

COVID-19 & May 2020 Arbitrator Procedure

Below please find the progression of the Illinois Workers' Compensation Commission's ("IWCC") Notice of Emergency Amendments due to COVID-19, Temporary Restraining Order against the enforcement of the Emergency Amendments, as well as the IWCC's May 2020 Arbitrator Status Call Procedures.

IWCC EMERGENCY AMENDMENT & TEMPORARY RESTRAINING ORDER

- April 13, 2020. The IWCC issued the Emergency Amendment that:
 - ▷ Created a rebuttable presumption that a first responder or front-line worker's exposure to COVID-19 arose out of and in the course of employment.
 - ▷ Placed the burden on the employer to disprove.
- April 15, 2020. The IWCC issued notice of the modification of evidentiary rules regarding practice before the IWCC, with an effective date of April 16, 2020.
 - ▷ The IWCC clarified that these rules were "promulgated outside the normal rulemaking process due to the unprecedented and extreme exigencies created by the spread of COVID-19."
- April 22, 2020. The Illinois Manufacturers' Association and the Illinois Retail Merchants Association (hereinafter "Plaintiffs") filed suit and a **Motion for Temporary Restraining Order** ("TRO") against the IWCC in the Circuit Court of Sangamon County, Illinois.
 - ▷ Please note that the Plaintiffs in Circuit Court would ordinarily be the Respondent Employers before the IWCC.
- Plaintiffs allege that the IWCC:
 - ▷ Usurped the authority vested in the Illinois Legislature;
 - ▷ Has unlawfully created new substantive rights for employees and new liabilities for employers in violation of the Illinois Administrative Procedures Act.
- Plaintiffs sought a temporary, preliminary, and mandatory injunction that prohibits the IWCC from enforcing the Emergency Amendments.
- April 23, 2020. Plaintiff's **Temporary Restraining Order was granted.**
 - ▷ The IWCC now has an opportunity to respond to the Temporary Restraining Order before the next scheduled hearing date.
- May 4, 2020. Reportedly, the next scheduled hearing against the IWCC.

NEWLY IMPLEMENTED ARBITRATION PROCEDURE FOR MAY 2020

- April 23, 2020. The IWCC issued “May 2020 Special Circumstance Arbitration Procedures.” May 2020 Arbitration Status Calls will be conducted telephonically.
 - ▷ Cases set during the May 2020 Arbitration Status Calls will be given June 2020 trial dates.
 - ▷ No motions will be heard.
 - ▷ Trial dates must be by agreement.
 - ▷ No emergency 19(b)’s or 19(b-1)’s will be set for this call.
 - ▷ Only cases ready to proceed to trial should be set.
 - ▷ All other cases will be returned to the next status call.
 - ▷ Parties must notify the arbitrator of the status of the case to determine if it may proceed.
 - ▷ No more than 10 above the line May 2020 cases will be set for the June 2020 trial dates.
 - ▷ No more than 25 total May 2020 cases will be set for the June 2020 dates.

We are monitoring the rapid developments of COVID-19 and the implications of practice before the IWCC. As we obtain information, we will keep you informed of any developments. Should you have any questions, please do not hesitate to contact us. Our team is happy to assist you and answer any questions you may have. Stay safe and know that we are here for you.

ILLINOIS WORKERS’ COMPENSATION TEAM

Lynn M. Combs

lmcombs@kopkalaw.com

(847) 459-2417

100 Lexington Drive, Suite 100
Buffalo Grove, IL 60089

Matthew G. Gorski

mggorski@kopkalaw.com

(312) 704-5164

200 W. Adams, Suite 1200
Chicago, IL 60606

Justin T. Nestor

jtnestor@kopkalaw.com

(219) 650-6062

9801 Connecticut Drive
Crown Point, IN 46307

Diandra L. Abate

dlabate@kopkalaw.com

(312) 702-8531

200 W. Adams, Suite 1200
Chicago, IL 60606

Victor Herrera

vherrera@kopkalaw.com

(312) 704-5180

200 W. Adams, Suite 1200
Chicago, IL 60606

Courtney L. Schoch

clschoch@kopkalaw.com

(312) 782-9920

200 W. Adams, Suite 1200
Chicago, IL 60606