

**CHAPTER 235**

**RULES OF THE DIVISION OF WORKERS  
COMPENSATION**

**Authority**

N.J.S.A. 34:1-20, 34:1A-3(e), 34:1A-12(b), (c) and 34:15-64.

**Source and Effective Date**

R.2001 d.118, effective March 9, 2001.  
See: 33 N.J.R. 170(a), 33 N.J.R. 1113(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 235, Rules of the Division of Workers Compensation, expires on March 9, 2006.

**Chapter Historical Note**

Chapter 235, Rules of the Division of Workers' Compensation, was adopted and became effective prior to September 1, 1969.

Chapter 235, Rules of the Division of Workers' Compensation, was repealed and a new Chapter 235, Rules of the Division of Workers' Compensation, was adopted as R.1986 d.144, effective May 5, 1986. See: 17 N.J.R. 2081(a), 18 N.J.R. 987(a).

Subchapter 13, Surcharge Collection Procedures, was adopted as R.1988 d.586, effective December 19, 1988. See: 20 N.J.R. 2522(a), 20 N.J.R. 3139(a).

Subchapter 14, Uninsured Employer's Fund, was adopted as R.1990 d.338, effective July 2, 1990. See: 22 N.J.R. 3852(a), 22 N.J.R. 2023(a).

Pursuant to Executive Order No. 66(1978), Chapter 235, Rules of the Division of Workers' Compensation, was readopted by R.1991 d.275, effective May 3, 1991. See: 23 N.J.R. 834(a), 23 N.J.R. 1819(a).

Pursuant to Executive Order No. 66(1978), Chapter 235, Rules of the Division of Workers' Compensation, was readopted as R.1996 d.184, effective March 11, 1996. See: 28 N.J.R. 790(a), 28 N.J.R. 1859(a).

Subchapter 13, Enforcement and Collection of Non-Insurance Penalties, was adopted as new rules, and Subchapter 13, Surcharge Collection Procedures, was recodified to N.J.A.C. 12:235-11, and Subchapter 11, Standard Forms, was recodified to N.J.A.C. 12:235-14, and Subchapter 14, Uninsured Employer's Fund, was recodified to N.J.A.C. 12:235-12, and Subchapter 12, Documents Referred to in This Chapter, was repealed by R.1997 d.110, effective March 3, 1997. See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Petition for Rulemaking. See: 32 N.J.R. 4147(a), 32 N.J.R. 4314(b).

Pursuant to Executive Order No. 66(1978), Chapter 235, Rules of the Division of Workers' Compensation, was readopted as R.2001 d.118, effective March 9, 2001. See: Source and Effective Date.

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## SUBCHAPTER 1. GENERAL PROVISIONS

### 12:235-1.1 Purpose; scope

(a) The purpose of this chapter is to establish rules to carry out the responsibilities of the Division of Workers' Compensation under the Act.

(b) This chapter shall apply to all persons subject to Workers' Compensation Law, N.J.S.A. 34:15-7 et seq.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Title and citation repealed; purpose recodified from 1.3; scope recodified from 1.4.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

In (a), amended N.J.S.A. reference.

### Case Notes

Dismissal of clarification of workers' compensation settlement due to lack of jurisdiction affirmed. *Basile v. Board of Education of the Borough of Roselle Park, Union County*, 97 N.J.A.R.2d (EDU) 429.

Off duty officer's injury at police gym non-compensable. *Hill v. Middletown Township*, 97 N.J.A.R.2d (WCC) 54.

Workers' Compensation Court lacked jurisdiction to act on cases where petitioners were covered under Longshore and Harbor Workers' Act. *Morin v. Universal Maritime*, 96 N.J.A.R.2d (WCC) 46.

Employee's continuing psychiatric treatment for pre-existing mental condition aggravated by work-related injury. *Flaherty v. Monmouth Sailing Center, Inc.*, 93 N.J.A.R.2d (WCC) 166.

Lumbosacral strain and left lumbar radiculopathy resulting from compensable accident equaled 40% of permanent partial disability, and claimant suffered from anxiety reaction to extent of 10% of permanent partial disability. *Wielgosz v. Ortho Diagnostics*, 93 N.J.A.R.2d (WCC) 163.

Mechanic was employee of owner of repair shop. *Breeden v. Dawson Automotive, Inc.*, 93 N.J.A.R.2d (WCC) 156.

Cancer and death were caused by exposure to carcinogens during the course of employment. *Rodriguez v. Sherwin Williams Paint Co.*, 93 N.J.A.R.2d (WCC) 153.

Receptionist/bookkeeper was entitled to psychiatric treatment, temporary disability benefits, and permanent disability as result of derisive and abusive language and behavior by owners. *Erhard v. Dee Rose Furniture of Brick Town Inc.*, 93 N.J.A.R.2d (WCC) 146.

Drywall finisher was employee rather than an independent contractor and accident arose out of and in course of employment. *Lopez v. P & B Partitions*, 93 N.J.A.R.2d (WCC) 143.

Temporarily disabled employee could not receive both unemployment benefits and disability compensation at the same time. *Khalil v. Revlon, Incorporated*, 93 N.J.A.R.2d (WCC) 135.

**12:235-1.2 Construction**

The rules contained in this chapter shall be construed to secure a just determination, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. Unless otherwise stated, any rule may be relaxed or dispensed with if strict adherence would cause an injustice.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Authority deleted; construction recodified from 1.5.

**Case Notes**

Penalty for late filing of unemployment compensation returns was warranted on basis of postmark found on envelope. *Star Crest v. Department of Labor*, 95 N.J.A.R.2d (LBR) 17.

**12:235-1.3 Certification in lieu of oath**

(a) Claim petitions shall be notarized and filed under oath as set forth in N.J.S.A. 34:15-51 and 34:15-52 and in accordance with N.J.A.C. 12:235-3.1.

(b) Certifications in lieu of oath as provided in the New Jersey Rules of Court may be used for motions and any other supporting documents filed with the Court.

New Rule, R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Amended by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

Designated paragraphs as (a) and (b); in (a), deleted "and answers" following "petitions" and added "and in accordance with N.J.A.C. 12:235-3.1"; in (b), inserted "New Jersey" preceding "Rules" and "supporting" preceding "documents".

**12:235-1.4 through 12:235-1.5 (Reserved)****12:235-1.6 Maximum workers' compensation benefit rates**

(a) In accordance with the provisions of N.J.S.A. 34:15-12(a), the maximum workers' compensation benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency is hereby promulgated as being \$650.00 per week.

(b) The maximum compensation shall be effective as to injuries occurring in the calendar year 2004.

Amended by R.1986 d.455, effective November 17, 1986.

See: 18 N.J.R. 1788(b), 18 N.J.R. 2331(d).

Benefit rates raised.

Amended by R.1987 d.472, effective November 16, 1987.

See: 19 N.J.R. 1624(a), 19 N.J.R. 2197(a).

Benefit rate raised from \$302.00 to \$320.00.

Amended by R.1988 d.536, effective November 7, 1988.

See: 20 N.J.R. 2188(a), 20 N.J.R. 2786(b).

Benefit rate raised from \$320.00 to \$342.00.

Amended by R.1989 d.563, effective November 6, 1989.

See: 21 N.J.R. 2700(a), 21 N.J.R. 3535(a).

Weekly benefit rates increased to \$370.00 for the 1990 calendar year.

Amended by R.1990 d.596, effective December 3, 1990.

See: 22 N.J.R. 2886(a), 22 N.J.R. 3628(a).

Weekly benefit rates increased to \$385.00 for the 1991 calendar year.

Repealed by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Section was "Workers' compensation benefits rates".

New Rule, R.1991 d.574, effective December 16, 1991.

See: 23 N.J.R. 2612(a), 23 N.J.R. 3818(a).

Amended by R.1992 d.467, effective November 16, 1992.

See: 24 N.J.R. 3015(a), 24 N.J.R. 4270(a).

Revised text.

Amended by R.1993 d.591, effective November 15, 1993.

See: 25 N.J.R. 3925(a), 25 N.J.R. 5352(b).

Amended by R.1994 d.553, effective November 7, 1994.

See: 26 N.J.R. 3594(b), 26 N.J.R. 4410(b).

Amended by R.1995 d.627, effective December 4, 1995.

See: 27 N.J.R. 3762(a), 27 N.J.R. 4898(b).

Amended by R.1996 d.516, effective November 4, 1996.

See: 28 N.J.R. 4077(a), 28 N.J.R. 4794(a).

Amended by R.1997 d.469, effective November 3, 1997.

See: 29 N.J.R. 3770(a), 29 N.J.R. 4704(a).

In (a), changed the benefit rate; and in (b), substituted "1998" for "1997".

Amended by R.1998 d.549, effective November 16, 1998.

See: 30 N.J.R. 3154(a), 30 N.J.R. 4054(a).

In (a), raised benefit rate for temporary disability from \$516.00 to \$539.00 per week; and in (b), changed calendar year to 1999.

Amended by R.1999 d.441, effective December 20, 1999.

See: 31 N.J.R. 3039(a), 31 N.J.R. 4286(a).

In (a), increased the maximum rate; and in (b), substituted a reference to 2000 for a reference to 1999.

Amended by R.2000 d.490, effective December 4, 2000.

See: 32 N.J.R. 3381(a), 32 N.J.R. 4259(b).

In (a), substituted "\$591.00" for "\$568.00"; and in (b), substituted "2001" for "2000".

Amended by R.2001 d.407, effective November 5, 2001.

See: 33 N.J.R. 2946(a), 33 N.J.R. 3752(b).

In (a), substituted "\$629.00" for "\$591.00"; in (b), substituted "2002" for "2001".

Amended by R.2002 d.392, effective December 2, 2002.

See: 34 N.J.R. 3057(a), 34 N.J.R. 4222(b).

In (a), substituted "\$638.00" for "\$629.00"; in (b), substituted "2003" for "2002".

Amended by R.2003 d.504, effective December 15, 2003.

See: 35 N.J.R. 4040(a), 35 N.J.R. 5547(a).

In (a), substituted "\$ 650.00" for "\$ 638.00"; in (b), substituted "2004" for "2003".

**12:235-1.7 through 12:235-1.8 (Reserved)****SUBCHAPTER 2. DEFINITIONS****12:235-2.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means Workers' Compensation Law, N.J.S.A. 34:15-7 et seq.

"Chief Judge" means the Director/Chief Judge of the Division.

"Commissioner" means the Commissioner of Labor or his or her designee.

"Department" means the New Jersey Department of Labor.

"Director" means Director/Chief Judge of the Division.

“Division” means the Division of Workers’ Compensation, PO Box 381, Trenton, New Jersey 08625-0381.

“Judge” means Judge of Compensation.

“N.J.A.C.” means New Jersey Administrative Code.

“N.J.S.A.” means New Jersey Statutes Annotated.

“Respondent,” “employer” or “insurance carrier” are used interchangeably.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Definition of Chief Judge added; definition of “shall” deleted.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Added “Judge” and amended “Act”, “Chief Judge”, and “Director”.

Amended by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

Added “Department” and deleted “Office of Safety Compliance”.

## SUBCHAPTER 3. FORMAL CLAIMS

### Subchapter Historical Note

Subchapter 3, Conduct of Judges of Compensation, was repealed and Subchapter 3, Formal Claims, was recodified from Subchapter 5 by R.2002 d.340, effective October 21, 2002. See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d). See, also, section annotations.

### 12:235-3.1 Initial pleadings

(a) Claim petitions shall be subject to the following:

1. The claim petition may be filed electronically or on paper.

2. Claim petitions filed on paper shall be verified by the claimant and include the date of the signature and verification. The formal hearing process shall be initiated by the filing of a verified claim petition in duplicate with the central office of the Division within the time prescribed by law on a form prescribed by the Division. Claim petitions filed electronically shall follow the procedures in (c) below. If an attorney for the petitioner knowingly files an incomplete or inaccurate petition any fee that may be awarded, may be reduced by 15 percent or \$200.00, whichever is greater.

3. Except as provided in section (a)2 above, all paper pleadings, motions and briefs shall be signed by the attorney of record, or the attorney’s associate or by the party if pro se. Signatures of a firm may be typed, followed by the signature of an attorney of the firm. Signatures on any duplicate original or carbon copy required to be filed may be typed. Every paper to be filed shall bear the date on which it was signed.

4. The signature of an attorney or party pro se constitutes a certification that the signatory has read the pleading or motion; that to the best of the signatory’s knowledge, information and belief there is good ground to support it.

5. Material allegations, if known, shall be stated. Material allegations include a description of the accident or occupational exposure, the nature of the injury, the date and place of the occurrence, the wage, compensation benefits provided to date, a description of all other claims made for this injury and all other information requested on the prescribed form.

6. Claim petitions by or on behalf of a worker seeking compensation for injury caused by an accident shall describe the date, place and description of the accident, the injury, the name and address of the employer, the name and address of the treating provider, the name of the compensation insurer and all other pertinent information required by the Act and these rules.

7. Claim petitions filed by dependents for benefits provided by N.J.S.A. 34:15-13 shall set forth the identity, address, relationship and date of birth of all dependents, the social security number of the decedent, the date and cause of death, whether compensation benefits were paid or claimed during the deceased’s lifetime, and the type and amount of benefits claimed. To the extent applicable, the petitioner shall comply with the information required for accidental injury claims or occupational disease claims. Multiple claims arising from one decedent shall be consolidated for disposition.

8. All known multiple occupational claims by a worker or dependent against the same respondent employer shall be joined in one petition. Claim petitions for occupational disease as defined by N.J.S.A. 34:15-31 which are filed on behalf of a worker shall describe the dates, place and description of the exposure and the injury or illness claimed to have occurred as a result of the exposure. The occupational disease petition shall include the name and address of the employer(s) and the identity of its compensation insurer for the pertinent period of time as well as all other information required in filing a claim petition required by this section. The Division shall notify all parties of disposition.

9. Vague or evasive pleadings may be stricken or a claim petition dismissed without prejudice on motion brought by a party or the Judge of Compensation on notice. Claim petitions which merely describe the injury or illness by generic definition, such as orthopedic, internal, neuropsychiatric or similar terms without description of the particular injury shall be considered vague or evasive.

(b) Answers to a claim petition may be filed electronically or on paper subject to the following:

1. The answer of the respondent to a claim petition shall be on a form prescribed by the Division and shall, if known, contain the following:

- i. The name and address of the respondent's attorney;
- ii. The name and address of the carrier;
- iii. The carrier's claim number;
- iv. The employer's State registration number;
- v. An admission or denial of employment;
- vi. An admission or denial if accident or illness arose out of and in the course of employment;
- vii. Gross weekly wage;
- viii. Benefit rates;
- ix. Medical providers;
- x. Temporary disability paid, if any; and
- xi. An admission or denial of jurisdiction.

2. The answer shall be filed with the office to which the claim is assigned within 30 days of the date of service of the petition except for good cause shown. The answer may be prepared by the attorney for the respondent based upon knowledge, information or belief and shall be regarded as his or her certification of its contents without the necessity of an affidavit.

i. If the answer is filed on paper, it shall be filed with the office to which the claim is assigned. A copy of the answer shall be forwarded to the petitioner's attorney by first class mail, or its equivalent.

ii. If an answer is filed electronically with the Division and the petitioner's attorney is a duly authorized electronic filer with the Division, the Division shall cause the answer to be forwarded to the petitioner's attorney in electronic format which will constitute service under the rules.

iii. If an answer is filed electronically with the Division and the petitioner's attorney is not a duly authorized electronic filer with the Division, the respondent's attorney shall serve a copy of the answer on paper with the petitioner's attorney by first class mail, or its equivalent.

3. If the answer is not filed as specified in (b)1 and 2 above, the Judge of Compensation to whom the case is assigned may, on motion, either suppress the defenses and permit the petitioner to prove his or her case, or permit the filing of the answer on such terms as may be fixed in the discretion of the Judge of Compensation.

4. If the respondent knowingly files an incomplete or inaccurate answer or unnecessarily delays filing an answer, such circumstances shall be considered in the apportionment of any counsel fee awarded.

5. Answers which put petitioner to proofs without conforming with (b)1 and 2 above may be stricken and subject to the penalties pursuant to N.J.A.C. 12:235-3.14.

(c) Petitions and answers filed electronically shall be accepted by the Division in lieu of paper pleadings provided:

1. The filer is an attorney licensed in the State of New Jersey and duly authorized by the Division to file pleadings electronically.

2. The filer submits the pleading in the format approved by the Division.

3. The filer makes an identical paper copy of the electronically submitted pleading and obtains thereon a verification by oath, affirmation or certification of the petitioner or respondent, as applicable, as to the accuracy or the information set forth therein.

4. The filer shall retain, as an officer of the court, the duly verified pleading and shall make same available to the Division or his or her adversary upon request.

5. Failure to maintain the paper copy of said pleadings and make it available within a reasonable time upon proper request shall constitute grounds for the revocation of the privilege of electronic filing in addition to whatever other sanction may be deemed appropriate under the law.

(d) Upon receipt of an electronically filed pleading, the Division shall send an electronic copy of same to the insurance carrier, third party administrator or designated legal representative of the respondent provided that the insurance carrier, third party administrator or designated legal representative has requested to be and has been approved by the Division to receive such pleadings. Notification of the electronic pleading to the electronic address of the approved recipient shall constitute valid service of process.

(e) Claim petitions filed electronically where the insurance carrier, third party administrator or designated legal representative is not approved to receive service of an electronic pleading shall be sent by the Division to the addressee specified in the claim petition, by regular mail together with a request for Acknowledgment of Service in accordance with N.J.S.A. 34:15-51 and 34:15-52. Answers shall likewise be submitted by regular mail in accordance with (b)2i above.

(f) If a claim petition is filed on paper and the insurance carrier, third party administrator or designated legal representative of the respondent has requested to be and is approved by the Division to receive and send pleadings in electronic format, the Division shall forward the claim petition in electronic format as well as a paper copy of the claim petition to the insurance carrier, third party administrator or designated legal representative of the respondent.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Fee reduction provision at (a)2 allows \$200 or 15%.  
Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

In (a)1, inserted first sentence; made former (a)2 into the last sentence of (a)1; added (a)2 through (a)8; recodified portion of (b) as (b)2 and in (b) added "and shall if known, contain the following."; inserted (b)1i through (b)1xi; recodified former (b)2 and (b)3 as (b)3 and (b)4; in (b)2, deleted reference to filing with the assignment clerk, and inserted "except for good cause shown"; in (b)3, inserted reference to (b)2; and added (b)5.

Amended by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

Rewrote (a); in (b), substituted "may be filed electronically or on paper" for "shall be" in the introductory paragraph, rewrote 2 and amended the N.J.A.C. reference in 5; added (c) through (f).

#### Case Notes

Former N.J.A.C. 12:235-4.2 required a complaint to contain a complete, accurate description of each and every injury alleged; multiple, separate injuries arising out of the same accident were to be compensated cumulatively under a revised schedule of payments that increased weekly awards as the percentage of disability increased. *Poswiatowski v. Standard Chlorine Chemical Co.*, 96 N.J. 321, 475 A.2d 1257 (1984).

Lack of proper certification did not preclude acceptance of employee's claim petition when employer acted thereon with notice. *Michaels v. Vernon Board*, 95 N.J.A.R.2d (WCC) 1.

#### 12:235-3.2 Motions for temporary disability and/or medical benefits

(a) In all motions by the petitioner for temporary disability or medical benefits, the original notice of motion shall be filed with the district office to which the case is assigned and a copy of the notice of motion and claim petition served by certified mail or personal service on the attorneys of record. If the attorney of record is unknown, then service shall be made by certified mail on the respondent(s) and its carrier(s). If it is a new claim petition and it is a claim petition filed on paper, then the notice of motion shall also be filed with the central office. Motions for temporary disability and/or medical benefits shall evidence that petitioner is currently temporarily totally disabled and/or in need of current medical treatment. Where only past periods of temporary total disability and/or medical expenses are claimed by petitioner, such issues should be presented at pretrial for resolution or trial and not by motion under this section.

(b) The notice of motion for temporary disability or medical benefits shall be on a form prescribed by the Division and shall contain:

1. A detailed account of compensable lost time claimed by the petitioner, indicating any period paid by the respondent;

2. Affidavits or certifications made in personal knowledge by the petitioner, petitioner's attorney and report(s) of a physician(s) stating the medical diagnosis and the specific type of treatment being sought, and, if available, an itemized bill and report of the treating physicians or institutions or both for which services past, present and future, petitioner is seeking payment and such other evidence as shall relate to the petitioner's claim for temporary disability and/or medical treatment; and

3. If the petitioner, having received treatment, cannot secure a report of the medical provider authorized by the respondent, it shall be set forth in the affidavit in lieu of the physician's report.

(c) If an attorney for the petitioner knowingly files an incomplete, inaccurate or misleading notice of motion for temporary disability and/or medical benefits, or an attorney for the respondent files an untimely, incomplete, inaccurate or misleading answer, the attorney may be assessed a penalty in accordance with N.J.A.C. 12:235-3.14.

(d) Except for good cause shown, respondent(s) shall file an answer within 21 days of service of the motion or within 30 days after service of claim petition whichever is later.

(e) When the Division has received a notice of motion for temporary disability and/or medical benefits filed in accordance with (a), (b) and (c) above, it shall list the motion for a hearing before a Judge of Compensation peremptorily within 30 days of the filing of the motion. Motions for medical and/or temporary benefits shall commence and continue in a timely manner subject to the scheduling constraints of the Division. Said scheduling may be accelerated as ordered by the Director, the Supervising Judge of the vicinage, or the Judge of Compensation to whom the case is assigned.

(f) Affidavits, certifications and medical reports submitted in accordance with (b) above in support of the motion may constitute a prima facie case and may be sufficient basis for the issuance of an order compelling the respondent to provide the relief sought unless respondent files supporting affidavits or certifications to oppose said motion on a legal or factual basis, or files medical reports if there is a medical basis to oppose said motion. No order shall be issued until 30 days after service of the claim petition.

(g) Examination, if required by respondent, shall be completed within 30 days of receipt of the motion and the report issued in not more than 35 days from receipt of the motion and shall not delay the start of the hearing of the motion except for good cause shown.

(h) On conclusion of the hearing on the motion for temporary and/or medical benefits, the Judge of Compensation shall, within 15 days, render a final decision on the motion and notify the respective counsel of the decision. In computing the 15 days' time, the 15 days shall be from the last day of hearing or from the date of filing of briefs as ordered by the Judge, whichever is later. Under no circumstances shall briefs be filed later than 15 days after the hearing.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Penalty assessment increased from \$50 to \$200; Physician's reports allowed; scheduling requirements added at (d).

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

In (a), provided that service of notice and be made to the attorneys of record rather than on parties and be made by certified mail or personal service; inserted (b)3; in (c), inserted reference to filing of untimely, incomplete, inaccurate or misleading answer and amended the penalty reference; inserted new (d) and (f); deleted (e) and recodified former (d), (f), and (g) as (e), (g), and (h); and in (g), provided for issuance of report and inserted "except for good cause shown".

Amended by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

Rewrote (a); in (c), amended the N.J.A.C. reference.

#### Case Notes

Proceeding before Division of Workers' Compensation, rather than before Law Division, was injured worker's exclusive remedy. *Cortes v. Interboro Mut. Indem. Ins. Co.*, 232 N.J.Super. 519, 557 A.2d 1019 (A.D.1988), affirmed 115 N.J. 190, 557 A.2d 1001.

Documents supporting motion for continued temporary disability and medical benefits are "rebutted" by employer's contradictory or opposing documents. *Hogan v. Garden State Sausage Co.*, 223 N.J.Super. 364, 538 A.2d 1254 (A.D.1988).

Workers' compensation claimant's motion for temporary disability or medical benefits accompanied by supporting documentation can prevail without plenary hearing only if opposing documents are facially insufficient to fairly meet, contradict, or oppose material allegations of supporting documents. *Hogan v. Garden State Sausage Co.*, 223 N.J.Super. 364, 538 A.2d 1254 (A.D.1988).

Employee on light-duty work due to compensable injury entitled to temporary disability benefits after termination. *Jones v. Harris Contracting Company*, 97 N.J.A.R.2d (WCC) 55.

#### 12:235-3.3 Other motions

(a) All other motions shall be in the form of a notice of motion, the original of which shall be filed with the district office to which the case is assigned with copies served on petitioner(s), respondent(s), carrier(s), or attorney(s). Every notice of motion shall include the factual and legal basis for the relief requested and a proposed form of order in triplicate.

(b) If the notice of motion or responsive pleading relies on facts not of record, it shall be supported by affidavit made on personal knowledge setting forth facts which are admissible in evidence to which the affiant is competent to testify. The notice of motion shall be considered uncontested unless responsive papers are filed and served within 14 days of the service of the notice of motion.

(c) Motions to dismiss for lack of prosecution pursuant to N.J.S.A. 34:15-54 and motions to suppress defenses shall be listed for hearing. All other motions shall be disposed of on the papers, unless a Judge of Compensation directs oral argument or further proceedings, in which event a hearing shall be scheduled within 30 days from the filing of the last papers contemplated by this section. At the conclusion of any such hearing the Judge of Compensation shall render a decision and enter an appropriate order within 30 days.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Checklist requirement deleted at (b).

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

In (a), substituted "on petitioner(s), respondent(s), carrier(s), or attorney(s)" for "on all parties" and added text "in triplicate".

Amended by R.1999 d.285, effective August 16, 1999.

See: 31 N.J.R. 737(a), 31 N.J.R. 923(a), 31 N.J.R. 2393(a).

In (c), inserted a reference to motions to suppress defenses in the first sentence.

#### Case Notes

Settlement discussions did not estop insurer from seeking to dismiss workers' compensation claim. *Booker v. Booker & Booker Exterminators*, 93 N.J.A.R.2d (WCC) 136.

#### 12:235-3.4 Third-party joinder by respondent

(a) A respondent who alleges that another employer or insurance carrier may be liable for all or part of the benefits claimed by the petitioner may move to join such employer or insurance carrier as a responding party to the original claim petition by notice of motion which shall be supported by a definitive statement setting forth the factual and legal basis for the relief sought.

(b) A copy of the motion and supporting statement with a copy of the original claim petition shall be served upon the party sought to be joined and all other parties.

(c) It shall be the responsibility of the moving party to give notice of any hearing of the motion to the party sought to be impleaded.

(d) Such motion shall be granted only where the moving party has satisfied the Judge of Compensation that there exists a substantial likelihood that the party to be joined is or may be liable for compensation benefits to the petitioner.

(e) If the order sought is granted, the order shall be served upon the party joined forthwith who shall file an answer within 30 days of the date of service of the order.

(f) In cases where it appears that the only issue involved is which carrier or employer is liable to the petitioner for the benefits sought, the Judge of Compensation may order the moving party to pay the benefits in whole or in part as a condition of joinder subject to an order for reimbursement, if another party is held to be liable for such benefits.

(g) If a respondent knowingly files an incomplete, inaccurate or frivolous motion for third party joinder, such circumstances may be considered in the apportionment of any counsel fee awarded, in addition to a counsel fee not to exceed \$200.00 to each opposing counsel of each party sought to be joined.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Standard of substantial likelihood deleted at (c); discretionary assessment allowed at (f).

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Added (c) and recodified former (c) through (f) as (d) through (g).

**Case Notes**

An individual alleging to be joint or special employer may intervene in proceeding before Division of Workers' Compensation as matter of right based on assertion of employment relationship, and such individual can also be joined as a party to pending proceedings in Division according to Division's third-party practice. *Kristiansen v. Morgan*, 153 N.J. 298, 708 A.2d 1173 (N.J. 1998).

Employer was not entitled to implead claimant's subsequent employers. *Kirkpatrick v. National Cleaning Contractors, Inc.*, 93 N.J.A.R.2d (WCC) 151.

Unlikelihood of other party's liability required denial of impleader motion. *Hegel v. Dutch Country*, 93 N.J.A.R.2d (WCC) 115.

**12:235-3.5 Conditions allowable for discovery**

(a) Discovery, except a deposition for preservation of testimony, may be allowed in those contested cases where there are issues in dispute in addition to the nature and extent of petitioner's temporary or permanent disability.

(b) All discovery shall be concluded within 180 days from the filing of respondent's answer or from petitioner's last authorized medical treatment, whichever date is later. A Judge of Compensation may extend or reopen discovery on his or her own motion or on application of a party for good cause appearing.

Amended by R.1999 d.285, effective August 16, 1999.  
See: 31 N.J.R. 737(a), 31 N.J.R. 923(a), 31 N.J.R. 2393(a).  
Rewrote (b).

**12:235-3.6 Discovery**

(a) Interrogatories shall be allowed without motion in dependency cases.

(b) Interrogatories shall be allowed without motion where the injured worker is treated by the employer's physician and where medical information is not available to the worker.

(c) The employer shall be required to furnish or make available for inspection and copying all records of medical treatment, examinations and diagnostic studies authorized by the respondent. The respondent shall have the same right when the worker is treated by his or her own physician. If either party fails to furnish said information within 30 days of receipt of demand of records, it may be responsible to reimburse its adversary for the cost of procuring the same.

(d) Interrogatories shall be allowed without motion in cases of review or modification of a prior award on the grounds of increase or decrease of disability. The party seeking such review or modification shall furnish the adversary party with a chronology of the pertinent events from the date of the last award or judgment to the filing of the petition for the increase or decrease of disability indicating the essential facts upon which the petition is grounded.

(e) Interrogatories in those cases allowed without motion shall be served by the petitioner not later than 30 days after service of the answer to the petition and by the respondent not later than 15 days after the service of its answer. Answers to the interrogatories shall be served with 45 days after service of the interrogatories. A Judge of Compensation upon motion for good cause may enlarge the time provided for service of answers. Supplemental interrogatories may be allowed on motion for good cause shown.

(f) In occupational disease cases, a party may propound interrogatories only by demanding in the initial pleading that the opposing party answer the standard form interrogatories as listed in N.J.A.C. 12:235-14.1. The demand shall be stated in the claim petition by the petitioner and in the answer by the respondent immediately following signature. Interrogatory answers shall be served by all parties within 90 days from the filing of respondent's answer to the claim petition. A Judge of Compensation upon motion for good cause may extend the time provided for service of answers. Supplemental interrogatories may be allowed on motion for good cause shown.

(g) Interrogatories may be allowed in other cases, upon motion, for good cause shown.

(h) Depositions of witnesses may be allowed, upon motion, for good cause shown.

(i) If timely response to a discovery demand has not been provided under this rule and no motion for an extension has been made, the party entitled to the discovery may move, on notice, for an order dismissing the claim petition for lack of prosecution or suppressing the defenses of the delinquent party which are pertinent to the unanswered interrogatories. See N.J.A.C. 12:235-3.3. Such noncompliance may also be the subject of an enforcement action under N.J.A.C. 12:235-3.14. Failure to move to dismiss the claim petition or suppress defenses, as appropriate, prior to the first trial date shall be deemed a waiver of a discovery demand.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Deposition of witnesses allowed.  
Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

In recodified portion of (b) as (c); in (c), added last sentence; recodified former (c) through (g) as (d) through (h); and in (e), amended N.J.A.C. reference.

Amended by R.1999 d.285, effective August 16, 1999.  
See: 31 N.J.R. 737(a), 31 N.J.R. 923(a), 31 N.J.R. 2393(a).

Deleted a former (e); recodified former (f) as (e); inserted a new (f); and added (i).

Amended by R.2002 d.340, effective October 21, 2002.  
See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

In (a), substituted "dependency" for "fatal"; in (i), amended the N.J.A.C. references.

**12:235-3.7 Testimony of injured or ill petitioner by depositions**

(a) A petitioner seeking compensation who is in such a physical condition that it is imperative that his or her testimony be taken by deposition, in order to preserve the person's rights or those of his or her estate or dependents, may give a deposition.

(b) The deposition may be ordered by a Judge of Compensation upon notice to the adverse party and taken before a certified shorthand reporter.

(c) The appearance by an attorney for the respondent shall not constitute a waiver of any of the rights of the respondent or its insurance carrier.

(d) A report from a physician shall be attached to the application to take depositions stating the medical basis upon which the deposition is sought.

(e) A deposition for this purpose may also be taken by consent of all parties, provided there is a report from a physician stating the medical basis upon which the deposition is sought.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Petitioner's deposition allowed if medical basis provided.

### 12:235-3.8 Certification of pre-existing conditions

(a) In all cases in which the petitioner claims total and permanent disability, the petitioner or petitioner's attorney shall, prior to the first hearing date, furnish to all other parties a written certification as to the existence of any condition pre-existing the last claimed compensable episode.

(b) The certification shall include the names and addresses of physicians and institutions furnishing treatment or examinations for any such pre-existing conditions.

(c) The petitioner may in lieu of furnishing actual records or reports, furnish executed authorizations for the records and reports of each such physician and institution.

(d) Copies of all records and reports so obtained by the respondent shall be furnished to the petitioner or petitioner's attorney within 10 days of receipt.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

### 12:235-3.9 Pretrial conference

(a) In any formal proceeding, the Division shall schedule a pre-trial conference where the following shall be accomplished:

1. All medical reports shall be exchanged;
2. The Judge and the attorneys shall agree upon the type of examination(s) required by each party;
3. The Judge and the attorneys shall make a sincere effort to limit issues; and
4. A pre-trial memorandum on a form prescribed by the Division shall be executed; or
5. There shall be an adjournment upon good cause shown.

(b) Incomplete medical examinations by either party shall be considered good cause for the adjournment of a pre-trial conference; provided, however, that no such adjournment shall be granted unless each party requesting the adjournment shall supply to the Judge the name(s) of the examining physician(s) and the date(s) of the examination(s).

(c) Any case set down for pre-trial on more than one occasion, if not ready because of failure of respondent to comply with this section, shall be placed on the trial list, and in the event an award is made, such failure shall be considered in the apportionment of the counsel fee. This provision shall not apply in any case in which the failure to have medical examinations is due to petitioner's neglect or refusal to appear for the examinations, in which event the case shall be marked, "not moved."

(d) Any case listed, in which no appearance is made on behalf of the petitioner and which is not adjourned for good cause, shall be marked "not moved" and may be administratively discontinued. A matter that has been administratively discontinued may be the subject of a motion to dismiss for lack of prosecution or any other appropriate basis. The case shall not be restored to the calendar except on notice of motion, provided, however, the Judge of Compensation may for good cause and on the Judge's own motion restore a case marked "not moved" to the trial or pretrial calendar. The counsel fee normally allowed shall be reduced within the discretion of the Judge of Compensation for each time a case has been marked "not moved" when the attorney for the petitioner is responsible for such marking. When a case has been marked "not moved" because of the petitioner's failure without good cause to submit to a physical examination at the request of the respondent, the petitioner may be penalized in the apportionment of fees or reimbursement of respondent's cost for a missed appointment at the discretion of the Judge of Compensation.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Medical examination requirements added.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

In (d), substituted "Judge of Compensation" for "official presiding".

Amended by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

In (d), deleted "pre-emptorily" following "listed" and inserted "may be" preceding "administratively" in the first sentence, added the second sentence, and inserted "or reimbursement of respondent's cost for a missed appointment" in the last sentence.

#### Case Notes

Compensation judge clearly abused his discretion by refusing to continue hearing on claimant's motion when counsel received copy of employer's medical expert's report moments before hearing. *Waters v. Island Transp. Corp.*, 229 N.J.Super. 541, 552 A.2d 205 (A.D.1989).

Workers' compensation judge must respect and ensure due process and fundamental rights of litigants. *Waters v. Island Transp. Corp.*, 229 N.J.Super. 541, 552 A.2d 205 (A.D.1989).

There was no waiver of cross-examination of petitioner's medical witness by failure of request in pre-trial memorandum (citing former

N.J.A.C. 12:235-4.16, 5.55, 5.56 and 5.62). *Indelicato v. Town of West New York*, 170 N.J.Super. 563, 407 A.2d 837 (App.Div.1979).

### 12:235-3.10 Conduct of formal hearings

(a) The following concern appearances:

1. Only an attorney at law licensed to practice in the State of New Jersey shall act as attorney of record to appear and prosecute or defend any action in any formal hearing.

2. Unless otherwise required by law to be represented by counsel, a party may appear pro se.

3. A medical provider or carrier, who claims to have performed services or made payment for a work related condition or disability, may intervene by motion in a pending case, to seek payment or assert a lien. Such motion shall be supported by an affidavit or certification and shall include a copy of the bills for which payment is being sought.

(b) Attorneys representing both petitioners and respondents shall provide sufficient personnel to handle all lists expeditiously.

(c) Hearings shall be scheduled by the Director or a designated representative of the Director.

(d) The Judge of Compensation shall, at the commencement of the day, call the list of cases in open court. No adjournment shall be granted unless there is found to be good cause. No adjournment shall be granted for medical examination unless the name of the examining physician and date of examination are supplied.

(e) Trials shall commence and continue in a timely manner subject to scheduling constraints of the Division. Said scheduling may be accelerated as ordered by the Director, the Supervising Judge of the vicinage or the Judge of Compensation to whom the case has been assigned. A Judge shall issue a preemptory trial scheduling order for all cases that have been listed as a partial trial for six months.

1. Except in situations where there is no material dispute of fact, issues shall not be decided until all sides have had the opportunity to provide full proofs based upon, but not limited to, oral testimony, affidavits and other proofs as stipulated by the parties or required by the judge.

2. Except where the judge for good cause directs otherwise, the order of proofs at trial shall be:

- i. Appearances;
- ii. Stipulated facts;
- iii. Rulings on motions including motions to modify order of proofs;
- iv. Opening statements;
- v. Testimony of petitioner;

- vi. Testimony of petitioner's lay witnesses;
- vii. Testimony of respondent's lay witnesses;
- viii. Testimony of petitioner's non-medical expert witnesses;
- ix. Testimony of respondent's non-medical expert witnesses;
- x. Testimony of treating medical experts;
- xi. Testimony of petitioner's medical experts unless testimony waived and reports submitted into evidence;
- xii. Testimony of respondent's medical experts unless testimony waived and reports submitted into evidence;
- xiii. Ruling on motions at the conclusion of testimony including motions to call additional witnesses upon a showing of good cause;
- xiv. Closing statements; and
- xv. Post trial briefs.

3. Bifurcation of any trial may be permitted by the Judge of Compensation to whom the case is assigned. The order of proof shall be determined by the Judge of Compensation.

(f) All formal hearings or applications shall be conducted in open court, except:

1. The Judge of Compensation to whom the case is assigned may deem the matter so delicate that the hearing of a party or witness in camera is warranted. When this occurs, a stenographic record shall be made.

2. The telephonic testimony of a witness may be permitted for good cause by the Judge of Compensation to whom the case is assigned and with the consent of the parties. When this occurs, a stenographic record shall be made.

3. Deposition testimony of a witness in lieu of an appearance other than that provided under N.J.A.C. 12:235-3.7 may be permitted by the Judge of Compensation to whom the case is assigned and with the consent of the parties.

4. Testimony of witnesses by video teleconferencing procedures may be permitted for good cause by the Judge of Compensation to whom the case is assigned. When this occurs, a stenographic record shall be made and all costs associated with the use of video teleconferencing shall be borne by the requesting party.

(g) All formal hearings including motions where a record is required shall be recorded stenographically by a certified shorthand reporter subject to such limitation as may be provided by statute.

1. Upon a determination reached at the conclusion of all hearings, including motions, the cost for the attendance of the certified shorthand reporter shall be assessed by the Judge of Compensation. Transcripts of the testimony may be obtained from the certified shorthand reporter at the official scheduled rates.

(h) When there are pending in the Division two or more formal proceedings involving a common question of law or fact arising out of employment by the same employer or different employers, or out of the same accident or series of accidents, or out of the same exposure or series of exposures, to causes of occupational disease, the Judge of Compensation or the Director may, on motion, or on the Judge's own initiative, order a joint hearing of any or all matters in issue. The Director or the Judge of Compensation may order all such proceedings consolidated, and have such orders concerning proceedings designed to avoid unnecessary costs or delay. The order shall state the county in which the consolidated proceedings are to be heard.

(i) Upon the commencement of a formal hearing, counsel may make opening statements on behalf of their respective clients. All matters agreed upon shall be stipulated upon the record. However, this shall not bar the parties from making further stipulations as the trial proceeds, until the close of the formal hearing.

(j) Counsel may make closing statements or file post-trial briefs. Post-trial briefs, if ordered or volunteered, shall be submitted within 15 days after the conclusion of the hearing. Each party thereafter may have seven days to file a reply brief, if so desired or ordered.

(k) Prior to the testimony of an expert witness, the producing party shall provide the Judge of Compensation and opposing counsel with a written curriculum vitae of the witness.

(l) Questions calling for the opinion of an expert witness need not be hypothetical in form, unless the Judge of Compensation in the Judge's discretion so requires. If the hypothetical question is submitted in written form, counsel shall provide sufficient copies for the Judge of Compensation, opposing counsel, the witness and the stenographer, and the hypothetical question may be marked as an exhibit in the proceedings in lieu of reading it to the witness.

(m) All medical experts for both parties who regularly examine petitioners to determine the nature and extent of their disability shall adhere to the vacation schedules established annually by the Director. If such medical expert is not available to testify because of an unexcused absence at any other time, the Judge of Compensation may require the party for whom such medical witness is to appear, to arrange for an examination and appearance at trial by another medical expert.

1. A medical expert who regularly examines petitioners means a medical expert who performs a minimum of 25 workers' compensation examinations per year.

(n) All exhibits shall be marked with an identifying number, the date of submission and initials of the court reporter or the Judge.

1. An exhibit list shall be prepared by the Judge to be retained in the file and forwarded to the Division for microfilming and storage.

2. At the conclusion of the hearing, the Judge shall determine which exhibits are to be retained in the file and forwarded to the Division for microfilming and storage.

3. All other exhibits shall be returned to respective counsel for retention until the expiration of time for appeal or 20 years as determined by the Judge.

(o) When a deposition has been taken to preserve the testimony of an injured or ill petitioner the introduction into evidence of such deposition shall be limited to those cases where the deponent cannot appear because of medical inability to appear or death or where all parties consent to the introduction of the deposition into evidence.

(p) Judges of Compensation may refer the petitioner to the Division of Vocational Rehabilitation when warranted.

(q) Prior to testifying, a witness shall be administered an oath by the Judge of Compensation or by a certified shorthand reporter qualified to administer oaths. Because of religious beliefs, a witness may affirm in place of an oath.

(r) Forms of subpoena, bearing the seal of the Department, shall be made available at all district offices. An attorney-at-law of New Jersey may prepare a subpoena and authorize its service, in accordance with the Rules of Civil Practice of New Jersey, in the name of the Judge of Compensation assigned to the case, to compel the attendance of witnesses and the production of books and papers and such other items as shall be subject to production.

(s) When a party has unreasonably failed to present its case in a timely fashion, the Judge of Compensation may, upon 21 days notice, close the proofs as to that party.

(t) All reserved decisions shall be rendered by the Judge of Compensation within 30 days from completion of the last day of hearing, or within 30 days from the date of filing of briefs. Additional time to render reserved decision may be allowed only on approval of a written application to the Director.

(u) The Judge of Compensation shall notify all parties by letter of the decision, detailing its terms and the name of: the reporter and the certified shorthand reporting firm to which it has been dictated; centralized word processing center; or other method by which the opinion is produced.

(v) A judgment or an order shall be deemed entered as of the date the judgment or order is signed by the Judge.

(w) (Reserved)

(x) A party proposing the form of judgment or order may forward the original thereof to the Judge who heard the matter and shall serve a copy thereof on every other party together with a notice advising said party that unless they notify the Judge and the proponent of the judgment or order in writing of their specific objection thereto within 10 days after such service, the judgment or order may be signed in the Judge's discretion. If no such objection is timely made, the Judge may forthwith sign the judgment or order. If objection is made, the matter may be listed for hearing in the discretion of the Court.

Amended by R.1991 d.466, effective September 3, 1991.  
See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Moral turpitude removed as standard at (b); bifurcation of trials, accelerated scheduling allowed; post-trial brief form required; medical expert and exhibit retention requirements added; decision schedule changed.

Amended by R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

In (h), inserted reference to the Judge of Compensation; inserted new (s); recodified former (s) through (u) as (t) through (v); in (v), inserted references to an order and deleted reference that judgment be final; and added (x).

Amended by R.1999 d.285, effective August 16, 1999.  
See: 31 N.J.R. 737(a), 31 N.J.R. 923(a), 31 N.J.R. 2393(a).

In (e), added 1; and rewrote (f).  
Amended by R.2002 d.340, effective October 21, 2002.  
See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).  
Rewrote the section.

#### Case Notes

Trial judge's opinion followed by finding that claimant was totally disabled, was insufficient to allow meaningful review. *Lister v. J.B. Eurell Co.*, 234 N.J.Super. 64, 560 A.2d 89 (A.D.1989).

Compensation judge clearly abused his discretion by refusing to continue hearing on claimant's motion when counsel received copy of employer's medical expert's report moments before hearing. *Waters v. Island Transp. Corp.*, 229 N.J.Super. 541, 552 A.2d 205 (A.D.1989).

Workers' compensation judge must respect and ensure due process and fundamental rights of litigants. *Waters v. Island Transp. Corp.*, 229 N.J.Super. 541, 552 A.2d 205 (A.D.1989).

There was no waiver of cross-examination of petitioner's medical witness by failure of request in pre-trial memorandum (citing former N.J.A.C. 12:235-4.16, 5.55, 5.56 and 5.62). *Indelicato v. Town of West New York*, 170 N.J.Super. 563, 407 A.2d 837 (App.Div.1979).

Under former N.J.A.C. 12:235-5.62, an employee may not, by waiving cross-examination of employer's medical expert, require the employer to present only the medical expert's report and preclude the employer from calling the expert as a witness. *Vaughn v. State (Div. of Motor Vehicles)*, 151 N.J.Super. 251, 376 A.2d 976 (App.Div.1977).

Employer awarded counsel fee from workers' compensation carrier which denied coverage for compensable injury. *Kensler v. Mt. Hope Trucking Co., Inc.*, 97 N.J.A.R.2d (WCC) 60.

Employee compensated for work-related injury which aggravated preexisting pathology. *Drummev v. Highland Packaging Lab*, 97 N.J.A.R.2d (WCC) 57.

Application for overall permanent disability from work-related injury dismissed. *Navarrete v. Joyce Molding Company*, 97 N.J.A.R.2d (WCC) 47.

Employee compensated for employment exposure to asbestos. *Amorosa v. Schuller International*, 97 N.J.A.R.2d (WCC) 35.

Employee compensated for Lyme disease due to probable work exposure to infected ticks. *Bird v. Somerset Hills Country Club*, 97 N.J.A.R.2d (WCC) 26.

Employee compensated for partial permanent disability due to work-related injury. *Lopez v. H & H Swiss Screw Machine Prods.*, 97 N.J.A.R.2d (WCC) 24.

Benefits denied for construction laborer's stroke not related to work effort. *Garvey v. Mellon Stewart, Inc.*, 97 N.J.A.R.2d (WCC) 19.

Employee compensated for occupational pulmonary disease due to exposure to irritants at work. *Carita v. Ingersoll Dresser Pump*, 97 N.J.A.R.2d (WCC) 17.

Employee indemnified for charges due to work-related injury. *Sweet v. Freehold Township Board of Education*, 97 N.J.A.R.2d (WCC) 15.

Temporary disability benefits for exaggerated complaints concerning work-related injury denied. *Williams v. Alan Health Care Service*, 97 N.J.A.R.2d (WCC) 11.

Dental technician entitled to temporary disability benefits due to compensable injury. *Jonas v. Amwell Dental Associates*, 97 N.J.A.R.2d (WCC) 8.

Claims dismissed for failure to prove casual relationship between employee's disease and occupational conditions. *Izanski v. Woodland Industries, T/A Sea Gull Lighting, and Atlas Building Systems*, 97 N.J.A.R.2d (WCC) 6.

Compensable pulmonary disease due to occupational exposure to dust and fumes. *Lanier v. Whitestone Products*, 97 N.J.A.R.2d (WCC) 1.

Video tape evidence of disabled employee's activities was inadmissible in employee's reopened workers' compensation case where tape was deemed surprise evidence and not relevant to limited issue of whether employee had incurred further measure of permanent disability with respect to his original injury. *Taylor v. North American Energy*, 96 N.J.A.R.2d (WCC) 224.

Employee failed to prove that she sustained pulmonary injury due to exposure to noxious fumes and odors in the workplace. *Chesek v. Amboy Generator Service, Inc.*, 96 N.J.A.R.2d (WCC) 222.

Employee who suffered stroke during surgery to repair work-related leg injury was entitled to compensation from employer for additional medical disabilities caused by stroke. *Whitman v. Madison Building Services*, 96 N.J.A.R.2d (WCC) 219.

Workers' compensation liability would not be apportioned between earlier and successor employers where employee provided no evidence of later traumatic event affecting injury. *Perry v. Anchor Glass*, 96 N.J.A.R.2d (WCC) 216.

Employee who failed to provide medical evidence that minor injuries sustained in industrial accident rose to level of disability was not entitled to compensation award. *Ventura v. Holland Manufacturing*, 96 N.J.A.R.2d (WCC) 212.

Injuries sustained by employee during physical altercation with co-worker at workplace was compensable where employees' assaultive conduct did not arise from personal vengeance stemming from contact between them outside of workplace. *Spiewack v. Stone Valley Dairies*, 96 N.J.A.R.2d (WCC) 211.

Employer was not liable to employee's widow for dependency benefits where widow failed to show that employee died while working during out-of-area assignment. *Provost v. Electronic Data Systems, Inc.*, 96 N.J.A.R.2d (WCC) 203.

School district employee who alleged that she suffered from psychiatric disability due to repeated exposure to a mentally stressful work environment was not entitled to award of workers' compensation benefits, absent evidence that her working conditions were objectively stressful and peculiar to her particular place of work. *Lattiere v. Lenape Regional High School*, 96 N.J.A.R.2d (WCC) 197.

Construction worker who sustained injuries in fall while intoxicated on the job was entitled to workers' compensation benefits where intoxication was not proximate cause of his injuries. *Stednick v. La Russo*, 96 N.J.A.R.2d (WCC) 193.

Store manager who sustained back injury while unloading truck was entitled to residual permanent partial disability benefits where medical evidence indicated that injury permanently limited her range of motion and her ability to continue her regular work. *Young v. Rite Aid Discount Pharmacy*, 96 N.J.A.R.2d (WCC) 189.

Employee who suffered elbow fracture when he fainted on his way to personal errand during lunch break was not entitled to award of workers' compensation benefits; despite his claim that he fainted due to lack of air conditioning at his work station, employee presented no evidence of causal relationship between workplace and his injuries. *Fodge v. S.S. Adams*, 96 N.J.A.R.2d (WCC) 187.

Employer was responsible for employee's hip replacement surgery where industrial fall exacerbated pre-accident, disease-related deterioration of hip and necessitated surgery. *Tabel v. Ship Inn*, 96 N.J.A.R.2d (WCC) 183.

Disabled public employee would receive continuing temporary disability benefits where injuries sustained in assault by co-worker continued to block meaningful employment ability. *Dolan v. City of East Orange*, 96 N.J.A.R.2d (WCC) 179.

Employee was not entitled to her examining physician's recommendation of higher orthopedic award where recommendation was based upon employee's exaggerated complaints rather than on objective medical evidence. *Nobilio v. Carriage House Manor*, 96 N.J.A.R.2d (WCC) 173.

Construction manager who suffered stroke two months after he sustained numerous compensable injuries in fall through floor at job site would be required to supply objective medical evidence proving causal relationship between fall and stroke in order to receive compensation for stroke. *La Rochelle v. Rank Ahnert, Inc.*, 96 N.J.A.R.2d (WCC) 166.

Employer was liable for medical fees and temporary total disability benefits for cashier who suffered work-related back injury which caused her to be temporarily and totally disabled. *Regan v. Home Depot*, 96 N.J.A.R.2d (WCC) 162.

Employee was not entitled to permanent disability benefits for heart attack where he failed to show that heart attack was result of excessive work-related stress and strain. *Vesey v. East Coast Warehouse & Distribution, et al.*, 96 N.J.A.R.2d (WCC) 159.

Stevadore's long exposure to airborne irritants and chemicals supported his claim for permanent partial disability benefits. *DiBari v. Sea-Land Services et al.*, 96 N.J.A.R.2d (WCC) 142.

Counselor who suffered back injury when patient struck him with chair as he attempted to break up fight was entitled to award of permanent partial disability benefits where medical evidence indicated that injury materially impaired and restricted counselor's everyday activities both in and out of workplace. *Cronin v. New Brunswick Counseling Center*, 96 N.J.A.R.2d (WCC) 139.

Employee's heart attacks were compensable work-related injuries where employee demonstrated that work effort and strain were substantially in excess of her normal daily living, and in reasonable medical probability caused cardiovascular injury. *Vanderveer v. Personal Products*, 96 N.J.A.R.2d (WCC) 132.

Employee's work-related loss of leg between knee and ankle was compensable as loss of "foot." *Hartten v. Stilo Paving Co.*, 96 N.J.A.R.2d (WCC) 124.

Summer work program participant who slipped and fell at job site was not entitled to workers' compensation benefits; worker offered no evidence to support her apparently frivolous claim. *Paige v. County of Essex*, 96 N.J.A.R.2d (WCC) 119.

School crossing guard who sustained severe injuries when she was struck by automobile was entitled to permanent and total disability benefits. *Dailey v. Edison Township*, 96 N.J.A.R.2d (WCC) 113.

Farm worker injured in attempted robbery of residence he occupied on farm owner's property was entitled to disability benefits if owner and worker derived mutual benefit from living arrangement. *Silva-Escobedo v. Columbia Fruit Farms*, 96 N.J.A.R.2d (WCC) 112.

Supervisor who injured his knee while slap-boxing and attempting to hold employee in headlock was not entitled to workers' compensation benefits where supervisor instigated "horseplay." *Adams v. Bally's Park Place*, 96 N.J.A.R.2d (WCC) 109.

Worker who was not rendered unemployable in his field of work was not totally disabled. *Carpenter v. Sears Roebuck & Company*, 96 N.J.A.R.2d (WCC) 99.

Workers' compensation carrier was not entitled to reimbursement of attorney fees and expert witness fees from third party award. *Kuhnel v. CNA Insurance Companies*, 96 N.J.A.R.2d (WCC) 94.

Employer did not establish that worker's cigarette smoking contributed to pulmonary disease caused by occupational exposure to asbestos and other irritants. *Mareenchick v. Shell Oil Co.*, 96 N.J.A.R.2d (WCC) 88.

Statutory notice requirement was met where employer was timely notified of worker's accident and authorized medical provider was notified of additional injury within 90 days. *Gonzalez v. Raritan Periodic Sales*, 96 N.J.A.R.2d (WCC) 85.

Surgery was not authorized where basic thesis of physician's unique diagnostic process and surgical technique for post-traumatic perilymph fistula lacked solid scientific basis. *Ries v. Langer Transportation Corp.*, 96 N.J.A.R.2d (WCC) 80.

Worker's cigarette smoking was major factor that contributed 50 percent to his total permanent occupational pulmonary disability. *Rhodes v. Elk Transportation & Warehouse*, 96 N.J.A.R.2d (WCC) 76.

Petitioner's ownership and operation of small pizzeria did not disprove permanent partial disability from back injuries. *Ciambrano v. Amerada Hess*, 96 N.J.A.R.2d (WCC) 72.

Percentage of permanent disability increased beyond that assessed following first employment-related accident to right knee after second accident involving same knee. *Roberts v. Cosmair, Inc.*, 96 N.J.A.R.2d (WCC) 68.

Evidence was insufficient to support workers' compensation claim of groundskeeper based on contraction of Lyme disease from tick bite where no specific time or date of bite was presented. *Shepperd v. R & M Hanson*, 96 N.J.A.R.2d (WCC) 63.

Occupational exposure to dust and dirt at sewage treatment plant, rather than cigarette smoking, was material cause of worker's pulmonary disability. *Tutt v. Passaic Valley Sewage Commission*, 96 N.J.A.R.2d (WCC) 55.

Truck driver was permanently totally disabled by shoulder and wrist injuries and by depression resulting from two work-related accidents which occurred on same day. *Stephens v. Windsor Management*, 96 N.J.A.R.2d (WCC) 50.

Occupational exposure to dust and fumes materially contributed to permanent partial disability due to sinusitis condition. *LaPointe v. Automatic Switch Company*, 96 N.J.A.R.2d (WCC) 48.

Seven percent pre-existing disability credit was applied for tear in worker's anterior cruciate ligament that predated work-related meniscus damage. *Piepszak v. City of Trenton*, 96 N.J.A.R.2d (WCC) 42.

Exertion at work was not material contributing cause of worker's fatal heart attack where autopsy revealed that worked suffered from

severe coronary artery disease. *Jones v. New Jersey Turnpike Authority*, 96 N.J.A.R.2d (WCC) 38.

Injuries sustained by house painter in fall were not covered by workers' compensation portion of homeowner's policy, as painter was independent contractor and not home owner's employee. *Kain v. Shivers*, 96 N.J.A.R.2d (WCC) 35.

Partial permanent disability award denied where employee failed to show disability restricted body movement. *Johnson v. United Parcel Service*, 96 N.J.A.R.2d (WCC) 33.

Additional back surgery not warranted absent sufficient evidence that less drastic treatment methods may be appropriate. *Gero v. Olsen and Lawson, Inc.*, 96 N.J.A.R.2d (WCC) 29.

Evidence of physical and psychological injuries arising from compensable back injury supported employee's claim for total permanent disability benefits. *Mays v. Garlock Bearings, Inc.*, 96 N.J.A.R.2d (WCC) 26.

Unbroken chain of causation supports employee's temporary disability benefits claim after second fall while out of work. *Isaak v. Perimeter Insulation, Inc.*, 96 N.J.A.R.2d (WCC) 24.

Dependents' failure to show that cash advances made to them by decedent were more than gifts precludes dependency claim. *Scheuerman v. Jersey Shore Medical Center*, 96 N.J.A.R.2d (WCC) 22.

Union officer not employee of union for workers' compensation purposes. *Sines v. E. I. DuPont*, 96 N.J.A.R.2d (WCC) 20.

Security guard entitled to award of partial disability benefits for psychiatric disability caused by harassment on the job. *Curcio v. Continental Corp.*, 96 N.J.A.R.2d (WCC) 18.

Workers' compensation claim denied when claimant's cardiac problems not proven to be result of work-related conditions. *Reynolds v. Home Depot*, 96 N.J.A.R.2d (WCC) 17.

Workers' compensation benefits increased where landscaper's work-related leg and right side injuries worsened. *Runge v. New Jersey Highway Authority*, 96 N.J.A.R.2d (WCC) 10.

Bookstore worker granted only 20 percent permanent disability when complaints of pain radiating into right foot not supported by medical evidence. *Gigliotti v. Barnes & Noble*, 96 N.J.A.R.2d (WCC) 7.

Self-insured employer was required to reimburse PIP insurance carrier for benefits paid bloodmobile worker injured in automobile accident while traveling between job sites. *Brown v. American Red Cross*, 95 N.J.A.R.2d (WCC) 181.

Exposure to ticks while inspecting building during course of employment did not warrant disability rating for Lyme's disease. *Smart v. Asbersite*, 95 N.J.A.R.2d (WCC) 179.

Contusion of right kneecap in fall during course of employment as patient trainee was too minor to warrant disability rating. *Carpenter v. Yockey Enterprises*, 95 N.J.A.R.2d (WCC) 177.

Injuries to back and right arm in fall over stool during course of employment warranted 12 ½ percent partial/total permanent orthopedic disability. *Gathers v. PVC Container Corp.*, 95 N.J.A.R.2d (WCC) 173.

Lumbar injury in slip and fall while responding to emergency as hotel maintenance man warranted permanent partial disability. *Saleh v. Inn America Hospitality*, 95 N.J.A.R.2d (WCC) 169.

Burns received by waitress while attempting to burn off soiled thread from restaurant uniform arose out of and in course of employment. *Somma v. Crab's Claw Inn*, 95 N.J.A.R.2d (WCC) 167.

Injuries from slip and fall in employer's parking lot at work warranted 15 percent partial/total neurological and psychiatric disability. *Nobilio v. Carriage House*, 95 N.J.A.R.2d (WCC) 163.

Orthopedic and psychiatric conditions resulted from chest trauma to corrections officer during jail fight and warranted permanent total disability rating. *Paylor v. County of Hudson*, 95 N.J.A.R.2d (WCC) 160.

Injury to back while bending supported award for temporary disability and medical treatment, but did not support award for disc-related surgery. *Ciccolello v. Pathmark Supermarkets*, 95 N.J.A.R.2d (WCC) 155.

Back injury during course of employment was cause of overlapping orthopedic and neurological impairments warranting permanent partial disability. *Blanco v. Urethane Roofers*, 95 N.J.A.R.2d (WCC) 151.

Chiropractic treatment was not an intervening cause that broke chain of causation between work of police officer and surgically treated back injury. *Alston v. East Orange*, 95 N.J.A.R.2d (WCC) 146.

Alleged injury sustained in altercation with police officer while engaged in groundskeeping duties were not work related and were not compensable. *McClain v. City of Newark*, 95 N.J.A.R.2d (WCC) 144.

Teacher's head injury when struck by falling object in classroom caused disabling sleep disorder for which total and permanent disability was warranted. *Ferrara v. Manchester Regional High*, 95 N.J.A.R.2d (WCC) 137.

Injury while picking up a ledger at work caused persistent and debilitating back problems and warranted permanent and total disability. *Warrelmann v. Boveri*, 95 N.J.A.R.2d (WCC) 133.

Proceedings in bankruptcy against employer did not stay administrative proceedings against state uninsured fund for workers' compensation benefits. *Zentz v. St. Konstantinos, Inc.*, 95 N.J.A.R.2d (WCC) 132.

Stroke suffered by employee was not a basis for obtaining an occupational disability when no medical evidence established employment as causative factor. *Bowe v. Pettit*, 95 N.J.A.R.2d (WCC) 130.

Expert testimony was insufficient to warrant occupational disability award when employee voluntarily removed himself from work place, received a work pension, age-related social security benefits and gave every appearance of being in good health. *Hutchinson v. United Airlines*, 95 N.J.A.R.2d (WCC) 128.

Injury to clerk in family store was a compensable occupational injury notwithstanding earning of wages. *Loveatz v. Hilltop*, 95 N.J.A.R.2d (WCC) 127.

Injuries sustained by bartender when stabbed by patron arose out of personal animosity and were not compensable. *Horace v. Stokes*, 95 N.J.A.R.2d (WCC) 125.

More creditable testimony of employer's expert precluded employee's compensable disability claim arising from work accident. *Thames v. Laid Law Transit*, 95 N.J.A.R.2d (WCC) 122.

Wage reconstruction was not required absent proof that employee would have been promoted, with a pay raise, and worked overtime but for injury. *Patton v. Holiday Skating*, 95 N.J.A.R.2d (WCC) 118.

Exposure to asbestos and other irritants during employment as machinist and dyemaker materially contributed to development of obstructive and restrictive pulmonary disease. *Drozd v. Harris Corporation*, 95 N.J.A.R.2d (WCC) 112.

Agreement by employee to forego workers' compensation payment while continuing to receive state disability payments was in accordance with state law and was not prejudicial. *Mahoney v. Marlboro Township*, 95 N.J.A.R.2d (WCC) 109.

Second accident net substantially, but only temporarily, aggravated disability from first accident was not a basis for obtaining additional benefits until original disability returned. *Caldwell v. Millville Hospital*, 95 N.J.A.R.2d (WCC) 100.

Severe burns to right foot from splash and spill of molten aluminum while operating smelting furnace warranted a 35 percent permanent partial total disability of foot for orthopedic residuals. *Batie v. Shiel-dallo*, 95 N.J.A.R.2d (WCC) 95.

Exposure to dust and mist while grinding quartz in manufacture of eyeglasses was not a basis for obtaining occupational pulmonary disability benefits absent causative proof. *Schultz v. Esco Products*, 95 N.J.A.R.2d (WCC) 93.

Employer was entitled to a reduction in workers' compensation benefits on basis of employee's receipt of Social Security disability benefits for herself and her auxiliary. *Smith v. La Roche*, 95 N.J.A.R.2d (WCC) 89.

Nurse's physical complaints subsequent to disability award for herniated disk were purely subjective and, absent supporting objective medical testimony, were insufficient to establish an increase in disability. *Husar v. Riverview Medical*, 95 N.J.A.R.2d (WCC) 87.

Right of control made injured passenger in pick-up truck employee of landscaping service for workers' compensation purposes. *Royal Insurance v. Pohlman*, 95 N.J.A.R.2d (WCC) 83.

Injury sustained by cook when he fell in parking lot outside restaurant while bringing dirty clothes to car were sustained in course of employment. *Zucker v. Marty's Famous*, 95 N.J.A.R.2d (WCC) 79.

Exposures to chemical cleansers and glue during employment worsened preexisting pulmonary disability and warranted a 50 percent partial total disability. *Monroe v. ISS Building Services*, 95 N.J.A.R.2d (WCC) 77.

Conditions encountered by insurance manager at work were of an orthopedic, pulmonary, cardiovascular, and psychiatric nature and warranted total disability award. *Casey v. Blue Cross*, 95 N.J.A.R.2d (WCC) 71.

Employer at time of traumatic back injury was solely responsible for permanent disability and need for medical treatment. *Reyes v. Rudco*, 95 N.J.A.R.2d (WCC) 67.

Stab wounds received by bartender while acting on behalf of her employer to prevent injury to business invitee were compensable. *Schurer v. Library II*, 95 N.J.A.R.2d (WCC) 65.

Treatment at hospital for foot was not for a work-related injury, but was for a nonwork diabetic condition and was not compensable. *Guastaferrero v. Owens Brockway*, 95 N.J.A.R.2d (WCC) 62.

Employee exposed to fumes and dust in work as a millwright was not entitled to an award for partial total pulmonary disability, but was entitled to a 5 percent disability award for vertigo. *Pinto v. Englehard Metals*, 95 N.J.A.R.2d (WCC) 57.

Medical reports so diminished employee's credibility as to preclude award of disability benefits for slip and fall in course of employment. *Kelly v. Johnson & Johnson*, 95 N.J.A.R.2d (WCC) 54.

Chronic obstructive pulmonary disease, being at least a significant condition contributing to employee's death, was a proper basis on which to award dependency benefits to employee's wife and child. *Remboske v. Homasote*, 95 N.J.A.R.2d (WCC) 48.

Increase in payments for foot disability that was recurring because of walking and standing was not warranted. *Grahl v. Kaiser*, 95 N.J.A.R.2d (WCC) 46.

Causal relationship between welding work and alleged pulmonary disabilities from chemicals was not established. *Martin v. DK Tool & Die*, 95 N.J.A.R.2d (WCC) 41.

Carpenter with his own tools, equipment, and vehicles was nevertheless an employee of contractor for unemployment and temporary disability purposes. *Anthill Construction v. Department of Labor*, 95 N.J.A.R.2d (LBR) 36.

Rheumatoid arthritis and psychiatric sequelae arising from work related trauma were sufficient to cause total disability. *Bobo v. Paterson Board*, 95 N.J.A.R.2d (WCC) 34.

Injury due to work-related accident was not compensable absent evidence as to its occurrence. *Averos v. GJ Chemical*, 95 N.J.A.R.2d (WCC) 33.

Lifting by baggage handler did not aggravate prior disability for lumbosacral strain. *Owen v. Continental*, 95 N.J.A.R.2d (WCC) 30.

Individuals soliciting mortgages from mortgage banker were not independent contractors, but employees of banker for unemployment and temporary disability purposes during period in question. *Galaxy Mortgage v. Department of Labor*, 95 N.J.A.R.2d (LBR) 27.

Work-related injury to teacher when struck by falling door warranted partial/total disability award. *Wilson v. Plainfield Board*, 95 N.J.A.R.2d (WCC) 27.

Claim of permanent disability with respect to injuries to hand and back in incidents at work was not established. *Thomas v. Magic Rental*, 95 N.J.A.R.2d (WCC) 25.

Right of estate to proceed to proof hearing upon claimant's death for reasons unrelated to disability. *Montrose v. Columbus Hospital*, 95 N.J.A.R.2d (WCC) 24.

Disk injury was compensable notwithstanding three years between work accident and surgeries. *Quinn v. Coca Cola*, 95 N.J.A.R.2d (WCC) 21.

Previous foot fracture did not preclude disability for subsequent amputation of foot. *Rice v. Modern Disposal*, 95 N.J.A.R.2d (WCC) 18.

Truck driver serving interests of employer at time of disability was employee entitled to compensation. *Fulling v. Crown*, 95 N.J.A.R.2d (WCC) 14.

Individual was not an independent contractor, but was an employee for unemployment compensation purposes when no indicia of an independent business was present. *LBK Computer v. Department of Labor*, 95 N.J.A.R.2d (LBR) 13.

Exposure to Bromine during course of employment warranted partial total disability for anxiety stress disorder. *Wegrzynek v. Exxon Chemical*, 95 N.J.A.R.2d (WCC) 12.

Transcriptionists retained by medical transcription service to transcribe and type information from recording tapes in their homes were not independent contractors, but employees of transcription service for unemployment insurance purposes. *Transcriptions Ltd. v. Department of Labor*, 95 N.J.A.R.2d (LBR) 9.

Sheetrockers and tapers performing drywall services were employees of subcontractor for unemployment insurance purposes. *Wayne Construction v. Department of Labor*, 95 N.J.A.R.2d (LBR) 7.

First employer's insurer remained liable absent aggravation of work-related injury in subsequent employment. *Heathcote v. Cape May*, 95 N.J.A.R.2d (WCC) 6.

Subsequent employers not liable for incapacity due to injury and prior employment. *Cook v. Imperial*, 95 N.J.A.R.2d (WCC) 2.

Failure to rehire employee after returning from vacation was not retaliatory as due to filing workers' compensation claim against employer. *Milleman v. Mid-Atlantic Mechanical*, 95 N.J.A.R.2d (LBR) 1.

No retaliatory discharge of employee who filed workers' compensation claim. *Milleman v. Mid-Atlantic Mechanical, Inc.*, 95 N.J.A.R.2d (LBR) 1.

Employee injured in employer's parking lot entitled to recovery; keys failed to open office. *D'Ambra v. Avco Financial Services*, 94 N.J.A.R.2d (WCC) 249.

Flight attendant assaulted by co-employee; disability benefits. *Pelchat v. Continental Airlines*, 94 N.J.A.R.2d (WCC) 244.

Serious back condition; permanent partial disability. *Neves v. Cleve-Tenn Industries, Inc.*, 94 N.J.A.R.2d (WCC) 237.

Mentally handicapped employee; totally disabled; accident during employment. *Williams v. Accurate Bushing Co.*, 94 N.J.A.R.2d (WCC) 231.

Any on-the-job injury or disability; proof. *Awkward v. State of New Jersey*, 94 N.J.A.R.2d (WCC) 228.

Permanent partial disability; psychiatric and dermatological disability experienced during employment. *Gass v. Avalon Plumbing & Appliance*, 94 N.J.A.R.2d (WCC) 224.

Part-time employee; proof of partial permanent disability. *Edge v. United Parcel Services*, 94 N.J.A.R.2d (WCC) 221.

Employee exposed to asbestos; partial permanent disability. *Tiger v. Manville Sales Corp.*, 94 N.J.A.R.2d (WCC) 219.

Psychological disability; not result of employment. *Zubov v. Dean Witter Trust Co.*, 94 N.J.A.R.2d (WCC) 214.

Psychiatric injury; not result of employment. *Halpin v. Commerce Life Insurance*, 94 N.J.A.R.2d (WCC) 212.

Partial disability; exposure to asbestos during employment. *Behm v. Jersey Central Power and Light*, 94 N.J.A.R.2d (WCC) 209.

"Home friend" failed to show that she suffered from a disability permanent in quality and partial in character, and failed to establish the basis for awarding temporary disability benefits. *Mathis, Eula v. New Community Corporation*, 94 N.J.A.R.2d (WCC) 204.

Part-time clerk who tripped over construction material on the public sidewalk in front of a college-owned parking building which was controlled by a Ground Lease tenant was denied her claim against the college. *Burgos v. Essex County College*, 94 N.J.A.R.2d (WCC) 202.

Warehouse employee suffered post traumatic stress disorder and was entitled to temporary disability and partial total disability benefits. *Yaviliak v. Twin County Grocers*, 94 N.J.A.R.2d (WCC) 197.

Widow and minor children were entitled to dependency benefits when officer died from AIDS. *Laugherty v. City of Jersey City*, 94 N.J.A.R.2d (WCC) 194.

Failure to establish that there was an employer/employee relationship between the parties at the time of the accident. *Scillath v. Jed Scott Auto Parts*, 94 N.J.A.R.2d (WCC) 193.

Sewerage plant laboratory technician failed to prove that her employment was a material cause of her pulmonary disability. *Raines v. Passaic Valley Sewerage Commission*, 94 N.J.A.R.2d (WCC) 191.

Senior citizen toll collector who became disabled was entitled to have his wages reconstructed at the rate of hours worked by people doing the same type of work on a full time basis. *Sheridan v. New Jersey Highway Authority*, 94 N.J.A.R.2d (WCC) 187.

Plumber sustained a compensable partial permanent orthopedic disability and a psychiatric disability. *Abrantes v. Achieve Plumbing & Heating*, 94 N.J.A.R.2d (WCC) 185.

Employee's application for modification of prior award of benefits and claim for new injury were appropriately denied. *MacGillis v. Papa Sarris T/A La Mirage & Conair*, 94 N.J.A.R.2d (WCC) 182.

Award of benefits for partial/total disability was appropriate. *Vieira v. Arena Construction*, 94 N.J.A.R.2d (WCC) 180.

Worker's compensation benefits awarded to decedent's grandson. *Mangielle v. Lenox, Inc.*, 94 N.J.A.R.2d (WCC) 178.

Denial of additional worker's compensation benefits for an alleged additional injury was appropriate. *Drost v. Manville Foodtown Store # 2811*, 94 N.J.A.R.2d (WCC) 174.

Sanction imposed against employer; refusing injured employee disability and medical treatment benefits. *Rush v. Ocean Township Board of Education*, 94 N.J.A.R. 2d (WCC) 171.

Award appropriate; asthma exacerbated by exposure to cigarette smoke and fumes. *Nardone v. Georgia-Pacific Company*, 94 N.J.A.R.2d (WCC) 165.

Denial of additional worker's compensation benefits. *Sayres v. J. Spinelli & Sons Excavating*, 94 N.J.A.R.2d (WCC) 163.

Permanent partial disability; Lyme disease. *Salender v. Jersey Central Power and Light Company*, 94 N.J.A.R.2d (WCC) 157.

Denial of worker's compensation benefits to intoxicated volunteer member of first aid squad was appropriate. *Cuba v. Kearny Volunteer Rescue Squad, Inc.*, 94 N.J.A.R.2d (WCC) 153.

Award of worker's compensation benefits to live-in domestic employee was appropriate. *Wint v. Malien*, 94 N.J.A.R.2d (WCC) 149.

Denial of worker's compensation benefits; injury occurred during commute to work. *Flanagan v. Avis Rent-A-Car Systems*, 94 N.J.A.R.2d (WCC) 146.

Total permanent disability and medical benefits appropriate; employee unlikely to work in the future. *Fisher v. Hygrade Furniture*, 94 N.J.A.R.2d (WCC) 138.

Dismissal of claim for increased disability was appropriate. *Lanno v. Jersey Shore Medical Center and Monmouth Dental Center*, 94 N.J.A.R.2d (WCC) 129.

Award for partial/total disability; objective/demonstrable medical evidence test. *Dalfonzo v. Keansburg Ice & Fuel Co., Inc.*, 94 N.J.A.R.2d (WCC) 126.

Award to employee suffering from lung disease was appropriate. *Neiber v. Ingersoll-Rand Company*, 94 N.J.A.R.2d (WCC) 121.

Award for partial/total disability; orthopedic and neurological injuries. *Kane v. PMC Specialty Group*, 94 N.J.A.R.2d (WCC) 117.

Employee was entitled to worker's compensation benefits while engaged in a weight loss program. *Jaronko v. Bishop-Sanzari, Inc. & R. A. Hamilton*, 94 N.J.A.R.2d (WCC) 115.

No partial/permanent disability; injury did not interfere substantially with employee's life. *Intelli v. The Hose Shop*, 94 N.J.A.R.2d (WCC) 113.

Award of temporary disability payments and medical benefits was appropriate. *Keratt v. New Jersey Turnpike Authority*, 94 N.J.A.R.2d (WCC) 111.

Award made to employee with prior heart disorder who suffered partial/total disability was appropriate. *Doyle v. Highlands Borough*, 94 N.J.A.R.2d (WCC) 106.

Additional worker's compensation award to employee for the same injury was appropriate. *Landry v. Auto Life Management*, 94 N.J.A.R.2d (WCC) 104.

Award of worker's compensation benefits and finding of partial/total disability was appropriate. *Feliciano v. Wheelock Signals, Inc.*, 94 N.J.A.R.2d (WCC) 101.

Treatment and medical expenses were not compensable or reimbursable under the worker's compensation statute. *Gorin v. Kullman Industries*, 94 N.J.A.R.2d (WCC) 98.

Award for partial/total permanent disability was appropriate. *Alli-good v. Sears, Roebuck & Co.*, 94 N.J.A.R.2d (WCC) 97.

No objective medical evidence of disability. *Austin v. Fluets Corporation*, 94 N.J.A.R.2d (WCC) 94.

There was a failure to offer objective medical evidence of neuropsychological disability. *Kavanagh v. Hunterdon Developmental Center*, 94 N.J.A.R.2d (WCC) 91.

Failure to meet burden of proving permanent disability. *Ladezma v. Rebtex, Incorporated*, 94 N.J.A.R. (WCC) 90.

Cigarette-smoking asbestos worker; failure to prove that asbestos exposure contributed in material degree to lung cancer. *Gauntlett v. Johns-Manville*, 94 N.J.A.R.2d (UCC) 85.

Police officer failed to prove any ophthalmologic or orthopedic disability. *Rodriguez v. City of Newark*, 94 N.J.A.R.2d (WCC) 83.

Defendant's claim was barred when employee had accepted lump sum settlement. *Slinger v. Okonite Co., Inc.*, 94 N.J.A.R.2d (WCC) 82.

Employment accident; compensation for orthopedic injuries but not for high blood pressure. *Taylor v. Fell Corporation*, 94 N.J.A.R.2d (WCC) 78.

Multiple sclerosis; evidence established that work-related accidents aggravated dormant condition. *Toye v. Scholes Co. and S & M Electric Co.*, 94 N.J.A.R.2d (WCC) 74.

Employee did not meet his burden of proof; no objective medical evidence. *Kramer v. Level Line, Inc.*, 94 N.J.A.R.2d (WCC) 71.

Employment exposure to asbestos contributed in a material way to the development of employee's cancer. *Rustay v. Ingersoll-Rand Company*, 94 N.J.A.R.2d (WCC) 68.

Psychiatric condition allegedly due to work stress; not entitled to worker's compensation. *Bieyle v. V.R.H. Construction Co.*, 94 N.J.A.R.2d (WCC) 61.

Failure to prove that layoff was retaliation; filing workers' compensation claim. *Cosimano v. Gardner Merchant Food Services, Inc.*, 94 N.J.A.R.2d (LBR) 59.

Cough allegedly due to exposure to dust and paint fumes; not permanently disabled. *Chew v. Excell Wood Products*, 94 N.J.A.R.2d (WCC) 57.

Discharged employee injured in a car accident during the course of his employment; temporary disability and medical benefits. *Fouler v. Altenheim*, 94 N.J.A.R.2d (WCC) 52.

Travelling for business; worker's compensation. *Novis v. Rosenbluth Travel*, 94 N.J.A.R.2d (WCC) 51.

Inhalation of chlorine gas caused serious pulmonary impairment. *Eccles v. town of Kearny*, 94 N.J.A.R.2d (WCC) 45.

Award of disability benefits and payment of medical treatment by employer was proper. *Moytzoirellhs v. Greenbrook Nursing Home*, 94 N.J.A.R.2d (WCC) 41.

Employee's work-related injury was minor and did not affect his working ability. *Calvopina v. Menlo Building Maintenance Co.*, 94 N.J.A.R.2d (WCC) 40.

Failure to sustain burden of proof of occupational pulmonary disease and of work-related heart attack. *Yuzuik v. Union Carbide Corporation*, 94 N.J.A.R.2d (WCC) 36.

Employee failed to sustain burden of proving her condition substantially worsened. *Giordano v. Visiting Homemakers of Ocean County*, 94 N.J.A.R.2d (WCC) 31.

Dismissal; failure to appear and complete case. *McCoy v. Witco*, 94 N.J.A.R.2d (WCC) 30.

Sales consultant failed to demonstrate a compensable partial permanent disability. *Branch v. Macy's* 94 N.J.A.R.2d (WCC) 26.

Award in excess of award offered by employer was proper failure to demonstrate a preexisting percentage of disability. *Traberman v. Brio Sanditoy Corp.*, 94 N.J.A.R.2d (WCC) 24.

Temporary disability benefits; abdominal pain from morbid obesity. *Oliver v. Vineland Developmental Center*, 94 N.J.A.R.2d (WCC) 22.

Dependency benefits properly awarded to children of deceased firefighter; lung cancer. *LeFurge v. City of Plainfield*, 94 N.J.A.R.2d (WCC) 20.

Employee suffering from multiple sclerosis proved aggravation by work-related injury. *Cooney v. Terminex*, 94 N.J.A.R.2d (WCC) 16.

Worker sustained burden of proof in demonstrating a causal link. *Vaccarelle v. Exxon U.S.A.*, 94 N.J.A.R.2d (WCC) 11.

Dispatcher failed to sustain his burden of proof demonstrating a causal link between exposure to chemicals and lymphoma/leukemia. *Trucke v. Coastal Industries*, 94 N.J.A.R.2d (WCC) 9.

Auto worker; compensable partial permanent disability. *Blain v. Premier auto Body, Inc.*, 94 N.J.A.R.2d (WCC) 7.

Failure to sustain burden of proof of permanent partial disability. *Velez v. Difeo Auto Mart*, 94 N.J.A.R.2d (WCC) 3.

Landlord failed to prove that tenant was a causal employee. *Martin v. Pollard*, 94 N.J.A.R.2d (WCC) 1.

Claimant with orthopedic and pulmonary disabilities failed to show occupational disease. *White v. E.R. Squibb*, 93 N.J.A.R.2d (WCC) 158.

Claimant was not entitled to modification of award. *DeGennaro v. Greater New York Box Co.*, 93 N.J.A.R.2d (WCC) 150.

No entitlement to benefits where subjective evidence was supported only by minimal physical evidence. *Daly v. Owens-Brockway Glass Containers*, 93 N.J.A.R.2d (WCC) 141.

Machine operator failed to show partial permanent disability. *Merant v. Superwear Corporation*, 93 N.J.A.R.2d (WCC) 139.

Claimant failed to establish necessity or authorization for medical treatment or change in circumstances. *Jackson v. Clara Maas Memorial Hospital*, 93 N.J.A.R.2d (WCC) 138.

Modification of partial permanent rating not justified in absence of medical evidence demonstrating an increased disability. *Williams v. AT & T Technologies*, 93 N.J.A.R.2d (WCC) 130.

Separate back injuries while lifting bundles of newspapers at work justified partial permanent disability rating. *Smith v. Greater Media*, 93 N.J.A.R.2d (WCC) 128.

Physical pain and depression as a result of slip and fall at work justified total and permanent disability rating. *Ferrante v. CIT Group*, 93 N.J.A.R.2d (WCC) 117.

Homeowners were not liable for disability claim absent evidence of an employment relationship with injured carpenter. *Moore v. Hetrick*, 93 N.J.A.R.2d (WCC) 113.

Inability to operate foot pedal machinery justified permanent partial disability rating following ankle fracture in work-related accident. *Stopa v. Chanel*, 93 N.J.A.R.2d (WCC) 112.

Shoulder pain preventing employee from doing previous work justified permanent disability rating. *Juliano v. United Parcel*, 93 N.J.A.R.2d (WCC) 109.

Refining and reclaiming precious metals lead to permanent disability from asbestosis as a result of job. *Caggiano v. Engelhard*, 93 N.J.A.R.2d (WCC) 106.

Scars resulting from work-related burns justified partial permanent disability rating. *Holzheimer v. Bayonne*, 93 N.J.A.R.2d (WCC) 103.

Increased disability to back over and above accumulative prior awards was not shown. *Slappy v. Newark*, 93 N.J.A.R.2d (WCC) 100.

Objective medical evidence established a compensable partial permanent disability equivocal to three work accidents. *Mintz v. Busch*, 93 N.J.A.R.2d (WCC) 98.

Firemen earned no more than a 7.5 percent disability for chronic bronchitis. *Toomey v. Hoboken*, 93 N.J.A.R.2d (WCC) 94.

Employee failed to sustain burden of proof on issue of causation with respect to cut on forehead at work. *Levine v. Mueller*, 93 N.J.A.R.2d (WCC) 93.

Results of range-of-motion tests and functional restrictions established partial total permanent disability. *Laird v. Sambol*, 93 N.J.A.R.2d (WCC) 88.

Preexisting personality disorder precluded claim for psychiatric disability arising from incident at work. *Allen v. Children's Home Society*, 93 N.J.A.R.2d (WCC) 85.

Idiopathic event causing back injury was not connected to employment. *Field v. Clayton*, 93 N.J.A.R.2d (WCC) 84.

Worker's chronic back pain entitled him to permanent partial disability benefits. *Baptista v. Witco Corporation*, 93 N.J.A.R.2d (WCC) 78.

Worker was not entitled to increase in permanent partial disability benefits. *Napolitano v. Molecu Wire Corporation*, 93 N.J.A.R.2d (WCC) 76.

Worker's increased disability did not merit increase in compensation award. *Stefanick v. Johns-Manville Products Corp.*, 93 N.J.A.R.2d (WCC) 75.

Worker was entitled to award of permanent total disability benefits. *Shaw v. Long Branch Board of Education*, 93 N.J.A.R.2d (WCC) 72.

Worker injured off employer's premises was not entitled to award of compensation benefits. *Geres v. St. Peter's Medical Center*, 93 N.J.A.R.2d (WCC) 70.

Former employer was responsible for costs of worker's medical treatment. *Metros v. General Motors Corp., Hyatt Bearings Division*, 93 N.J.A.R.2d (WCC) 68.

Injury on coffee break in adjacent trucking company's yard did not arise out of employment. *Berkery v. Freightways*, 93 N.J.A.R.2d (WCC) 60.

Poor state of health entitled wife separated from worker at time of death to dependency benefits. *Woolcott v. Roma Food*, 93 N.J.A.R.2d (WCC) 58.

Fall by visiting home health nurse rated a 22 percent partial disability. *Backof v. Medical Center*, 93 N.J.A.R.2d (WCC) 56.

Surgeries performed following multiple head and facial injuries were a reasonable, medical necessity. *Byrd v. Off The Road Tire*, 93 N.J.A.R.2d (WCC) 54.

Back injury at work was directly related to next day's hospitalization for ruptured disk. *Hersh v. Hersh & Sherman*, 93 N.J.A.R.2d (WCC) 51.

Permanent partial disability was not established without objective medical evidence showing more than only some degenerative changes to back. *Morris v. K-Mart*, 93 N.J.A.R.2d (WCC) 48.

Causal relationship between colon cancer and long asbestos exposure warranted partial total disability award. *Rosamilia v. Essex*, 93 N.J.A.R.2d (WCC) 42.

Significant injuries to face, neck and back in employee parking lot warranted permanent disability award. *Zablocki v. Maas*, 93 N.J.A.R.2d (WCC) 38.

Expenses of psychiatric treatment following suicide attempt resulting from workplace injury were compensable. *Ellison v. Concurrent Computers*, 93 N.J.A.R.2d (WCC) 34.

Temporary disability payments were appropriate for school psychologist injured when bookcase hit head. *Sweet v. Jackson Board of Education*, 93 N.J.A.R.2d (WCC) 27.

Permanent disfigurement and neurosensory changes warranted partial permanent disability award. *Goode v. Herculite*, 93 N.J.A.R.2d (WCC) 25.

Back injury sustained by security officer warranted permanent, though limited disability award. *Currey v. Ocean County*, 93 N.J.A.R.2d (WCC) 22.

Stroke which commenced while mechanic was exerting extraordinary physical activity warranted total disability award. *Manning v. Engineering*, 93 N.J.A.R.2d (WCC) 18.

Long-term occupational exposure to asbestos warranted a partial, total award for pulmonary disability. *Stelzie v. Salvesen*, 93 N.J.A.R.2d (WCC) 15.

Control test established that carpenter working on house was not independent contractor, but was employee of homeowner. *Henry v. Parks*, 93 N.J.A.R.2d (WCC) 12.

Permanent partial disability resulted from occupational exposure to asbestos. *Russomanno v. Otis Elevator*, 93 N.J.A.R.2d (WCC) 9.

Gunshot wound to head at work resulted in total and permanent disability for which special adjustment benefits was due. *Lugo v. Franklin*, 93 N.J.A.R.2d (WCC) 2.

Worker suffered permanent partial disability as result of on-the-job accident. *Van Amburgh v. Rohil Estates*, 92 N.J.A.R.2d (WCC) 188.

Employer was not entitled to credit or offset for worker's pre-existing illness. *Woolsey v. New Jersey Bell Telephone Company*, 92 N.J.A.R.2d (WCC) 180.

Worker's widow was not entitled to dependency benefits. *Petit-Clair v. New Jersey Transit*, 92 N.J.A.R.2d (WCC) 176.

Worker was "employee" entitled to worker's compensation benefits. *Ojibe v. Thomas J. Reale, Inc.*, 92 N.J.A.R.2d (WCC) 173.

Worker was entitled to 25 percent permanent partial disability benefits for pulmonary injury. *Sutera v. City of Hoboken*, 92 N.J.A.R.2d (WCC) 170.

Employer failed to prove that termination of worker's benefits was warranted. *Kincade v. City of Wildwood*, 92 N.J.A.R.2d (WCC) 161.

Worker's unemployment was not compensable. *Cairns v. City of East Orange*, 92 N.J.A.R.2d (WCC) 155.

Worker's injury was causally related to employment. *Paduch v. Stony Brook Construction*, 92 N.J.A.R.2d (WCC) 152.

Mechanic was entitled to permanent partial disability benefits. *Landon v. Town & Country Motors*, 92 N.J.A.R.2d (WCC) 150.

Worker was entitled to slight increase in pulmonary disability benefits. *White v. Johns-Manville Sales Corporation*, 92 N.J.A.R.2d (WCC) 147.

Worker's settlement of his claim extinguished subsequent dependency claim. *Szikszai v. Simmons Precision*, 92 N.J.A.R.2d (WCC) 145.

Collision resulted in worker's permanent partial disability. *Reynolds v. Strober New Jersey Building Supply, Inc.*, 92 N.J.A.R.2d (WCC) 144.

Worker failed to prove that his injury occurred on the job. *McDuffie v. New Jersey Bell Telephone Company*, 92 N.J.A.R.2d (WCC) 142.

Worker was entitled to modification of previously settled claim. *Rolstad v. Tri-County Asphalt*, 92 N.J.A.R.2d (WCC) 138.

Independent contractor was not entitled to workers' compensation benefits. *Bozzolasco v. J.T. Ski Construction Co.*, 92 N.J.A.R.2d (WCC) 136.

Accidental fall rendered worker permanently and totally disabled. *Rivera v. Frank's Tree Service, Inc.*, 92 N.J.A.R.2d (WCC) 134.

Worker was entitled to increased benefits for psychiatric disability. *Woods v. CPC International, Inc./Best Foods*, 92 N.J.A.R.2d (WCC) 132.

Worker was entitled to modification of prior compensation award. *Cook v. Dollar Rent-A-Car*, 92 N.J.A.R.2d (WCC) 129.

Worker's deception did not disqualify him from receiving benefits. *Gomes v. Jose Natoli Construction Co.*, 92 N.J.A.R.2d (WCC) 127.

Worker was entitled to 17 ½ percent temporary partial disability benefits. *Yar v. Springfield Heating and Air Conditioning, Inc.*, 92 N.J.A.R.2d (WCC) 125.

Worker's disabilities were unrelated to occupational exposure. *Shannon v. State of New Jersey*, 92 N.J.A.R.2d (WCC) 120.

Worker suffered disability in trip and fall accident. *Wydner v. Caldor's*, 92 N.J.A.R.2d (WCC) 116.

Worker was entitled to have disabilities from single accident "stacked". *Kim v. Wolf*, 92 N.J.A.R.2d (WCC) 112.

Worker suffered disability due to knee injury. *Markle v. Newark Board of Education*, 92 N.J.A.R.2d (WCC) 110.

Worker's carpal tunnel syndrome was work related. *Mackenzie v. New Jersey Bell Telephone Co.*, 92 N.J.A.R.2d (WCC) 107.

Worker's preexisting condition was aggravated by workplace accident. *Gronikowski v. K-Mart Corporation*, 92 N.J.A.R.2d (WCC) 102.

Asbestos exposure caused worker's cancer. *Zematis v. Exxon Company*, 92 N.J.A.R.2d (WCC) 98.

Chemical worker's liver damage was work-related. *Dean v. Powell-Duffryn*, 92 N.J.A.R.2d (WCC) 97.

Chimney worker's permanent total disability was job-related. *Lackey v. Custodis-Ecodyne, Inc.*, 92 N.J.A.R.2d (WCC) 92.

Worker injured in a fall suffered permanent partial disability. *Smith v. Borough of Stone Harbor*, 92 N.J.A.R.2d (WCC) 87.

Worker's disability was caused by three separate accidents. *Genovese v. McGraw-Hill, Inc.*, 92 N.J.A.R.2d (WCC) 83.

On-the-job exposure to chemical fumes caused worker's disability. *Ostendorf v. Acme Markets, Inc.*, 92 N.J.A.R.2d (WCC) 81.

Bus driver was entitled to 30 percent permanent partial disability benefits. *Nordaby v. Cape May County Holiday Tours*, 92 N.J.A.R.2d (WCC) 76.

Worker failed to timely notify her employer of on-the-job accident. *Michelotti v. CVI Services Group*, 92 N.J.A.R.2d (WCC) 73.

Insurer would be assessed penalties for negligent denial of disability claim. *Gianotti v. Teledyne Farris Engineering*, 92 N.J.A.R.2d (WCC) 70.

Construction worker suffered permanent partial disability as result of accident. *Beam v. Gianetti Excavating Co., Inc.*, 92 N.J.A.R.2d (WCC) 67.

Worker suffered permanent total disability due to repetitive injuries. *Peterson v. Hermann Forwarding Co.* 92 N.J.A.R.2d (WCC) 60.

Evidence offered by worker was insufficient to prove permanent partial disability. *Crean v. Somerville Lumber Co.* 92 N.J.A.R.2d (WCC) 57.

Worker's job-related chemical exposure was cause of fatal lung cancer. *Lee v. Engelhard Industries*. 92 N.J.A.R.2d (WCC) 56.

Worker failed to prove that he suffered from work-related asbestosis. *Gile v. Jersey Central Power & Light Co.* 92 N.J.A.R.2d (WCC) 53.

Worker's chronic illness was job related. *Daye v. Ciba Geigy*. 92 N.J.A.R.2d (WCC) 46.

Worker's lower back injury was permanently and totally disabling. *Martinez v. Esselte Pendaflex*. 92 N.J.A.R.2d (WCC) 42.

Worker failed to prove entitlement partial permanent disability benefits. *Blackwell v. N.J. Transit Bus Operations, Inc.* 92 N.J.A.R.2d (WCC) 41.

Worker suffered no pulmonary function disability. *Weston v. Excelled Sheepskin & Leather Coat Corporation*, 92 N.J.A.R.2d (WCC) 39.

Motor vehicle collision occurred in the course of "special mission". *Martin v. Jersey Central Power & Light Company*, 92 N.J.A.R.2d (WCC) 34.

Worker's employment aggravated underlying circulatory deficiency. *Felix v. Elegant Lingerie*, 92 N.J.A.R.2d (WCC) 32.

Workplace exposure to chemicals was material cause of worker's death. *Corio v. American Cyanamid Company*, 92 N.J.A.R.2d (WCC) 29.

Worker would be awarded permanent partial disability benefits. *Magill v. C & K Construction Company*, 92 N.J.A.R.2d (WCC) 25.

Worker would be awarded partial total disability benefits. *Hobbs v. General Motors Corporation*, 92 N.J.A.R.2d (WCC) 20.

Claimant failed to prove her entitlement to dependency benefits. *Toms v. Dee Rose Furniture, Inc.*, 92 N.J.A.R.2d (WCC) 18.

Worker suffered no permanent disability as result of asbestos exposure. *Boszczuk v. Johns-Manville*. 92 N.J.A.R.2d (WCC) 17.

Worker's widow met burden of proving entitlement to benefits. *Slack v. Johns-Manville Products Corporation*. 92 N.J.A.R.2d (WCC) 13.

Worker suffered total disability as result of work place accident. *Johnson v. Blue Crest Farms*. 92 N.J.A.R.2d (WCC) 9.

Permanent injury to worker's leg would be offset by credit for prior condition. *Flancer v. Dell Chrysler*. 92 N.J.A.R.2d (WCC) 7.

Worker's compensable permanent disability had significantly worsened. *Wilson v. South Jersey Port Corporation*. 92 N.J.A.R.2d (WCC) 3.

Worker's psychiatric disability was not caused by work place accident. *Ramon Rivera v. Egg Harbor Boat Company*. 92 N.J.A.R.2d (WCC) 2.

Worker's gunshot wound did not "arise out of" his employment. *Riley v. Potter-Hillman Ford*. 92 N.J.A.R.2d (WCC) 1.

### 12:235-3.11 Orders approving settlement reached pursuant to N.J.S.A. 34:15-20

(a) A settlement agreement reached pursuant to N.J.S.A. 34:15-20 ("Section 20 settlement") may be approved by a judge of compensation when:

1. The petitioner is represented by counsel;
2. The case involves contested issues of jurisdiction, liability, causal relationship and/or dependency; and
3. The settlement is determined to be fair and just under the circumstances.

(b) A Section 20 settlement shall have the force and effect of a dismissal of the petitioner's claim and a complete surrender by the petitioner of any future right to compensation or benefits arising out of the injuries, conditions or exposures encompassed in the claim petition.

(c) A Section 20 settlement shall not be a waiver of future dependency claims in the event that the petitioner's death occurs as a result of the injuries, conditions or exposures encompassed by petitioner's claim petition unless:

1. The petitioner's dependents (as defined in N.J.S.A. 34:15-13) join in a waiver of future dependency benefits.
  - i. A parent, other than the petitioner, shall ordinarily represent the interests of petitioner's dependent minor children residing in that parent's household. The judge of compensation shall determine whether circumstances dictate that a representative other than a parent

is necessary for any dependents for the purposes of a Section 20 proceeding.

(d) A petitioner's acceptance of a Section 20 settlement and a dependent's waiver of dependency benefits shall be given knowingly, intelligently and voluntarily. The judge of compensation shall explain on the record the preclusive effect the Section 20 settlement shall have on the petitioner's claim and on any future dependency claims, except as provided in (e) below.

(e) A petitioner's acceptance of a Section 20 settlement and any waiver of future dependency claims shall occur on the record of the Section 20 settlement proceeding unless the judge of compensation determines that sufficient circumstances preclude the appearance of the petitioner, a dependent and/or representative. In such case, an affidavit executed by such petitioner, dependent and/or representative shall be submitted. The affidavit must contain all of the facts to which the petitioner, dependent and/or representative would be required to testify if present in court.

(f) A Section 20 settlement shall encompass all injuries, conditions or exposures set forth in the petitioner's claim petition unless the parties amend the claim petition at the Section 20 settlement proceeding and specifically set forth any amendments to the claim petition on the settlement form. Where intended, the parties shall specifically set forth that the claim petition and settlement includes latent or unknown consequences of the alleged injuries, conditions or exposures.

New Rule, R.2000 d.128, effective March 20, 2000.  
See: 31 N.J.R. 3916(a), 32 N.J.R. 1028(a).

### 12:235-3.12 Notice of appeal

Copies of a notice of appeal of any order or judgment shall be provided to the Division and the judge who decided the matter. See New Jersey Court Rule 2:5-1.

New Rule, R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).  
New Rule, R.1999 d.285, effective August 16, 1999.  
See: 31 N.J.R. 737(a), 31 N.J.R. 923(a), 31 N.J.R. 2393(a).  
Former N.J.A.C. 12:235-5.11, Interpreters, recodified to N.J.A.C. 12:235-5.12.  
Recodified from N.J.A.C. 12:235-5.11 by R.2000 d.128, effective March 20, 2000.  
See: 31 N.J.R. 3916(a), 32 N.J.R. 1028(a).  
Former N.J.A.C. 12:235-5.12, Interpreters, recodified to N.J.A.C. 12:235-5.13.

### 12:235-3.13 Interpreters

In any proceeding for which the services of an interpreter are required, a professional interpreter shall be utilized unless the Judge of Compensation, with the consent of the parties, determines otherwise. An interpreter shall be sworn or make affirmation or declaration to interpret accurately.

New Rule, R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).  
Recodified from N.J.A.C. 12:235-5.11 by R.1999 d.285, effective August 16, 1999.  
See: 31 N.J.R. 737(a), 31 N.J.R. 923(a), 31 N.J.R. 2393(a).  
Former N.J.A.C. 12:235-5.12, Enforcement of orders, recodified to N.J.A.C. 12:235-5.13.  
Recodified from N.J.A.C. 12:235-5.12 by R.2000 d.128, effective March 20, 2000.  
See: 31 N.J.R. 3916(a), 32 N.J.R. 1028(a).  
Former N.J.A.C. 12:235-5.13, Enforcement of orders, recodified to N.J.A.C. 12:235-5.14.

### 12:235-3.14 Enforcement

(a) For unreasonable failure to comply with any written order of a Judge of Compensation or with any requirement of statute or regulation, a Judge of Compensation may:

1. Dismiss or grant the motion or application for enforcement of order;
2. Close proofs, dismiss a claim or suppress a defense;
3. Exclude evidence;
4. Order costs or reasonable expenses, including interest or monies due and/or attorney's fees, to be paid to the Second Injury Fund of the State of New Jersey or an aggrieved party, attorney, or other representative of a party;
5. Refer matters for other administrative, civil or criminal proceedings; or
6. Take other appropriate case-related action.

(b) A party or the court on its own motion may move for enforcement of an order. After receiving notice of an application for enforcement, a party shall file a written response to the application within 10 days of such notice. The response shall include the reasons for any noncompliance and manner and time periods to ensure compliance with the order at issue. Before taking any action under (a) above, the Judge of Compensation shall hold a hearing on the appropriateness of the action and the reasonableness of any compensatory levy or sanction.

(c) Unless a stay is obtained from the appropriate appellate court or the Judge of Compensation, the failure to obey an order of the Judge of Compensation shall constitute grounds for compensatory sanctions against the attorney, the parties, or both. Filing of an appeal does not constitute an automatic stay of the judgment or order being appealed.

(d) For purposes of this section, "compensatory levy and sanction" shall mean an amount awarded to compensate for actual losses, including, but not limited to, interest on monies due a party as well as attorney's fees and administrative costs to the Division.

New Rule, R.1997 d.110, effective March 3, 1997.  
See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).  
Recodified from N.J.A.C. 12:235-5.12 by R.1999 d.285, effective August 16, 1999.  
See: 31 N.J.R. 737(a), 31 N.J.R. 923(a), 31 N.J.R. 2393(a).

Rewrote (c); added (d) and (e). Former N.J.A.C. 12:235-7.1, General procedure, recodified to N.J.A.C. 12:235-5.1.

#### Case Notes

Workers' Compensation Act did not bar provider from suing employee for unpaid bill resulting from work-related injury. *West Jersey Health System v. Croneberger*, 275 N.J.Super. 303, 645 A.2d 1282 (A.D.1994).

#### 12:235-7.2 Filing notice of an uninsured claim; personal service; third-party joinder

(a) An injured worker or his or her attorney shall notify the UEF within 30 days after the worker or his or her attorney knew or should have known that the employer was uninsured, or receives confirmation of non-insurance from the Compensation Rating and Inspection Bureau that benefits may be sought.

(b) Petitioner's attorney shall contact the Compensation Rating and Inspection Bureau within 15 days in writing to receive confirmation that the employer is uninsured. A copy of the Rating Bureau's response shall be included in the motion to join the UEF.

(c) In order to secure reimbursement of a petitioner's temporary disability benefits from the Uninsured Employers Fund, the petitioner shall file a motion to join the UEF in an action brought by or against the uninsured employer.

1. Petitioner's attorney, or the petitioner shall file a motion to join the UEF. When filing a motion to join the UEF, the petitioner's attorney or petitioner shall attach a copy of the inquiry and response of the Compensation Rating and Inspection Bureau.

2. The motion to join the UEF shall be filed in the vicinage in which the case is assigned.

3. A copy of the motion to join the UEF shall be served upon the Fund in the Office of Special Compensation Funds, CN 399, Trenton, New Jersey 08625-0399.

(d) Petitioner's attorney may make personal service of the claim petition and the motion to join the UEF on respondent.

1. Proof of service shall be filed with the Division and with the attorney representing the UEF.

2. If respondent is unable to be served, petitioner's attorney shall make a motion with the Judge of Compensation for substituted service pursuant to Rules of Civil Practice. The motion shall be supported by convincing evidence that the petitioner has made all reasonable attempts to serve respondent.

(e) The UEF shall have the authority to join a third-party and the third-party's insurance carrier when it appears that such party is or may be liable for the benefits sought.

(f) In reviewing claims submitted to the Uninsured Employer's Fund for payment pursuant to N.J.S.A. 34:15-120.4,

the Commissioner may consider the extent of delay in notification to the Uninsured Employer's Fund by the petitioner and/or his or her attorney from the time they knew or reasonably should have known the respondent employer was uninsured.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Procedure to join the Fund specified.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Rewrote (a); inserted new (c); recodified former (c) and (d) as (d) and (e); in (d)2, substituted "Judge of Compensation" for "Director"; and added (f).

Recodified from N.J.A.C. 12:235-12.2 by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

Former N.J.A.C. 12:235-7.2, Hearing, recodified to N.J.A.C. 12:235-5.1(e)1.

#### Case Notes

Workers' Compensation Act did not bar provider from suing employee for unpaid bill resulting from work-related injury. *West Jersey Health System v. Croneberger*, 275 N.J.Super. 303, 645 A.2d 1282 (A.D.1994).

#### 12:235-7.3 Certification

(a) Petitioner's attorney shall submit a certification when filing a motion for an uninsured claim. The certification shall be specific, and shall contain the following information:

1. The date of hire;

2. The length of employment: If not continuous, list all dates of employment;

3. Copies of petitioner's W-2 for all dates of employment during the year in which the accident occurred;

4. Pay stubs for all salary received from respondent for previous six months;

5. The total wages received from respondent for 12 months preceding the accident;

6. The name, address (business and personal) and phone number of the respondent and any officer or manager of the company;

7. Any documents relating to the employer/employee relationship or lack thereof;

8. A statement of facts which establish the employer-employee relationship;

9. The name, address and phone number of all persons with knowledge of the existence of an employer/employee relationship between petitioner and respondent;

10. The place where the injury occurred, including the name of the owner of the property and the reason why the employee was at the location where the injury occurred;

11. The name, address and phone number of all witnesses to the accident, and whereabouts of respondent when the accident occurred;

12. The name, address and phone number of all persons with any knowledge of the accident;

13. How soon after the accident was a physician contacted;

14. The name and address of all treating physicians and the name and address of any hospital, laboratory or other facility where treatment was received;

15. Copies of all medical reports from the hospitals and treating physicians;

16. Medical insurance coverage for employee and/or spouse, and if available, the name and address of the company and the policy number;

17. If medical expenses have been paid;

18. Who paid the medical expenses; and

19. Whether the petitioner is receiving Social Security benefits.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Petitioner's attorney to advise Fund on benefits received; (b) and (c) deleted.

Recodified from N.J.A.C. 12:235-12.3 by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

Former N.J.A.C. 12:235-7.3, Payment of benefits, recodified to N.J.A.C. 12:235-5.1(e)2 and 12:235-5.2(a) through (c).

#### 12:235-7.4 Medical bills; physician's examination

(a) The UEF shall have the opportunity to review all medical bills and charges to determine if the costs incurred were reasonable and necessary.

(b) The UEF may order an independent medical examination of a petitioner by a physician at any time when the UEF is involved or when it appears the UEF may become involved in a case. The examining physician will be asked to offer an opinion on:

1. The appropriateness of petitioner's current medical treatment;
2. The prognosis for the petitioner;
3. Whether petitioner is able to return to work; and
4. Whether petitioner requires further treatment.

(c) Fees for independent medical evaluation shall be paid by the UEF.

(d) If it appears that the petitioner may be entitled to benefits from the UEF, then the UEF may direct the petitioner to the appropriate authorized treating physician for treatment.

1. Treatment obtained by petitioner from any physician other than the one authorized by the UEF shall be deemed to be unauthorized treatment, and costs for such treatment shall not be chargeable to the UEF.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Text at (a)1 and 2, (e) deleted; physician's opinion specified at (b). Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Recodified from N.J.A.C. 12:235-12.4 by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

Former N.J.A.C. 12:235-7.4, Filing, recodified to N.J.A.C. 12:235-5.3.

#### 12:235-7.5 Assignment of cases; schedules

(a) The Director shall sign the UEF cases for hearing.

(b) The Director shall establish the vicinages in which the cases shall be heard.

(c) The Director shall establish the hearing dates and schedules for all uninsured employer cases.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Recodified from N.J.A.C. 12:235-12.5 by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

#### 12:235-7.6 Payments from the UEF

Payments from the UEF shall be made only in accordance with N.J.S.A. 34:15-120.4.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Attorney fee provisions deleted; Fund payment provisions added.

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Recodified from N.J.A.C. 12:235-12.6 by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

#### 12:235-7.7 Attorney fees

(a) An attorney fee may be payable from the UEF to the petitioner's attorney when the petitioner is found eligible for UEF benefits by the Commissioner.

(b) An attorney shall make an application to the Commissioner for payment of the attorney fee awarded by the Judge of Compensation for obtaining the medical and/or temporary benefits assessed against the respondent.

1. The application shall be supported by an affidavit of services in a form and manner as prescribed by the Director.

New Rule, R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 834(a), 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Recodified from N.J.A.C. 12:235-12.7 by R.2002 d.340, effective October 21, 2002.

See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

## SUBCHAPTER 8. DISCRIMINATION COMPLAINTS

### Subchapter Historical Note

Subchapter 8, Discrimination Complaints, was recodified from N.J.A.C. 12:235-9 by R.2002 d.340, effective October 21, 2002. See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

### 12:235-8.1 Filing discrimination complaints

All complaints alleging discrimination pursuant to N.J.S.A. 34:15-39.1 shall be filed with the Director.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

### Case Notes

Employee claiming retaliatory discrimination by employer may pursue either judicial or administrative remedy. (citing former N.J.A.C. 12:235-11). *Lally v. Copygraphics*, 173 N.J.Super. 162, 413 A.2d 960 (App.Div.1980), affirmed 85 N.J. 668, 428 A.2d 1317 (1981).

Employee was not transferred to lower paying job in retaliation for his filing workers' compensation claim where claim was filed after transfer and transfer was effected due to employee's poor attendance record. *Dorsa v. Smurfit Plastic Packaging, Inc.*, 96 N.J.A.R.2d (LBR) 72.

Workers' compensation discrimination claim filed beyond two-year statute of limitations was dismissed as untimely. *Miller v. Merrill, Lynch, Pierce, Fenner & Smith, Inc.*, 96 N.J.A.R.2d (LBR) 65.

Employee was properly terminated for poor work performance, and not in retaliation for filing workers' compensation claim. *Bernard v. Port Authority of New York and New Jersey*, 96 N.J.A.R.2d (LBR) 50.

Employee was reasonably discharged due to excessive absenteeism, and not in retaliation for filing workers' compensation claim. *Montgomery v. Bayview Convalescent Center*, 96 N.J.A.R.2d (LBR) 31.

Employee had no retaliatory discharge claim where he failed to show compensable injury existed at time of discharge and where employer had cause for discharge. *Saddler v. Wood Dining Services, Inc.*, 96 N.J.A.R.2d (LBR) 19.

Warehouseman dismissed in retaliation for filing workers' compensation claim would be reinstated. *Paterson v. Lincoln Storage Warehouses*, 96 N.J.A.R.2d (LBR) 11.

### 12:235-8.2 Contents of discrimination complaints

(a) The complaint alleging discrimination shall be under the oath or affirmation of the complainant, and shall be on a form prescribed by the Division.

(b) The complaint alleging discrimination shall include the following:

1. Complainant's name, address, Social Security number, and claim petition number, if a claim for formal hearing has been filed;
2. The name and address of the insurance carrier for the employer;
3. The date of complainant's accident;
4. Complainant's occupation and wages;
5. Complainant's current employment and wages;

6. Complainant's occupational duties and indication as to whether he or she is able to perform those duties;

7. The date and reason for complainant's termination of employment;

8. The factual and legal reasons for alleging discrimination;

9. Such other information as requested by the Director.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

Petition for rulemaking.

See: 33 N.J.R. 135(a).

### 12:235-8.3 Attachments to discrimination complaints

The complaint for discrimination shall include, or have attached thereto, all documents upon which the complainant is relying on in the application.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

### 12:235-8.4 Investigation of discrimination complaints; appeal procedures

(a) Subject to the discretion of the Commissioner of Labor, the Director/Chief Judge shall supervise the investigation and review of discrimination complaints filed under N.J.S.A. 34:15-39.1.

(b) No discrimination complaint shall be accepted by the Division of Workers' Compensation unless filed with the Director/Chief Judge within 180 days of the date of the last act of alleged discrimination.

(c) Upon receipt of a sworn complaint alleging a violation of N.J.S.A. 34:15-39.1 the Division of Workers' Compensation shall transmit a copy of the complaint to the named employer within 14 days thereafter.

(d) The named employer shall file an answer to the complaint, under oath, with the Division of Workers' Compensation within 14 days of the employer's receipt of the complaint.

(e) The named employer, for good cause, may request from the Division of Workers' Compensation an additional period of not more than 30 days to file an answer to the discrimination charge.

(f) Upon receipt of the employer's answer, the Division will transmit a copy of the answer to the complainant. The complainant will be allowed 14 days to respond to the answer in writing. At the end of the 14 day period the record will be closed unless the Division requests additional submissions from the parties or allows additional time, for good cause shown, for the parties to respond.

(g) The Director/Chief Judge shall review the submission of the parties and determine if the complaint should be affirmed, dismissed or determined to be a contested case and forwarded to the Office of Administrative Law for hearing. The Director/Chief Judge shall render his or her decision within 90 days after the filing of a discrimination complaint or 30 days of the last evidentiary submission from

the parties, whichever is later. If the complaint is affirmed, the decision will be transmitted to the Commissioner of Labor for imposition of penalties and such other relief authorized pursuant to N.J.S.A. 34:15-39.1 and 34:15-39.2.

(h) Any individual who disagrees with the decision of the Director may submit to the Division a written request for a formal hearing to be held in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., N.J.S.A. 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1 within 20 days from the date of the receipt of the Director's decision, by the party seeking the appeal.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Investigation to be forwarded in 90 days.

Amended by R.1993 d.51, effective January 19, 1993.

See: 24 N.J.R. 1684(a), 24 N.J.R. 3090(a), 25 N.J.R. 313(b).

Added new (b)-(d); revised section heading.

Amended by R.1994 d.431, effective August 15, 1994.

See: 26 N.J.R. 1591(b), 26 N.J.R. 3459(a).

Amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Rewrote (a) and (b); inserted new (c) through (g); recodified former (c) as (h); and in (h), amended time for requesting a formal hearing and inserted text "by the party seeking the appeal".

Petition for rulemaking.

See: 33 N.J.R. 135(a), 33 N.J.R. 331(a).

## SUBCHAPTER 9. ASSIGNMENT AND SUPERVISION OF JUDGES

### Subchapter Historical Note

Subchapter 9, Assignment and Supervision of Judges, was recodified from N.J.A.C. 12:235-4 by R.2002 d.340, effective October 21, 2002. See: 34 N.J.R. 2257(a), 34 N.J.R. 2549(a), 34 N.J.R. 3641(d).

### 12:235-9.1 Assignment of judges

It shall be within the sole discretion of the Director to assign judges throughout the State as he or she shall deem appropriate for the effective administration of the Division.

New Rule, R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Former section recodified to N.J.A.C. 12:235-4.2.

### 12:235-9.2 Assignment to supervisory positions

(a) It shall be within the power of the Director to ascertain the need to assign Judges to supervisory positions and

exercise the administrative duties as set forth in this chapter for the districts the Director may designate.

(b) The Director may at his or her discretion:

1. Determine the number of Judges needed to provide the necessary supervision; and

2. Appoint Judges of Compensation to supervisory positions in which the Judges shall serve at the pleasure of the Director.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

Recodified from 12:235-4.1 and amended by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

Former section recodified to N.J.A.C. 12:235-4.3.

### 12:235-9.3 Personnel functions

(a) The Supervising Judge of a particular district shall be directly responsible for the general conduct and performance of each Judge of Compensation in that district. The Supervising Judge shall be prepared to give a periodic performance evaluation of each Judge at the request of the Director.

(b) The Supervising Judge of a particular district shall be responsible for the orderly and prompt flow of work in that district.

(c) Subject to the approval of the Director, the Supervising Judge shall determine the composition of the daily calendar and shall designate the Judge of Compensation to be responsible for each calendar list. The Supervising Judge shall be responsible for all daily changes of scheduling for all hearing personnel within each district and be available to discuss particular scheduling problems with attorneys.

(d) Each Supervising Judge shall furnish statistical reports as required by the Director.

Amended by R.1991 d.466, effective September 3, 1991.

See: 23 N.J.R. 1759(a), 23 N.J.R. 2642(a).

Stylistic changes.

Recodified from 12:235-4.2 by R.1997 d.110, effective March 3, 1997.

See: 28 N.J.R. 4067(a), 29 N.J.R. 799(a).

## SUBCHAPTER 10. CONDUCT OF JUDGES