

Notice of Motion

My perfected Appellate case CV-24-2041 is on the court calendar for December 2025. This involves a WCB Appeal ((WCB No. 2770-9381).

I received a Notice of Hearing from New York State Workers Compensation dated September 16, 2025, delivered by U.S. mail on September 23, 2025. I enclose a copy for your use. It schedules a Virtual WC Hearing on October 7, 2025 at 9:30 a.m. (I was notified I am not allowed to have an in-person hearing like everybody else. I was not told why.).

I enclose my Letter of Objection to the Hearing, emailed to Workers Compensation, the Attorney General and Lois Law on September 24, 2025. I requested to suspend the Hearing and notified them that if I am forced to attend, I will only do so to argue on the Record for a Dismissal.

The **Purpose** of the Hearing on the Notice of Hearing, is:

“Question of accident, notice to employer and causal relationship of accident to injury. Question of rate of compensation and/or average weekly wage. Degree of disability. To consider an objection to a Proposed Decision. Should the Workers Compensation Law Judge determine that the objection has no reasonable ground, the party who instituted the objection may be assessed the cost of such proceeding pursuant to WCL Section 114-a(3). The Workers Compensation Law Judge may also assess reasonable attorneys’ fees against an attorney or licensed representative who has instituted such proceedings without reasonable grounds. ***To consider a claimant or claimant attorney request for review of a Medical Director’s Office resolution regarding a Prior Authorization Request (PAR) for medication.***”

You can understand by this content, I was confused, concerned, and upset when I read the "Purpose" section of the Hearing notice. ***“Question of accident, notice to employer and causal relationship of accident to injury. Question of rate of compensation and/or average weekly wage. Degree of disability.”*** are all issues that pertain to a new case, an initial injury, an unadjudicated component of a Workers’ Compensation case. My Workers’ Compensation case is 48 years old. These issues were all adjudicated in my case over 40 years ago conclusively, by multiple judges.

This is to notify this court of an irregular and aggressive intervention by Workers' Compensation in the progression of my Appellate case. The actions proposed in this Notice of Hearing would alter substantive and foundational facts in the Record before the Appellate Division rules, and further deny me due process.

The Workers Compensation Board lacks jurisdiction to relitigate credible issues that were adjudicated decades ago. The issues listed on the Hearing Notice were adjudicated, authorized, and resolved by New York State, affirmed by Chubb, Federal and Vigilant Insurances, and documented in every neurologist's report, for decades. My final classification is Permanent Total Injury (September 10, 1991). Causal relation was established to the Head, Neck and Back (July 21, 1977 and September 10, 1991). Reopening decided issues violates my due process rights. The doctrines of res judicata and collateral estoppel prohibit relitigating the adjudicated issues.

Also, the WCB does not have the authority to hold a new hearing on issues that are currently being reviewed by a higher court and to relitigate the issues while my Appellate Appeal involving these issues is pending. Relitigating the adjudicated issues is violating due process by undermining the higher court's authority and decisional integrity.

For the above stated reasons, I request that the Appellate Division, Third Department issue a **Stay** of the WCB Hearing on October 7, 2025 until the higher court rules. I request an **Order to Show Cause** and a **Temporary Restraining Order**.

Thank you for considering this Motion.

September 24, 2025

Respectfully,

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WCB No. 2770-9381