

Exhibit 3

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October 26, 2018

Workers' Compensation Board via fax and mail
2601 25th Street, SE
Suite 150
Salem, OR 97302-1282

Re: Biennial Attorney Fee review per ORS 656.388 (4)

Dear Board Members:

Ms. Quinn has already submitted excellent suggestions about claimants' appellate fees so I will not address that area. Instead, I will address the perspective and suggestions of claimants' attorneys at the hearings level.

Representing injured workers is very hard. I ask the licensed Board Members to reflect on why they do not do it. We must deal with unsophisticated people who usually are at a great disadvantage in dealing with an insurance company with far greater resources. Injured workers do not have the money to receive adequate medical care to deal with their injuries or to obtain proper medical reviews. Most occupational doctors and orthopedic specialists have been captured by the insurance companies due to better money or threat of MCO disenrollment for trying to assist injured workers.

Claimant's attorneys are the last line of protection for injured workers. We give up better paying areas of law in the name of an even playing field for the needy. It would be very nice to feel that our harder work, with far less chance of success, was financially equally rewarded as is defense work. New attorneys simply are not going into represent injured workers. That needs to be fixed.

Ms. Quinn has made an excellent case for the raising of fees to at least \$400/hour plus a reasonable contingency multiplier such as 2.85. Doing so would put claimant's attorneys closer to being on par with the fees known to be paid to outside defense counsel.

For example, about ten years ago I prevailed on a difficult case and was awarded a fee of \$9,000. I just happened to see the bills sent by defense counsel to their client. They lost and were asking to be paid \$92,500. In conversations with adjusters several years ago I was told that minimum defense bills run \$25,000 or more. Claimants' attorneys cannot aspire to nearly such fees even though they are the prevailing party.

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About twenty years ago both claimants' attorneys and defense counsel were required to submit statement of services. The outcome was eye opening. Defense counsel averaged earning two to three times more on a case they lost compared to a prevailing claimants' attorney. A simple polling of all defense fees, including those hidden as paralegal, secretary and clerical time, would surely again return this result. I am confident that the outside counsel defense bar would strongly resist it. They do not want a level playing field.

It is unfair that claimants' attorneys are paid so little in comparison to defense counsel. It is no wonder that no one new is going into representing injured workers. It is unfair to the injured workers' themselves who see a dwindling number of attorneys willing to make the sacrifices necessary to represent them.

The balance is improperly tilted. I ask that the Board correct this and award a higher hourly fee with a known reasonable contingency multiplier to successful claimant's attorneys or the practice will not continue. I remind Board members that were formerly inside defense counsel to consider the cost of their former total hourly overhead and that they were always paid no matter the outcome. In other words, I challenge any licensed Board Member who believes claimants' attorneys are adequately compensated to leave the Board tomorrow for a completely contingent practice, find clients, rent office space, buy equipment, hire staff and take on all other burdens of a law practice. If you hesitate, please fix this problem.

It takes two sides to have an area of law. Claimant's attorneys are an endangered species. Without people willing to represent claimants there will be no workers' compensation practice for anyone, including defense counsel and Board Members.

Respectfully submitted,

James Dodge

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