

**WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
ATTORNEY FEES SUBCOMMITTEE**

November 17, 2008
2:00 p.m. – 3:30 p.m.
Conference Room 260, Labor & Industries Building
350 Winter Street NE, Salem, Oregon

Committee Members Present:

Greg Miller, Gunderson LLC, Portland
Kathy Nishimoto, Duckwall-Pooley Co., Hood River
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin
Sheri Sundstrom, Hoffman Construction Company, Portland

Committee Members Excused:

Linda Barno, ESIS, Inc., Portland
Tracy Brill, Portland Fire Fighters Association, Portland
Lon Holston, Laborers' International, Local 483, Portland
John Kirkpatrick, IUPAT District Council, Portland
Jeri Ray, Timber Products Company, Springfield
Bob Shiprack, Oregon Building Trades Council, Portland
Cory Streisinger, Ex-Officio Member, Department of Consumer and Business Services, Salem

ATTORNEY FEES SUBCOMMITTEE

Greg Miller, subcommittee chair, called the meeting to order at 2:02 p.m.

There was unanimous consent by the subcommittee that the minutes from October 10, 2008 be adopted.

Report from the Oregon Trial Lawyers Association (OTLA)

Chris Moore and Elizabeth Cushwa, OTLA, reported discussions with Liberty NW and SAIF Corp. regarding OTLA's proposals previously presented to MLAC. Ms. Cushwa was pleased to discover much common ground on the proposals. She said they will be working together on language.

Mr. Greg Miller asked about small insurance companies that represent injured workers. He recalled discussion about small insurance companies tending to deny claims very early. Ms. Cushwa said they did discuss the proposals with the self-insurers.

Mr. Greg Miller said he is happy to hear that OTLA, Liberty NW, and SAIF Corp. are discussing the issues and working together.

Lou Savage asked OTLA if there is any sense of a timeline for language. Mr. Moore said he asked some caps in the law to be reassessed and looking at numbers they can all agree with. He said the timeline partly depends on language from Legislative Counsel.

Mr. Savage asked if there is not agreement on some issues, will OTLA move forward? Ms. Cushwa said they will see what comes from the discussions. Mr. Moore said there might be some issues, but OTLA will continue.

Shawn Miller, Liberty NW, said Chuck Lundeen and others have been involved in these issues. After discussions, there was agreement on some of the items and others will continue to be negotiated. Mr. Shawn Miller said when language is available from Legislative Counsel, he would like to reserve the right to come back to MLAC. Mr. Shawn Miller submitted testimony concerning attorney fees for the record.

Ms. Sundstrom requested a document that summarizes each insurers perspective for the record so ten years from now people can see the intent.

Chris Davie, SAIF Corp., agreed the meeting with OTLA and Liberty NW was productive. There were some issues that were not clear to SAIF as to what was intended and after the meeting some of the issues became a little clearer. Mr. Davie said they will wait to see what the legislative language looks like.

Anthony Miller, Self-Insurers Association, met with OTLA representatives to discuss the proposals. He said the meeting went well and there are some areas of common agreement. Based on the language, they can certainly agree to some changes.

Jennifer Flood, Ombudsman for Injured Workers, said she is waiting to see what the negotiations bring to the table. Her primary concern is what these proposals do for workers. She said there is a group of workers that do not want legal representation or they want an attorney, but cannot get anyone to take their case. There are issues that go on in claims where attorneys are not compensated so the injured worker cannot get an attorney to represent them.

Ms. Sundstrom suggested surveying injured workers on their ability to get an attorney and other issues. Mr. Savage said surveys take so long to complete and draw conclusions that it could be an entire year before MLAC could see results.

Mr. Greg Miller said he appreciates Ms. Flood keeping an eye on the proposals and how they could affect injured workers.

Mr. Greg Miller asked John Shilts, Administrator, Workers' Compensation Division (WCD), guidance on the goal of the attorney fees subcommittee since the legislative session is fast approaching.

Mr. Shilts said from his perspective, having a decision proposed to MLAC as a subcommittee in January is probably as late as you can deal with. There have been bills introduced in March, but the reality is there is work to be done and it is going to take a while to negotiate these pieces. Concepts are being developed and some of the language discussion has to occur.

Mr. Greg Miller said if all parties can come to an agreement on some items, then they need to move forward. He would like to see something productive come from the discussions in subcommittee or outside negotiations between parties.

Mr. Shilts said the legislative buzz is there are early timeframes for bills to be introduced.

Meeting was adjourned at 2:28 p.m.