

# Inside Workers Comp NY

Legal decisions, Polls, Commentary and Analysis, News Reports and Bulletins, Questions and Answers about the New York State Workers Compensation Board and system, for attorneys, carriers, employers, claimants, doctors and third party vendors.

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Dear Friend,

In Workers Compensation Board has apparently had a turn for the better this week in which the Board was affirmed in all three **DECISIONS** issued which dealt with the issues of a little drink, a little smoke, and a little too late.

Symptomatic of Board's concern for the community it purports to serve, the Board sent out a notice regarding a seminar as to how to understand some of the new procedures, giving all the parties would be interested in attending five days notice. Then again perhaps this is just a mother part of the Boards plan to make things "go faster" at the Board.

The Board announcing the maximum wage rate and one upstate community considered closing bars early during the non-tourist season to save money on workers compensation: if this last item doesn't make sense, don't blame me, I only report the news - I don't write the press releases.

Virtually all of the State Senate committees are meeting and several appointments are now in the process, except for the Labor Committee which I assume will hold a meeting within the next two weeks to appoint two new commissioners who we have reported are rumored to be Loren Lobban and Sam Williams, from Western New York.

Not much else is happening, particularly for the Commissioners, who apparently eliminated oral arguments from their "very heavy workload". Perhaps they should be spending their time signing even if not reading the cases and their work is as I understand from some claimants that even cases supposedly at the top of the triage list, such as surgery, are just not getting done

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## COURT DECISIONS

### Case Summaries & Complete Decisions

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In the three cases affirmed by the court, and agreed that it would not second-guess determination and these three cases whose decisions based on the commentary and decisions, should have been expected by those making the appeal. Of course, without access to the text of the arguments, it may well be that there were substantive issues being raised in the request for a reversal but the Court itself didn't mention anything that would have warranted a closer look. On the other hand in all three cases, the Court did make reference to the Board's discretion so that, had the Board taken the opposite position in each case, they could still have been affirmed by the Court.

In the Matter of Maher v NYS Div. of Budget, while the key issue was "*in and out of the course of employment*", other issues could well have been §21(4) intoxication and, even "*ingress/egress*".

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