



Kelley Kronenberg Partner Amy Siegel Oran Secures Workers' Compensation Victory Regarding the Cancer Bill

On August 19, 2020, the Office of the Judges of Compensation Claims Judge Gregory J. Johnsen in West Palm Beach, FL granted a Motion for Summary Final Order in a Workers' Compensation case handled by Kelley Kronenberg Partner [Amy Siegel Oran](#). In 2019, the Florida Legislature enacted a new provision under the "Cancer Bill," §112.1816, under which first responders could obtain benefits as an alternative to that which is afforded under Workers' Compensation, through §440 Florida Statutes. This claim was based upon a request for the benefits under §112.1816. However, since the claim was filed under the Workers' Compensation administrative law system, Oran successfully argued these benefits were not due. The facts were undisputed – a First Responder was diagnosed with prostate cancer in 2014, and in his 2020 claim, he sought coverage under the new 2019 law. On behalf of her clients, Oran fought back immediately and aggressively through a Motion for Summary Final Order in which her arguments included that the benefits sought were not available through or under Workers' Compensation law, that the Judge of Compensation Claims (JCC) had no jurisdiction to award benefits, not under §440, and that even if the other arguments failed, the 2019 law could not be applied retroactively to a 2014 date of the accident. An extensive Motion for Summary Final Order was filed on behalf of Oran's client, to which the opposing counsel responded and a lengthy evidentiary hearing was held on August 18, 2020. Oran's approach, designed to close the case before it ever really got started, was ultimately successful. The JCC issued a well-reasoned Final Order only one day later, finding that which was sought under §112.1816 could not be granted under Workers' Compensation, but rather that the law was specifically designed to be an alternative to Workers' Compensation and not within the Workers' Compensation system. Furthermore, as the JCC is empowered by §440, he agreed with Oran's presentation that he had no jurisdiction to adjudicate a claim outside of the benefits provided under that Workers' Compensation statute. Lastly, absent the legislature drafting the language of the new Cancer Bill to be applied retroactively, which it did not, the Judge recognized and agreed with Oran's position that he had no authority to read retroactivity into the plain and clear text and to do so would lead to "extreme and unintended" consequences of opening the door to a flood of litigants filing claims for years, or even decades past, in search of financial recovery. In the words of Oran's client, "this is such an important case to prevail, otherwise, this can make bad case law. This is a victory for all municipalities with Fire Rescue!" ###

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