

Workers' Compensation Verdicts...

Natasha Z. Wilson's Louisiana verdicts.

NEW LEGISLATION

SB 106 Act 3, effective 5/11/10: Provides for expansion of 23:1123 scope of IME; expands 23:1172.2 investigative powers of OWCA in matters of employer fraud; and authorizes electronic payments of indemnity to claimants upon election of claimant 23:1201.

HB 873 Act 288; effective 8/15/10: Doubles penalties under 23:1170 to employers who fail to procure WC insurance or be self-insured.

HB 1088 Act 53; effective 8/15/10: revises the OWCA Mediation provisions under 23:1310.3 and will allow parties to use a mediator from any district as long as all parties agree. It will also allow attorneys to participate in mediation via telephone.

UNWITNESSED ACCIDENTS

McKinley v. Klein Steel, Inc. 09-930 (La. App. 5th Cir. 3/23/10) So. 3d – Employer sent employee to hospital after accident and no drug test was done. Employee returned to work after employment and reported no drug test done. Rather than send employee back for drug test, employer launched an "investigation" into why test not done. Employer claimed that employee refused drug test and that was therefore a presumption of intoxication. Court held no proof of refusal to submit to drug test therefore no presumption.