

**DALE C. JOHNSON**  
LAWYER

Exhibit 1b

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December 10, 2018

Workers' Compensation Board  
2601 25<sup>th</sup> Street SE, Suite #150  
Salem, OR 97302-1280

RE: Attorney fee review, December 11, 2018

Dear Board Members:

It is my understanding that the board will convene a meeting on attorney fees on Tuesday, December 11, 2018, at 10:00 a.m. I cannot attend due to a scheduling conflict with my Social Security disability practice.

I have reviewed Julene Quinn' October 26, 2018 letter with regard to attorney fees. Julene's analysis is an accurate representation of the measurable costs of doing business as a claimant's attorney in the system. In addition, Julene has captured the hidden costs, the extra duties to our clients that go uncompensated and take considerable time. I wholeheartedly support the proposals Julene has recommended on page twelve of her letter.

Allow me to offer a few additional comments. In response to the legislature's changes in 2015 to ORS 656.012(2)(b), the board amended its policy provision, OAR 438-005-0035(1), by adding the phrase "while providing for access to adequate representation for injured workers." The

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board should ask itself what it has done to dramatically change the landscape of claimant's representation over the past three years. One objective and honest answer is "not much." An opportunity to do so has now arrived.

I presided over the executive committee of the OSB's workers' compensation section twice: 1993-94 and 2010-2012. When I returned to the executive committee, I surveyed the section membership. I noticed that the number of defense counsel had remained somewhat stable, but the number of claimant's counsel had plummeted. I also could see that younger attorneys were not replacing retiring attorneys, except on the defense side. I knew from reading about law school tuition that law graduates were leaving law schools with large debts that would be best reduced by salaried employment. I observed that the large claimant's firms such as Pozzi Wilson and Evohl Malagon's firm were gone and none had replaced them as training sites for new attorneys. The small firms or solo practices could not afford to hire and train associates.

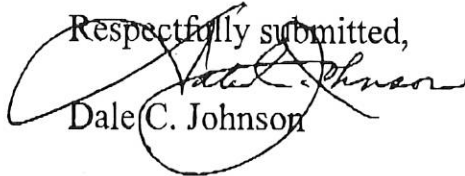
This trend continues to be a serious obstacle to claimants' access to legal representation. A compensation system that requires legal representation for employers and does not support equal representation for workers cannot come close to doing "substantial justice," another core

objective of the statutes and board policy.

The lack of reasonable fees seems to be the root cause of this trend. .

The question the board and its administrative law judges should be asking themselves is: "How can we definitively change this trajectory?"

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dale C. Johnson", is written over the typed name. The signature is fluid and cursive, with a large loop at the end.

Dale C. Johnson