

Testimony of  
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Labor & Public Employees Committee  
Insurance & Real Estate Committee

**Joint Informational Hearing - Workers' Compensation Presumption for COVID-19**  
June 17, 2020

Good morning Senator Kushner, Representative Porter, Senator Lesser, Representative Scanlon and members of the Labor & Public Employees and Insurance & Real Estate Committees. Thank you for the opportunity to testify before you today. My name is Eric Chester and I am labor attorney representing workers on a number of matters, including workers' compensation cases. During this pandemic, I have been especially proud to represent healthcare workers, firefighters, and other frontline workers seeking workers' compensation benefits after they acquired COVID-19 on the job.

I wish I could say that the majority of employers were treating COVID-19 claims with care, taking into consideration the unique circumstances of the highly contagious coronavirus that has ravaged essential workplaces across the state. I wish I could say that the majority of employers have been grateful for the sacrifices and contributions made by their employees during this pandemic. I am sad to report that they seem to be practicing the same delay tactics that they employed in better times, routinely denying claims, hoping the worker won't have the knowledge or resources to appeal and request a hearing with the Workers' Compensation Commission.

Shockingly, these denials assert that a healthcare worker or other frontline worker may not have contracted the dangerous virus in the course of their employment. This is a betrayal to the workers we are asking to protect us every day by putting themselves in harm's way. Sick workers will have to exhaust their accumulated sick time, pay for treatment, and will likely suffer a loss in wages while they are forced to navigate a lengthy appeals process with the Workers' Compensation Commission.

Perhaps even more troubling is the number of employers who have deliberately misled or misinformed their employees about their eligibility to file COVID-19 claims. Cost control is often the primary motivator for employers when evaluating claims, but even public agencies in this pandemic have dissuaded workers from exercising their rights. In that area, the statute needs to be strengthened. I offer a suggested change below:

*Section 1. Section 31-290a of the general statutes is repealed and the following is substituted in lieu thereof (Effective upon passage):*

*(a) No employer who is subject to the provisions of this chapter shall (1) discharge, or cause to be discharged, or in any manner discipline or discriminate against any employee because the employee has filed a claim for workers' compensation benefits, or otherwise exercised the rights afforded to him pursuant to the provisions of this chapter; or (2) deliberately misinform or otherwise deliberately dissuade an employee from filing a claim for workers' compensation benefits.*

*(b) Any employee who is so discharged, disciplined or discriminated against or has been deliberately misinformed or dissuaded from filing a claim for workers' compensation benefits may either: (1) Bring a civil action in the superior court for the judicial district where the employer has its principal office for the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he would have otherwise been entitled if he had not been discriminated against or discharged and any other damages caused by such discrimination or discharge. The court may also award punitive damages. Any employee who prevails in such a civil action shall be awarded reasonable attorney's fees and costs to be taxed by the court; or (2) file a complaint with the chairman of the Workers' Compensation Commission alleging violation of the provisions of subsection (a) of this section. Upon receipt of any such complaint, the chairman shall select a commissioner to hear the complaint, provided any commissioner who has previously rendered any decision concerning the claim shall be excluded. The hearing shall be held in the workers' compensation district where the employer has its principal office. After the hearing, the commissioner shall send each party a written copy of his decision. The commissioner may award the employee the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he otherwise would have been eligible if he had not been discriminated against or discharged. Any employee who prevails in such a complaint shall be awarded reasonable attorney's fees. Any party aggrieved by the decision of the commissioner may appeal the decision to the Appellate Court.*

Employees must be protected from their employers retaliating against them for seeking workers' compensation benefits. Employers should not be able to threaten or fire employees who seek workers' compensation benefits, nor should they obstruct employees from obtaining these benefits. The last thing essential workers should have to fear is being disciplined because they filed for workers' compensation benefits during this pandemic.

Thank you for the opportunity to be here today. I am happy to answer any questions you may have.