim.

### **Fraud Doesn't Pay In New York – February 2023 Update | February 28, 2023 →**

Another overview of recent decisions, demonstrating the board's continuing attitude toward 114-a. The board has consistently broken down the severity of violations into essentially two categories; mandatory and discretionary.

The mandatory penalty correlates to the number of weeks, equivalent to what we are able to *definitively* prove. This typically runs from the first date of surveillance, or the first date we can prove an inconsistent statement, through to the date of the judge's decision. The longer the period and scope of the evidence, the longer the mandatory period.

### **Workers' Compensation Board Enacts Changes to Attorneys' Fee Requests | January 10, 2023 →**

As of January 1, the Workers' Compensation Board has implemented new changes to attorneys' fee request.

Previously, there was no specific methodology for the award of attorney fees, and granting a fee solely based on the amount of the award was impermissible. New amendments to Worker's Compensation Law Section 24 reflect an about-face, as Section 24 will now require that claimant attorneys follow a fee schedule.

## **Webinars**

### **Mitigating Workers' Comp Exposure for NY Employers | November 3, 2023 →**

### **Medication Authorization and Litigation Strategies for NY Workers' Compensation Claims April 26, 2023 →**

### **Medicare Secondary Payer Compliance Update | March 22, 2023 →**

### **Tips and Tactics to settle "Old Dog" Claims | February 15, 2023 →**

### **Legal Concerns Facing PEOs in New Jersey and New York | January 31, 2023 →**

## **Articles**

### **Mitigating Workers' Compensation Exposure for New York Employers | November 3, 2023 →**

When the Workers' Compensation Law was enacted in 1914, it was designed as a compromise between employers and employees. Employees would give up the right to sue an employer for a speedier, less formal process. Damages would be less than a personal injury lawsuit, but recovery would be easier. Unfortunately, in recent years, this bargain has fallen apart as costs on the workers' compensation side have increased significantly.

### **N.Y. Workers' Comp: Proving Fraud | September 18, 2023 →**

Nathan J. Milner, partner in Goldberg Segalla's Workers' Compensation group, provides in *CLM Magazine* an analysis of fraudulent workers' comp claims and offers best investigation and litigation practices.

### **The Dual Employment Duel | April 5, 2023 →**

Dustin W. Osborne, partner in Goldberg Segalla's Workers' Compensation group, explored in an article written for *CLM Magazine* how improper onboarding with professional employer organizations can lead to workers' compensation issues.



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