

September 24, 2025

Ms. Lucy Cesare, Senior Attorney
Office of Appeals, NYS Workers Compensation Board
328 State Street
Schenectady, NY 12305-3201

Re: WCB No. 2770-8391. DOI: 3-10-1977. Wendy Wagner
Virtual Hearing: 24369982349 *Appellate Case CV-24-2041*

To Whom it May Concern:

Please accept this as my formal objection to the 19-minute virtual New York State Workers Compensation Hearing scheduled on October 7, at 9:30 a.m.. The Notice of WCB Hearing is dated 9-16-2025, and was received by me by U.S Mail yesterday, 9-23-2025. I request that the Notice of Hearing be withdrawn.

The stated **Purpose** of the 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.*”**

I object to the Hearing on October 7 because accident, notice, causal relationship, rate of compensation, weekly wage, and degree of disability, were all adjudicated in my case by New York State Law Judges 40 years ago. The Workers Compensation Board lacks jurisdiction to relitigate issues that were decided decades ago. These issues are protected by the legal doctrines of res judicata and collateral estoppel. The WCB also lacks jurisdiction to hold a new hearing on issues that are currently being reviewed by a higher court. Reopening of these adjudicated issues is violating due process by trying to undermine the higher court’s authority.

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). The carrier cannot reinvent this New York State adjudicated and carrier affirmed classification decades later, because Ace Insurance purchased Chubb Insurance and discovered that they inherited a catastrophic injury case, an unwelcome liability.

My perfected New York State Appellate case is on the court's calendar for December. The Workers Compensation Board lacks the authority to relitigate the issues while my Appellate Appeal involving these issues is pending.

This Workers Compensation Hearing appears to be an aggressive and improper attempt by the carrier to change adjudicated issues to suit Chubb before the Appellate Division rules, to reinvent facts, history, and the record of this case, to circumvent the Appellate process, to retaliate because I am pursuing my right to due process, and to harass me.

The medication issue (Lidoderm) noted in the "Purpose" section of the Notice, was authorized by the Medical Director on August 6, and again by Susan Clark at Chubb on September 16, 2025.

If I am forced to attend the Virtual Hearing scheduled on October 7 to protect my rights because WCB has not canceled it, I will attend.

I will attend:

- solely: to object to WCB's jurisdiction and argue for dismissal;
- to clearly state on the record that I will not proceed on the merits of the adjudicated issues that are listed in the "Purpose" section of the Notice as the reason for this Hearing;
- that the issues listed on the Hearing Notice have been settled by New York State, affirmed by Chubb, Federal and Vigilant Insurances, and documented in every neurologist's report, for decades;
- that the doctrines of res judicata and collateral estoppel prohibit relitigating the adjudicated issues;
- that this case is perfected and on the December calendar of the Appellate Division, 3rd Department of the New York State Supreme Court;
- Workers Compensation does not have the authority to relitigate, alter a case or change the record of a case, under consideration by a higher court;
- that I am filing a Motion with the Appellate Court to Stay this Hearing;
- to request a suspension of the Hearing, mark the case off-calendar, pending the outcome of the Appellate Motion, and to defer to the Appellate court.
- the Hearing should be canceled, because all of the issues listed in the Purpose section have been adjudicated, authorized and resolved.

Respectfully,
Wendy Wagner
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Massapequa, NY 11758
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