

March 19, 2016

Workers' Compensation Board
Portland Hearings Division
Attn: ALJ John Mark Mills
800 NE Oregon Street, Suite 340
Portland, OR 97232

Re: Attorney Fee Subcommittee
Voluntary Attorney Fee Post-Decision Process

Dear ALJ Mills,

I apologize that I cannot be at the meeting on Monday, but am headed out-of-town to a very much needed Spring Break vacation. I did attempt to speak with committee members Matthew Fischer and Julie Masters regarding this, but neither returned my call. I was able to speak briefly with Jennifer Flood, who indicated support for the idea. I do not have contact information for either Graham Trainor or Sherry Sandstrom (forgive me if I have misspelled their names) and request that you forward this letter to them.

First, I would request that this issue be set-over to another time. It is not time-sensitive, but is a very important issue to be determined. I have continued to query claimants' Bar about this process and continue to find more and more attorneys who would like to see this rule implemented. It is important to have a process that works, and I would like to be there for fine-tuning of the details.

The impetus for the rule is the complete waste of time in providing Statements of Services for all cases, regardless of whether claimant prevails. At the court level, this does not occur, because the attorney fee petitions are required only after a decision triggers the entitlement to an attorney fee. Thus, my idea to make the Hearing and Board level processes efficient in the same manner for those cases that merit it.

In terms of the time saved for practitioners, it takes me 1-3 hours to put a Statement together, depending on the case. At the hearing level, it has taken me well over that amount of time for the more complex cases. Because the defense often inspects the Statements and makes detailed objections, it requires double checking the material to make sure it is accurate. I estimate that just for me, it would save anywhere from 15 to 30 hours *or more* a year. This is significant time, and just for one attorney.

On the defense side, the employers and insurers are wasting money paying attorneys to object to fees when it might turn out to be unnecessary. So, saving of time (not to mention trees) would occur on both sides. Since it is designed as a voluntary process, ALJs and the Board would only need to engage it the process for those cases in which it is requested.

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Note that on claimant's side, the current Board law does not allow us to be paid for the time to put a Statement of Services together, even if we have prevailed. This doubles the impact of having to do the statements prior to a decision. It is an extra waste of time that could be spent doing more effective work.

Three things that I want to point out are that the process needs to be voluntary. Claimants' Bar has been clear that often a quick, "regular" fee is more apt for the case and they do not wish to engage in additional effort for all cases. Second, it is important that claimants choose this, so that it is not used defensively to delay the paying of an attorney fee.

Third, it is important to have quicker deadlines including for the attorney fee decision so that the extra delay is not onerous for the practitioner.

I have spent a fair amount of time pursuing this rule change, because I believe that it will help bench and bar currently and in the future to make this practice easier. On a regular basis, I see young attorneys dabble in the practice, have difficulty with the burden of the practice and either go to the defense side or transition their practice to the civil side. This issue is a small, but significant area that could be changed to improve the practice and allow more options to assist those of us who carry the burden of representing injured workers.

Please give this rule careful consideration.

Thank you for your courtesies.

Sincerely,

/s/ Julene M. Quinn

Julene M. Quinn, Attorney at Law

cc: Martin Alvey, Attorney at Law
Philip H. Garrow, Attorney at Law
Jennifer Flood, Ombudsman for Injured Workers
Matthew Fisher, Attorney at Law
Julie Masters, Appellate Counsel