



# NORTH CAROLINA INDUSTRIAL COMMISSION

## November 2019 Quarterly Update

### **Full Commission Section and General / Administrative Updates**

- The Commission has made significant progress on the proposed rule amendments to the “Group 3 Rules,” now that the stakeholders have reached consensus on all the proposed amendments to these rules. A Notice of Proposed Industrial Commission Rulemaking will be posted on the IC Website and sent to all members of the NCIC Rules Listserv once the proposed rule amendments are filed for publication in the NC Register. If you wish to be placed on the NCIC Rules Listserv, please send an email to the IC Rulemaking Coordinator, Gina Cammarano, at [gina.cammarano@ic.nc.gov](mailto:gina.cammarano@ic.nc.gov)
- As part of the Commission’s commitment to investigating fraud by claimants and non-insured employers under the Workers’ Compensation Act and investigating reports of employee misclassification under the Employee Fair Classification Act, and to improve compliance with statutory mandates, the Commission’s Employee Classification Section now operates under the newly-formed Criminal Investigations & Employee Classification Division. This reorganization provides expanded resources to investigate allegations of employee misclassification.
- Tim Frost has joined the Commission as its Chief Information Officer. Mr. Frost has over 20 years of IT experience in both the private and public sectors, and he is a certified Project Management Professional.

### **Deputy Commissioner Section**

- The Deputy Commissioner Section is pleased to welcome Deputy Commissioner Erin Taylor in the Charlotte office. Deputy Commissioner Taylor has an extensive background in workers’ compensation law, having practiced for over 20 years as an attorney at the law firm of Cranfill, Sumner & Hartzog, LLP. She will be holding her first hearings in December of 2019.
- After the July 2018 amendments to G.S. 97-94 were enacted, the Industrial Commission instituted a temporary process to manage requests for alternative penalties for failure to carry workers’ compensation insurance pursuant to G.S. 97-94(b2). The Deputy Commissioner Section and Compliance Division began

reviewing this temporary process this past Spring. Together, they developed a new, more streamlined track for these cases. The new procedure allows for more collaboration between the Compliance Division and non-insured defendants. The goal is for non-insured employers to be more involved in the process, leading to a higher rate of compliance.

### **Claims Section**

- Deputy Commissioner Ashley Moore is scheduling an enforcement docket in December 2019 for cases in which the defendants were sanctioned for not complying with G.S. 97-18(j) and then never complied with the order requiring them to pay a sanction and file a Form 60, 61 or 63. In some cases, defendants did neither and in other cases they either paid the sanction but did not file the form or filed the form but did not pay the sanction. Defendants who are put on the enforcement docket will have an opportunity to come into compliance prior to the hearing date.

### **Mediation Section**

- The settlement rate at mediation conferences exceeded 72.5% for the 5<sup>th</sup> straight fiscal year. Prior to the 2014-15 fiscal year, the annual settlement rate at mediation conferences had exceeded 72.5% only once during the initial 20 years of the program. The settlement rate at mediation increased from 72.91% in the 2017-18 fiscal year to 73.04% in the 2018-19 fiscal year.

### **Compliance Division**

- The Compliance Division continues to identify businesses out of compliance with the insurance requirements of the Workers' Compensation Act. At the end of the first quarter of fiscal year 2019-20, the Compliance Division collected \$1 million in penalties and brought 98 employers into compliance with North Carolina workers' compensation law.

### **Criminal Investigations & Employee Classification Division**

- Since the formation of the Criminal Investigations & Employee Misclassification Division, the Division has proactively identified and investigated 71 employers for misclassifying employees and issued criminal citations to 41 of the employers for failing to secure workers' compensation insurance.