

"Beware: Issuing a Notice of Intent to Settle Pursuant ORC 4123.512 May Have the Unintended Result of Eliminating the Right to Appeal"



Margaret A. O'Bryon | Monday, May 6, 2019

The Ohio Bureau of Workers' Compensation's (BWC) recent attempt to even the playing field in the settlement process by avoiding unnecessary litigation between employers and claimants (injured worker) while a step in the right direction, may need additional action to accomplish the BWC's lofty goals in this area. Former Gov. John Kasich's Workers' Compensation Budget under H.B. 27 made several important changes in the form of new provisions allowing either the claimant or the employer to request additional time to explore settlement before filing a lawsuit into common pleas.

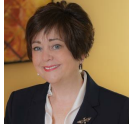


Previously the losing party, either the employer or the claimant, had the automatic right to file a notice of appeal into the common pleas court within 60 days of receipt of the denial order of the claim issued by the Industrial Commission. Many employers felt this automatic right to appeal did not leave open the opportunity to attempt a settlement before a complaint was filed, as most workers' compensation appeals occur after the claimant has lost their hearing at the Industrial Commission. This automatic right to appeal into common pleas court does not require the losing party to provide new additional evidence in order to file a lawsuit. While employers have the same right to file a court appeal as the claimant, many employers choose to not file an appeal into common pleas court because if they do, and are unsuccessful, they will

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incur the additional cost for attorney fees up to \$5,000. This is not an issue for claimants, however, as they are not required to pay the employer's attorney fees if the employer prevails in court.

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Margaret A. O'Bryon

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