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WORKERS' COMPENSATION ALERT

TO: Our Clients and Friends
FROM: Bleakley, Cypher, Parent, Warren & Quinn, P.C.
RE: Recent Workers' Compensation Magistrate Appointments; recent Opinion/Order in *Todor v. Northland Farms, LLC* Regarding Medical Marijuana; and BCPWQ's 2011 Workers' Compensation Seminar Alert
DATE: February 3, 2011

We at Bleakley, Cypher, Parent, Warren & Quinn, P.C. would like to update you on recent developments in the Workers' Compensation arena, including a case that involves medical marijuana, believed to be the first of its kind.

RECENT MAGISTRATE APPOINTMENTS

As many of you are aware, eight workers' compensation Magistrates had their terms expire in late January 2011. On February 2, 2011, newly elected Michigan Governor Rick Snyder partly filled this void by announcing five appointments to the Workers' Compensation Board of Magistrates. He re-appointed Lisa Klaeren and Beatrice Logan, and made new appointments of Carol Guyton, Louis Ognisanti, and Chris Slater. Therefore, former magistrates Jennifer Barnes, Rosa Bava, Lee Decker, David Grunewald, David Merwin, and Rosemary Wolock were not re-appointed and no longer serve as Magistrates. In addition, Governor Snyder appointed current Magistrate Jay Quist as chairman of the Workers' Compensation Board of Magistrates.

Lisa Klaeren: Magistrate Klaeran has served as a Magistrate since 2008. Prior to becoming a Magistrate, she worked as a senior staff attorney for Hartford Insurance.

Beatrice Logan: Magistrate Logan, of Southfield, Michigan, has served as a Magistrate since 2006.

Carol Guyton: Magistrate Guyton previously served as a Magistrate from 1999-2010. She has since worked as a claims consultant at Amerisure Insurance.

Prior to becoming a Magistrate in 1999, she specialized in workers' compensation litigation as an attorney for Wausau Insurance Company and the City of Detroit.

Louis Ognisanti: Magistrate Ognisanti joins the Board of Magistrates after working as a defense attorney with the Saginaw firm of Braun Kendrick, PLC. While there, he focused on all aspects of employment law defense, including workers' compensation defense.

Chris Slater: Magistrate Slater has been a practicing attorney since 1990, with an emphasis on representing plaintiffs in workers' compensation, social security disability, and personal injury cases. Prior to his appointment, Magistrate Slater worked out of Spring Lake, Michigan.

WORKERS COMPENSATION APPELLATE COMMISSION

Governor Snyder has appointed Gregory A. Przybylo, of Okemos, as the Chairperson of the Appellate Commission. He previously served as an Appellate Commissioner and is generally considered to be a well-reasoned, highly intellectual jurist.

TODOR V. NORTHLAND FARMS, LLC – INSURANCE COMPANIES ARE NOT OBLIGATED TO PAY FOR A PLAINTIFF'S MEDICAL USE OF MARIJUANA

When Michigan passed the Michigan Medical Marihuana Act in December 2008, the issue of medical marijuana as it relates to workers' compensation benefits jumped to the forefront. The now-legal medical use of marijuana created the possibility that its use could be deemed reasonable and necessary medical treatment under the Workers' Disability Compensation Act, and thus obligate insurance companies and employers to pay for it.

Tom Cypher, of Bleakly, Cypher, Parent, Warren, & Quinn, P.C., recently tried this issue in the case of *Todor v. Northland Farms, LLC*, and won a favorable decision for employers and insurance companies, believed to be the first of its kind.

In the case, the plaintiff asked Magistrate Jennifer Barnes to order the insurance company to reimburse him for his use of medical marijuana to treat his shoulder injury. In her Opinion/Order, Magistrate Barnes denied the plaintiff's

request, holding that “pursuant to the MMMA, no insurance company can be held responsible for the costs associated with the use of medical marijuana.” She relied on Section 7(c)(1) of the MMMA, which states that “nothing in this act shall be construed to require a governmental medical assistance program or commercial or non-profit health insurer to reimburse a person for costs associated with the medical use of marijuana.”

Magistrate Barnes did find that in this particular case, the medical use of marijuana was reasonable and necessary. Nonetheless, her decision went beyond the facts of that case, as she broadly found that insurance companies do not have to pay for medical marijuana as a medical benefit under the Workers’ Disability Compensation Act. This decision provides favorable and important guidance as other Magistrates and the Appellate Commission decide this issue in the future. We will be sure to update you regarding further developments and decisions on this issue, including any appeal that is heard on this case.

WORKERS’ COMPENSATION SEMINAR ALERT

The Law Firm of Bleakley, Cypher, Parent, Warren & Quinn, P.C., strives to provide the best legal services available with respect to workers’ compensation matters in the State of Michigan. Consistent with that goal, we provide annual workers’ compensation seminars. The seminars provide a valuable opportunity to network and obtain updates with respect to changes in workers’ compensation law and administration of claims.

Our first 2011 seminar is scheduled in Grand Rapids, Michigan, on March 18, 2011. You will want to save the date on your calendars as our special guest key note speaker is New Chief Magistrate Jay Quist. It is anticipated that he will provide us with a unique perspective on the current state of the Michigan Workers’ Compensation Agency, including new developments in law, structure, procedure, and Magistrate make-up. We are also happy to welcome as a guest speaker Dr. Ronald Lederman, an orthopedic surgeon who will speak on joint replacements. Formal invitations will be forthcoming, and you will not want to miss this experience. We look forward to seeing you on March 18, 2011.

In addition, we have a seminar scheduled in Novi, Michigan, on April 15, 2011, and an Indianapolis seminar set for May 13, 2011.

As always, if you have any questions or concerns, please do not hesitate to contact any of the attorneys at Bleakley, Cypher, Parent, Warren & Quinn, P.C., directly.