WORKERS' COMPENSATION LITIGATION REPORT
FISCAL YEAR 2003-2004

December 23, 2004

Executive Summary

The volume and cost of litigation in Florida's Workers Compensation system have not yet subsided, but leading indicators foretell a decrease in litigation. Likely due to the 2003 reforms, the filing of new Petitions for Benefits has declined more than 15% from last year's unsustainable level of over 150,000, to a level that may prove manageable if further increases do not occur, averaging 120 new cases (342 Petitions) per month per judge.

For the third consecutive year, the Office of Judges of Compensation Claims (OJCC) has experienced measurable efficiency gains. In 2003-04, the OJCC maintained its recent 12% annual growth in output while largely observing statutory time-to-hearing provisions, and finished the year under its operating budget by $300,000. The OJCC's contribution to child support enforcement is a particularly bright spot, as **$9,219,096 in child support arrearages** was collected at negligible cost to the state.

These cumulative improvements represent the limit of what can be accomplished though administrative measures alone. Further efficiencies can be expected only from deployment of the Electronic Judges of Compensation Claims (E-JCC) initiative, which promises tremendous private as well as public savings. Continued devotion of resources to development of E-JCC, as well as some minor changes to the governing statutes, will be necessary to realize the potential benefits.

FY 2003-04 Key Data Summary	Current Year	Change From Previous	Annualized Growth Rate
Petitions Filed	127,548	-15.42%	9.45%[1]
State Mediations Held	34,613	18.32%	12.70%[2]
Mediations Resulting in "Washout" Settlements	9,314	14.69%	12.41%[2]
Mediation Continuances	2,775	0.73%	-34.22%
Orders Approving Agreements	67,213	-6.07%	-0.02%
Procedural Orders	85,434	-9.28%	0.60%
Final Orders Entered	3,095	12.06%	13.75%
Trial continuances granted	6,734	3.49%	1.09%
Orders Entered Untimely (% of final orders entered)	24%	11.8%[3]	N/A

Notes
1. Annualized over July 1, 2001 to June 30. 2004
2. Annualized over July 1, 2002 to June 30, 2004
3. Change in accounting method

Each of the two preceding fiscal years was marked by levels of growth in new filings that would not be sustainable. Last year, filings increased by 30% over the previous year. Fortunately, the number of Petitions declined this year, although it still remains above the level reported in 2002. Thus, even with this year's decline, the OJCC has sustained an average annualized growth in new filings of 9.45% from the level reported for calendar year 2000 by the Division of Workers Compensation.

Over the course of FY 2003-04, the judges, mediators, and staff have been in the process of working on the mountain of new work that was introduced during the two previous years of rapid growth. As noted in the previous Annual Reports, increasing delays are the inevitable result of devoting only 31 judges to 150,000 filings. Accordingly, there was a substantial amount of work-in-progress and numerous cases awaiting attention when the reforms became effective, so the decline in Petitions has so far had no effect on the judges' current workloads. The Office's output measures actually increased, with more cases closed than ever before, more mediations held, and more final orders entered. Early indications suggest that the decline in petitions, if it continues, will result first in reduction of delays, and once the outstanding cases (in particular the "old act"[1] cases) are resolved, the current level of petitions should prove manageable with existing resource levels.

The OJCC mediation service remains a success story, representing a cost- effective alternative dispute resolution measure that should be emulated everywhere. As intended by the 2001 and 2003 amendments, the mediation service has resolved its timeliness problem and is operating at peak capacity. State mediators held over 34,600 mediation conferences, over 1,100 per year per mediator. The quality of results declined slightly at this level of volume, indicating further increases in cases per mediator are not desirable. Under the new law, fewer cases are being referred to private mediation, increasing the cost- effectiveness of the process.

While it is impossible to directly measure the cost of litigation, the available data does indicate that attorneys' fees for defending claims totaled about $222,000,000, for the fiscal year, and reported claimants' fees fell by approximately 28%. The operating budget of the OJCC was about $16,000,000 for the year. Thus, the observable part of the cost of litigation—payments to attorneys and the budget of the adjudicating authority combined—represents about $439,000,000, or roughly $3,442 per petition.

It must be noted that the workers' compensation system is vast, and the litigated cases are just the visible tip of a huge hidden iceberg. The OJCC has a comparative advantage in measuring the performance of the judges and mediators, but not in making a thorough economic analysis of the system itself. Accordingly, this report does not make substantive policy recommendations about workers' compensation law. As directed by Chapter 440, the recommendations in this report are focused on improving the administration of workers' compensation adjudication.

[1] The term "old act" now refers to Chapter 440, Florida Statutes, as it existed prior to October 1, 20903, when the 2003 amendments took effect. For the text of the new act, see 2003 Laws of Florida ch. 2003-412.

Office of Judges of Compensation Claims Annual Report 2001-02

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FOREWORD

This is the third report submitted since the 2001 amendments to Chapter 440 assigned the responsibility for record keeping and reporting to the OJCC, effective October 1, 2001. Under the Division of Administrative Hearings, the OJCC implemented a new record keeping system, intended to seamlessly integrate with the case management system being deployed in the district offices. The system uses a custom written VB6 application at the user interface, and its back end is a fully relational database, normalized to reduce redundant data and accessed via Microsoft SQL server.

The development of three years' experience has two implications for the current reporting cycle. First, the only data that is retrievable from the system itself has been entered after October 1, 2001. As a result, in this report two full years of data can be analyzed. Because of the limited nature of prior-year data, the new data in this report constitutes a second one-year snapshot of the system's performance, and has only limited value in assessing longer- term trends. Second, experience has taught that some of the data definitions have needed to be reworked, so some of the data is not comparable with prior year data contained in the same system. Accordingly, it is still true that the annual report is built from several sources, including the monthly reports the judges file with the OJCC, and self-reported data collected from carriers and other claims handling entities.

ANATOMY OF A WORKERS' COMPENSATION CLAIM

Nearly all employers in the state are required to buy workers' compensation insurance that covers injuries due to job risks. The insurance provides payment for medical bills and partial wage replacement benefits when the employment is the cause of an injury or occupational disease. In return for an assurance of compensation for every job-related injury regardless of fault, workers give up the right to sue their employers for negligence.

When a worker is injured on the job, the employer is required to notify the Division of Workers' Compensation in the Department of Financial Services (not the OJCC) that an injury occurred. The employer's insurance carrier is then expected to determine whether there are any benefits due, and to provide them without being ordered by a judge to do so. This expectation is what is commonly referred to as the "self-executing" feature of the system. But in a substantial number of cases, the system is not self- executing. When a worker thinks there is an entitlement to a certain benefit, and the carrier disagrees, the worker becomes a claimant. A Petition for Benefits is filed, invoking the jurisdiction of the Office of Judges of Compensation Claims.

When the petition is filed, the case is assigned by the Deputy Chief Judge of Compensation Claims to one of the judges according to a pre-determined process depending on the location of the accident. The employer, or more often its insurer, is required to either provide the requested benefits or file a response to the petition within 14 days of receiving the petition. In the majority of cases, the first petition is not the only one: it is not uncommon for two or more petitions to be filed while a case is pending.

When a Petition is filed, the OJCC automatically sets a mediation conference for it, if there is a state mediator available to hold a mediation within the 130-day period provided by statute. If the state mediator for that district is not available within that time, the parties are immediately advised that a private mediation will be necessary.

A mediation conference is required in most cases before a claim can go to trial. The mediators gather the parties and their representatives in a conference room to discuss settlement, then separate the parties into different rooms, shuttling offers and counteroffers back and forth. The parties could either (1) reach agreement on some of the disputed issues, leaving others for trial; (2) reach agreement on all disputed issues, concluding the case but not the claimant's potential entitlement to other benefits that were not in dispute; (3) agree to a "washout" settlement, in which the claimant agrees to permanently extinguish all workers' compensation claims against the employer in connection with the accident, in exchange for a lump sum payment, or (4) agree on nothing, and declare an impasse. If some issues remain in dispute after the mediation, the case is set for trial.

Discovery is the phase of the process in which each party discovers the evidence held by the other, or by third persons such as doctors or witnesses. In Workers' Compensation cases, a party may take depositions of potential witnesses, or may require production of documents from parties or nonparties. It is actually permissible in these cases to take discovery before mediation-- even before filing a petition-- but often discovery does not begin in earnest until after the mediation. The most complicating factor in discovery is taking depositions of doctors, who have crowded schedules and afford little time for depositions. Difficulty in scheduling depositions of doctors is the most commonly cited ground for requesting a delay of trial.

When the trial day arrives, most of the witnesses testify by deposition rather than live. The witnesses who do appear are questioned and cross-examined, and the lawyers may make brief closing arguments. The proceedings are recorded on tape. At the conclusion, the judge reviews the depositions and notes from the testimony, and is required to render a written decision within 30 days. A party who thinks there is a legal basis for overturning the judge's decision can take an appeal to the First District Court of Appeal, and if the carrier appeals from an order awarding benefits it need not pay the benefits until the appeal is over, which can be up to a year later.

FUNCTION AND PERSONNEL OF THE OJCC

The OJCC's mission is to resolve disputes between persons claiming compensation benefits and the insurers of their employers. Its clerking function receives Petitions for Benefits that institute new claims and maintains files of the cases as they develop. The mediation program tries to bring the parties to an agreement resolving the dispute without the need for a judge's merit order. When mediation results in impasse, the cases are tried by the judges. But trying and deciding cases is only a portion of the judge's workload. Numerous disputes about the conduct of the litigation arise while the case progresses, and parties file motions and other pleadings to get the judge to resolve those disputes.

One lingering misconception about the OJCC is that it is somehow connected with the Division of Workers' Compensation within the Department of Financial Services. The misconception results from the fact that the OJCC was part of the old Department of Labor and Employment Security prior to October 1, 2001. At that point, however, the OJCC was separated from the administrative agency and made a part of the independent adjudicating agency, the Division of Administrative Hearings (DOAH) which is located organizationally within the Department of Management Services. Thus, while the OJCC maintains a cooperative working relationship with the Division of Workers Compensation, it is organizationally and functionally distinct. In particular, functions that pertain to tracking of injuries and payments in the absence of a benefit dispute are not within the scope of the OJCC. The function of the OJCC is limited to resolution of justiciable disputes and the matters ancillary to that responsibility.

Unfortunately, the development of Florida's workers' compensation system has not led to clarity in the definition of the role of the judge in the system. The overtly paternalistic tone of earlier incarnations of the statute remains in practice, even though the legislature has removed the associated language from the Laws of Florida. As a result, the judges are commanded to "approve" various acts of the parties, for no apparent reason, and they are expected to enter orders directing parties to comply with their own agreements. A large portion of the time of the judges and their support staff personnel is consumed with these labors that are outside the usual concept of adjudication.

There are 17 OJCC offices, ranging in size from five judges in Miami to single-judge offices located in Pensacola, Panama City, Tallahassee, Gainesville, Daytona Beach, Melbourne, Ft. Pierce, Lakeland, Sarasota and Ft. Myers. Orlando, Tampa, West Palm Beach and Ft. Lauderdale have three judges each, and there are two judges in Jacksonville and St. Petersburg. Altogether, there are 31 judges in the district offices, and one mediator is assigned to each judge. Each Judge has a deputy clerk, responsible for receiving and docketing the pleadings and orders produced during litigation of the judge's cases. In addition, two secretarial assistants provide support for each judge-mediator team.

The central office located in Tallahassee is responsible for receiving and processing Petitions for Benefits and all of the Orders of the judges, as well as general administrative support. Core administrative services such as general management services, Information

technology Management, Personnel Administration, Purchasing, and Budget are provided by DOAH professional staff, freeing the OJCC to operate with a very lean and flat organizational structure. Aside from the Deputy Chief Judge responsible for OJCC, the only other administrative staff directly employed by the central office are the senior analyst, Cindy Wingler, and the Staff Counsel, Walter Havers.

The OJCC is operationally headed by the Deputy Chief Judge. The Deputy Chief Judge hears some cases when it becomes necessary due to recusal or a vacancy in the office. The Deputy Chief Judge reports to the Director of the Division of Administrative Hearings, who retains significant statutory authority over OJCC matters.

A significant function of the OJCC is making of procedural rules governing adjudication of workers' compensation cases, as mandated by section 440.45(4), Florida Statutes.[2] In its first exercise of the rulemaking authority, DOAH and OJCC promulgated rules of procedure for workers compensation adjudication effective in February of 2003, and codified at Chapter 60Q-6 of the Florida Administrative Code. Those rules have been observed in practice, and cited as authoritative by the District Court of Appeal.

For future rule changes, the Director of DOAH has appointed a panel of Judges, attorneys, and other persons to serve on the DOAH-OJCC Rules Committee. The new committee will meet to propose changes in the rules, to receive proposals from the general public, to discuss proposed changes, and to make recommendations for rule adoption by the Director of the Division of Administrative Hearings.

The last function of OJCC worth mentioning is the development of the Electronic Judges of Compensation Claims (E-JCC) system, in keeping with Governor Bush's E-Government initiative. When some of the management functions of OJCC were undertaken by DOAH pursuant to the 2001 amendments to Chapter 440, the original conception was to have all litigants file all the papers pertaining to every case in the central clerking office in Tallahassee. All papers would be imaged using high-speed scanners and made available on the internet. While it proved impossible to implement that vision immediately given the level of resources available, it remains the long- term vision of the OJCC with one important exception. Over time, every document filed with OJCC will be rendered and transmitted electronically by the filing party, with copies transmitted to other parties electronically as well. The E-JCC system currently under development will route the document for appropriate handling and transmit the results to the parties, again by electronic means. The end result will be dramatic savings in terms of both time and dollars, and more importantly, the degree of accuracy will be increased significantly.

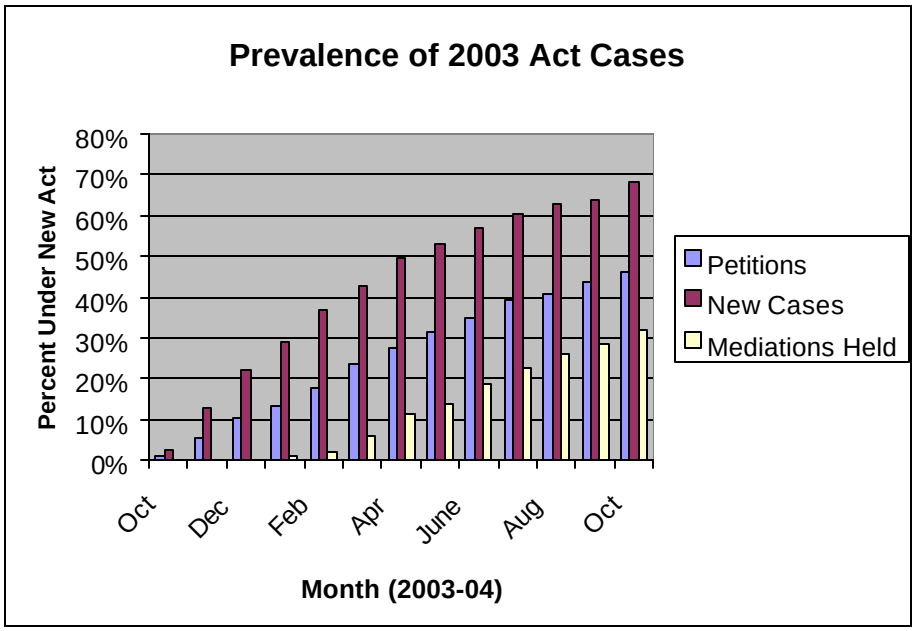
[2] The Workers' Compensation Rules Committee of the Florida Bar had filed what was in substance a challenge to the OJCC's authority to adopt rules, No. SC04-110, Supreme Court of Florida, which was recently rejected by the court.

Leading Indicators and Current Measures of the OJCC Workload

The number of Petitions for Benefits filed and number of new cases commenced are the leading indicators-- the best advance predictors-- of the OJCC's workload. These are documents that initiate litigation, and while they require little effort in the first three months, a mediation conference is held in the fourth month, and the final hearing is required by the end of the seventh month. In practice, however, the claimant is entitled to waive the time limits, and this often occurs. Further complicating matters is the fact that a claimant need not wait until one petition is resolved before filing another; if a new claim to benefit entitlement arises during the pendency of a case, the claimant simply files another petition. Accordingly, the lag between a change in the number of petitions filed and the volume of work performed in the OJCC offices is more on the order of eight months on average.

Given the nature of the 2003 amendments, one might expect the lag to be even longer than the natural progression of cases would cause. The incentive effects of the amendments radically decrease the amount of hourly attorney compensation for cases occurring after the amendments took effect on October 1, 2003. Specifically, it is possible for attorneys to get paid for every hour they spend on a case that predates the reforms, but attorneys are limited to ten paid hours[3] for post-reform cases. Accordingly, attorneys have an incentive to keep the so-called "old act" cases alive longer than they otherwise would, and they have incentives to bring "new act" cases to conclusion more quickly. Indeed, that is one of the goals of the new act. The unintended result may be that old act cases linger longer than they would have if not for the statutory change.

The chart illustrates the lag in penetration of the reform act, which took effect October 1, 2004. Only a very small number of cases were filed under the new act initially, but by January of 2004 28% of the new cases were subject to the reforms. The first mediations of new



[3] Both old and new acts based attorneys' fees on a percentage of benefits secured for the claimants, but old act appellate decisions allowing additional attorneys fees based on hourly rates were sharply curtailed by the 2003 amendments, which cap hourly fees at $150 per hour and $1500 per accident.

act cases began in January of 2004, but by the end of the fiscal year new act cases still accounted for less than 20% of mediations held. Of special note is the relatively slow penetration of the new act into the volume of petitions, relative to the number of new cases. By October of 2004, 58.2% of new cases were filed under the new act, [4] but the majority of Petitions for Benefits were still being filed in old act cases. In the last month of fiscal 2003-04, old act Petitions outnumbered new act ones by more than 2:1. Before concluding this constitutes evidence for the notion that attorneys are focusing extended efforts on old act cases with their hourly fees not limited, it must be observed that the new act cases are still relatively young, and have not been in existence long enough for multiple petitions to have been filed in these cases.

Whatever the cause of the persistence of old act litigation may be, it remains true that the decline in petitions has yet to amount to relief from the arduous workload of the offices. In fiscal year 2003-04, despite the decline in the number of Petitions and cases filed, the OJCC's output measures—mediations held, procedural orders entered, and final orders entered-- either held steady or rose significantly. This has an important implication for policymakers considering the level of resources to devote to the OJCC. As indicated in each of the last two years' annual reports, the volume of demand for OJCC services is much larger than the capacity that could be expected from the system at current resource levels. While the decline in the number of Petitions filed is welcome, it may not be realistic to expect it to be permanent. While the OJCC continues to improve its efficiency, becoming a larger capacity system with the same (or actually reduced) resources, it is inevitable that the limit of possible efficiency gains will be reached within the next two or three years, even with the implementation of state- of-the art technology. When that point arrives, policymakers will be faced with a difficult choice between expanding capacity and suffering deterioration of performance. In the very near term, however, continued improvement can be expected.

Amount and Cost of Litigation

The amount and cost of litigation in the Florida Workers' Compensation system remain very large but their growth shows some sign of slowing. The 15% decrease in Petitions from last year still leaves the system with a very high volume of litigation, and the decreases in other cost measures have not been so large. The economic cost of litigation system-wide is immeasurable, but attorney fee observations provide a good indication of the direction of any change in costs. This year, the attorney fee costs for defense counsel

[4] That number would be expected to approach 100% by October 2005, since claims must be brought within two years of the accident date. Despite the statute of limitations, however, the number will not actually reach 100%, because it remains possible for new claims to be raised on very old cases—for example if an injured worker has been paid benefits for ten years, but the carrier decides to terminate payments, contending the claimant is able to return to work. The claimant could timely bring a claim on a ten-year-old accident at that point, and the law in effect during the previous decade would apply.

declined by about 5%, and claimant's counsel fees appear to have declined by just over 28%.

It is an intriguing coincidence that the 15% decline in Petition volume is so similar to the projected decline in claims costs that animated the reform act. But it is really no more than a coincidence that the numbers align so neatly. All that can really be said about the decline in Petitions is that it is consistent with expectations of a decline in overall litigation costs.

Of much more significance could be the decline in fees paid to claimants' counsel. Attorneys' fees are widely and correctly seen as a key driver of workers' compensation costs, in part because of their direct cost but more fundamentally because of the nature and amount of litigation that result from the incentive structure of the fee determination mechanisms. Under the statutory formula, absent extraordinary circumstances an attorney is limited to 20% of the first $5,000 of benefits secured, 15% of the next $5,000, and 10% of the remainder. Tying the attorney's pay to the amount of benefits secured aligns the interest of the attorney with that of the client—the attorney gets more only if the client gets more. The incentive structure of the statutory formula causes attorneys to focus on larger cases in which the insurer's refusal to pay is of greater economic consequence, but like all the rest of civil litigation it provides little incentive for attorneys to take on cases having small economic values.

In 1985, the District Court of Appeal determined as a policy matter that attorneys should have incentives to pursue very small claims on behalf of claimants, and authorized a rejection of the statutory formula in favor of an hourly rate approach under those circumstances. *Davis v. Keeto*, 463 So.2d 368 (1st DCA 1985), *review denied*, 475 So.2d 695 (Fla.1985); *Rivers v. SCA Services of Florida, Inc.*, 488 So.2d 873 (1st DCA 1986); Polote v. Meredith 482 So.2d 515, 517 (1st DCA 1986); *Martin Marietta Corp. v. Glumb*, 523 So.2d 1190 (1st DCA 1988). By the turn of the (21st) century, hourly rate fees had all but displaced the statutory formula as a means of determining payment to claimant's counsel. As an unintended consequence of the court's well meaning decisions in the *Davis* line of cases, it became commonplace for litigation to be commenced over very small stakes, with lawyers on both sides devoting hours of legal work out of proportion to the value of the benefits in controversy, often resulting in a concession by the carrier having little or no value to the claimant, but resulting in a fee predicated on an hourly rate of $200 to $300 for the attorney. The prevalence of that practice would cause some to suspect that on occasion the cases were instituted and maintained for the sole purposed of developing larger attorneys' fees, rather than for advancing the interest of the client.

At the same time, the statutory percentage formula continued to serve as a basis for attorneys' fees in cases where that method yielded a higher fee than the hourly method. Because the attorneys systematically demanded hourly fees as a minimum, Judge Medina-Shore ruled that fees based on the statutory formula should be reduced when they resulted in inordinately high hourly rates for the attorneys, only to be reversed by the appellate court. *Alderman v. Florida Plastering*, 805 So. 2d 1097 (1st DCA 2002). Accordingly, with the apparent encouragement of the appellate court responsible for the

stewardship of the state's workers' compensation system, the attorneys claimed entitlement to an hourly rate based fee, or a statutory percentage based fee, whichever was higher.

It is easy to see that an attorneys' fee structure that guarantees at least $200 per hour and also holds out the prospect of a windfall (the fee in the *Alderman* case amounted to $847 per hour, and the hourly rate the court upheld in *What an Idea, Inc., v. Sitko,* 505 So. 2d 497, 498 (1st DCA 2987) exceeded $2,700), creates a structure that systematically over-compensates attorneys for each case they undertake. Mathematically, if the minimum allowable fee equals the "reasonable" rate, the average fee will be higher than the "reasonable" fee. If attorneys' fees are a true driver of workers' compensation costs, one would expect to see litigation levels rise while the *Davis-Alderman* fee structure was in place, and decline when it was legislatively repealed.

It is hard to say whether the 2003 amendments were directed solely at the *Davis-Alderman* fee structure, however, because some attorneys had devised ways to circumvent the already generous *Davis-Alderma*n rules to extract 33% or 40% or even more of the funds paid to settle their clients' workers' compensation cases. They do it by claiming a fee on *both* the hours spent and the percentage of the settlement proceeds. These so- called "side stipulation" settlements shock the conscience of almost everyone outside of workers' compensation who looks at them, and may have formed part of the basis for the reform efforts directed toward attorney fees.

In the course of settlement negotiations some attorneys would file Petitions claiming benefits of essentially trivial nature, trivial because there is no real expectation that the benefit claimed will ever be provided. Instead, in order to effectuate a settlement, the carrier is required to "concede" that the claim is valid and agree to provide the benefit, which according to the claimant's attorney serves as a trigger for the application of an hourly rate to all the time the attorney has spent on the case. Often, the "benefit" cited is the authorization of a particular doctor or medical test, which due to the impending settlement, both parties know will never be actually provided. Under *Davis*, the claimant's counsel argues, he or she is entitled to be paid an hourly fee by the carrier, for every hour spent, for obtaining that one benefit.

At the same time, the claimant's attorney is negotiating with the carrier for a sum of money to the claimant to settle the case entirely. Suddenly forgetting that he or she has just agreed to accept payment for all the hours of legal work in the case, the attorney then claims a statutory percentage of the settlement. Counsel requires, and amazingly the defense counsel agrees, to write the settlement papers to provide a full statutory percentage to the claimant's attorney, and to separately agree in a "side stipulation" that an additional attorney fee based on the hours is being "paid by the employer/carrier."

Of course, the characterization of the funds as being "paid by employer carrier" is an artifice, as all of the funds in a settlement ultimately come from the carrier, who negotiates only to be able to settle the case of a specific, total payment. It is an arithmetic fact that every dollar taken to the claimant's attorney under these circumstances reduces

the claimant's share of the proceeds by one dollar. The entire fee comes from the claimant's pocket, though the attorneys deliberately structure the transaction to try to conceal that fact. Many of the Judges of compensation claims accept the representations of the claimant's counsel that the "additional" fees are in fact being paid by the employer, and it is possible in some unusual cases that in reality they are, and based on the legal arguments of both counsel before the judge that the fees so structured are permissible (indeed required) under *Davis- Alderman,* the majority of these fees are approved despite their potential abusive nature.[5] One of the effects of the 2003 reforms is to eliminate side stipulation fees.

The prevalence of "side stipulation" fees in settlements is not a routinely collected data item. It was, however, recorded in connection with the sampling procedure used for an internal quality control study of the OJCC. That study found that in June 2003, 17% of settlements involved the "side stipulation" fees, but in June 2004, only 7% contained similar arrangements. It remains questionable whether the decline in side stipulation fees as a result of the reforms are the cause of the overall decline in litigation overall, but it is evident that the decline of attorney fees in general and the decline in litigation volume both occurred for the first year in recorded history in the past year.

Outcomes

The most common outcome of cases is settlement, as about half of the cases settle before mediation. More than half of the 34,613 mediation conferences held by state-employed mediators resulted in settlements. The bulk of the remaining cases settle between mediation and trial, with less than 5% of the cases filed being tried to conclusion.

It is hard to characterize the outcomes of cases that are decided by Judges of Compensation Claims, because only rarely are single-issue claims tried, and it is not uncommon to have decisions favoring different parties on different aspects of the controversy. Accordingly, the OJCC is currently implementing a system that will allow each class of benefit claim to be tracked individually, such that it will be possible in the future to identify how frequently, for example, claims for temporary total disability arise, how often they are granted, and how often denied, and whether this result is different in Orlando from Miami. Implementation of this project was delayed by numerous difficulties during the most recent fiscal year, but it is anticipated that the Information Technology staff will be able to attend to it in the current year.

[5] It should also be observed that the District Court of Appeal will reverse a JCC for trying to apply the rules of professional conduct, holding that to be the exclusive domain of the Florida Bar. Pace v. Miami-Dade County School Bd., 868 So.2d 1286 (1st DCA 2004). There is no known disciplinary action taken by the Bar in connection with the "side stipulation" fees, although at least one of them has been brought to the Bar's attention. See record, Pandiello v. Goodwill Indus., 848 So. 2d 313 (1st DCA 2003)(per curiam).

THE MEDIATION PROGRAM

The statute in effect during fiscal year 2003-04 required mediation conferences to be held within 130 days after the petition was filed, and in cases where the state mediators were overloaded and unable to accomplish that goal, parties were required to hold private mediations at the carrier's expense within the 130 day period. In previous years, the OJCC reported that the capacity of the mediation offices would physically be limited to 1,100 per year per mediator, corresponding to an average of just under two hours for each conference. That number was exceeded slightly in 2003-04, with an average of 1,117 mediations per mediator, 34, 613 mediations in total. Therefore, either (1) the mediation system is operating at the limits of its capacity or (2) the previous estimate of the limit was too conservative.

Timeliness of Mediation	
Month Filed	Avg. Days to Mediation
July 03	116
Sept 03	110
Nov 03	114
Jan 04	107
Mar 04	112
June 04	104

After carefully reconsidering the estimate of the mediation service's maximum capacity, it does not appear to be in error, and it should therefore be concluded that the system is operating at capacity given current staffing levels. If two hours are allotted for each mediation that occurs, 1,100 mediations per year amounts to 2,200 hours actually in mediation per year for each mediator. Any time spent scheduling or rescheduling, filling out reports, or otherwise working outside of mediation conferences would be in addition to that. It is not feasible to allocate less than two hours per mediation, and indeed it is required that we permit mediators to take as much time to preserve the parties' right of self- determination, see Mediation Ethics Advisory Council Opinion 04-02. The existing capacity estimate thus implies that mediators could work well in excess of the standard governmental employee work year consisting of 2,080 hours. At the current pay level, the mediator position seems to be able to attract qualified professionals, but if the required number of hours were raised further that may no longer be the case.

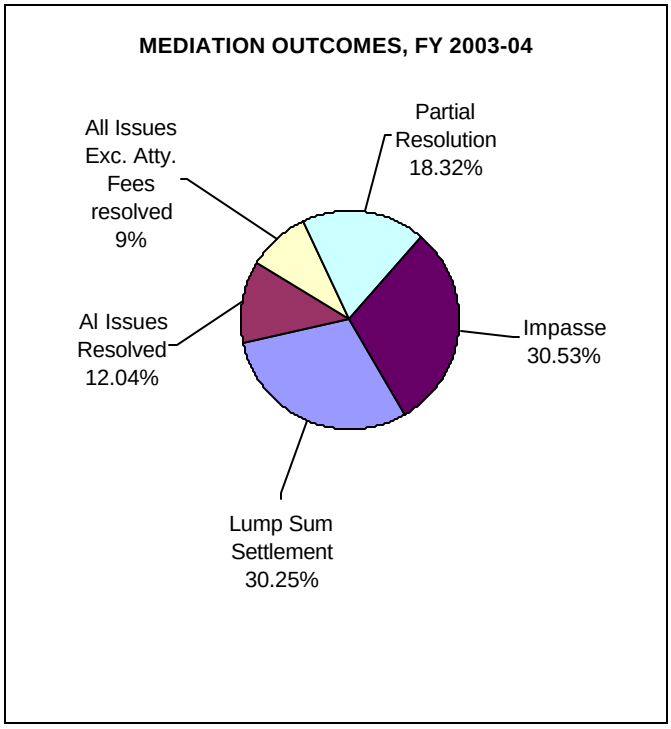
Compilation of Data Reported by Mediators

PFB Dismissed	8032
Settle Before Mediation	12483
Washout Agreement at Mediation	9314
All issues resolved	3706
All issues except Attorney Fees Resolved	2730
Some Issues resolved	5641
Impasse	9400
No Appearance	3602
Rescheduled	26301
Privately Mediated	7649
REC/REC	2682
Mediation Waived	579
Average Days to Scheduled Mediation	108
Mediations Within 130 Days	22845

During fiscal 2003-04, the OJCC case management system was adapted to automatically schedule mediations at the time each petition was processed. The Deputy Chief Judge specified that each mediator would have 45 mediations per week scheduled for him or her, subject to being rescheduled but not reassigned. Any Petitions in excess of 45 for a given mediator in a given week result in orders designating the excess petitions for private mediation. The OJCC's experience during the period suggests that there is no need to change the workload expectations for the state mediators.

Given the 2002 amendments' provision of an overflow mechanism, and extension of the time limit to 130 days, it is not surprising that almost all mediations were timely held over the last year. In addition, by advising the parties very early in the process if their cases are designated for private mediation, the vast majority of private mediations are also accomplished in the statutory timeframe. Given the legislature's policy choice to use the private mediation market to handle any mediations that exceed the OJCC's capacity, one would expect the state mediation service's timeliness measures to improve over the unacceptable level of 2001-02 and improved but still imperfect level of 2002-03. As shown in the time-to-mediation trend table, the expected results have been realized, with cases filed in June of 2004 obtaining state mediations almost 30 days earlier than the statutory deadline.

In fact, the increasing promptness of mediations gives rise to question why mediations continue to be referred for private mediation, rather than placed on the apparently available days on the state mediator's calendar. The answer is not simple, but the primary reason is a variance in the supply of state mediation appointments around the state as compared with a demand for those services. In general, highly urbanized jurisdictions have high demand for mediations, and the state mediators' calendars will routinely be filled out to the 130 day limit, so a large number of cases are referred for private mediation. At the same time, vacancies on the state mediator's calendar in the less urbanized jurisdictions will exist, and in those jurisdictions no cases are referred for private mediation and indeed most are mediated well within the 130 day period. In addition, although all cases are initially scheduled on the mediator's calendar by the intake computer, the mediators are free to reschedule these to accommodate the parties' schedules (or their own) until the 40-day order is issued. Often, these rescheduled appointments take the place of other cases which, due to settlement or their own rescheduling, have left openings substantially short of the 130- day limit. Finally, the mathematics of distributions dictates that when appointments can only be rescheduled inside of the 130-day limit, the average period will be appreciably less than the outer limit. These reasons collectively result in cases having average time-to mediation of only 108 days, even though the mediators' calendars in most parts of the state show 45 appointments per week right out to the 130th day.



The increase in the mediation service's output volume has been accompanied by only the slightest decline in qualitative result measures. The results measures remain quite satisfactory nevertheless. Overall, less than 31% of mediations result in impasse, while 30% result in terminating the litigation *and* the prospect of future litigation between the parties. The remaining third of mediations results in settlement of some or all of the disputed issues, without finally settling all the claimant's rights under the statute. While the degree of success in resolving claims does vary across the state, there is no district in which the impasse rate is appreciably over 50%. The quality of the result suggests that the mediation process works well, is staffed by conscientious and skilled professionals, and is a valuable service of state government. The state mediation program also seems to be cost- effective, as dividing the OJCC's budget allocated to the mediation service ($3,038,068) by the number of mediations held (34,613) results in a unit cost of $87.77 per mediation. Excluding overhead allocations and considering only the mediators' salary, the personnel cost per mediation is $78.26.

CASE RESOLUTION BY JUDGES

The Judges of Compensation Claims have made steady progress in improving timeliness of hearings, and in most parts of the state statutory timelines have become attainable. Difficulties in meeting timeliness requirements are geographically isolated, suggesting that local practices exist that delay cases. In particular, there is a correlation between settlement rates and timeliness, indicating litigants who systematically decline to settle cases (note that either claimant or defense side would have the right to refuse to settle) impose delays on the system.

Timeliness of Scheduled Final Hearings	
Month filed	Days to Final Hearing
July 03	234
Sept 03	220
Nov 03	215
Jan 04	206
Mar 04	193
June 04	168

The percentage of orders entered within 30 days of the final hearing showed a significant decline in the past fiscal year, as would be expected due to the provisions of the 2003 amendments. Previously, judges were required to decide cases within 30 days after a hearing was held, and that requirement remains in effect with an important exception: parties are now authorized to waive the timeframe. Under the prior law, many judges had taken the position that the issuance of a so- called "ruling letter" satisfied the timeliness requirement. The current administration does not recognize letters as having any legal effect, and this change in accounting methods is the primary reason the measure of orders entered within the 30 days has declined. The previous metric obscured the amount of time it took to obtain an enforceable or appealable order, and under the new measurement system it is expected that the timeliness measures will begin to improve.

One impediment to prompt rulings is the unusual nature of trial practice before Judges of Compensation Claims. In every other civil context in which the evidence code applies, parties must show that a document is relevant and probative of an issue in dispute, and

non-cumulative, before it is admitted into evidence. In workers' compensation cases, by contrast, litigants stipulate into evidence voluminous depositions and exhibits without making any effort to limit their evidence to materials pertinent to decision of the disputed issues. Judges routinely permit this, apparently because it is "the way things have always been done." One judge defended the practice on the grounds that the quality of the legal work by the attorneys is too low to be trusted to formulate the issues and pare away the unnecessary materials; but this seems an odd justification in light of the degree of compensation the attorneys expect for bringing cases to hearing. It seems a better practice would be to require workers' compensation cases to conform to the standards that apply to trial of civil cases generally, such that the attorneys be required to analyze the cases in advance of the hearing and submit only the necessary evidence to the judge, allowing the decision to be made at the close of the hearing.

In terms of case outcomes, it remains impossible to characterize cases as generally being decided in favor of claimants or employers. Most cases have some element of each. What is possible, however, is to conclude from the frequency of litigation and in particular appeals that the outcomes of trials and appeals are unpredictable, thus driving a volume of litigation greater than necessary and impeding the interests of justice. Since 2000, the number of Petitions for Benefits filed with OJCC has exceeded the number of lost time cases filed counted by the Division of Workers Compensation in the Department of Financial Services.[6]

ADMINISTRATIVE MEASURES BEING IMPLEMENTED

Rulemaking

In August of 2002, the Division of Administrative Hearings (DOAH) and OJCC commenced a rulemaking process implementing the 1994 and 2001 amendments which directed that rules for workers' compensation procedure were to be promulgated administratively by the OJCC. After a series of public hearings in various locations around the state, and active solicitation of the participation of the Judges of Compensation Claims and other interested parties, the new procedural rules took effect February 23, 2003.

The new rules were not radically different from the previous rules that were drafted by the Bar and adopted by the Supreme Court. There were, however, a few changes that helped decrease the amount of non-judicial labor required of judges, and increased the flexibility afforded judges in conducting their cases. For example:

- Removed the provision for submitting contracts of representation to the judges for approval,

[6] For example, the Division reports between 70,00- 80,000 lost time cases for each of the last three years. See Division of Workers Compensation Annual Report http://www.fldfs.com/WC/pdf/anrprt04.pdf at 22.

- Removed the requirement that hearings be held on every motion,
- Limited the practice of requesting that judges "approve" stipulations between the parties,
- Afforded judges control over the circumstances under which parties or witnesses could appear by telephone, and
- Provided for entry of a summary final order when there were no factual disputes requiring trial.

Refusing to recognize OJCC's statutory authority over the rulemaking, the Workers Compensation Rules Committee of the Florida Bar proceeded as if the rules had never been adopted, publishing its old, superseded rules on the Bar's website and providing the superseded rules to publishing sources that had, prior to that time, been seen as authoritative sources for citation to authority. When the Bar filed a Petition with the Supreme Court to "amend" the superseded rules, DOAH and OJCC filed a comment noting that the rules had been superseded. The Supreme Court declined to adopt the "amendments" and repealed the Bar's rules, effective December 2, 2004. The court specifically held that any cases decided under the old rules would remain undisturbed by the holding.

While the litigation was pending, the DOAH Director determined to appoint a DOAH-OJCC rules committee, opening nominations to all interested parties and specifically requesting that the then-Chair of the Workers' Compensation Section of the Florida Bar nominate qualified individuals for service on the committee. About half the appointed members had been nominated by the Section Chair, and the committee represents a broad range of interests and regions. The committee's first meeting was held December 8, 2004, and it is anticipated that the collective wisdom of the members will yield continuous improvement in the rules, and hence in workers' compensation practice.

Administrative Improvements

The overbudget condition inherited by the current administration was dramatically reversed in the most recent fiscal year, with the previous year's $280,000 deficit eliminated in favor of a surplus in the amount of $300,000. Thus, the OJCC handled a larger workload at a budgetary cost that was lower by $580,000. That is the best bottom-line indicator of efficiency that exists. The savings result from the Procedural Modification Plan set forth at length in last year's report, increased individual productivity, and use of direct-data-transfer instead of traditional mail for notices the OJCC routinely sends to the parties in each case.

Considerable savings remain possible by full implementation of the E-JCC initiative. Unfortunately, the timeline contained in the E-JCC plan did not materialize over the previous fiscal year, due to a number of unexpected security issues, hacker attacks on the OJCC network, diversion of resources to other projects, and other delays.

The key components of the system are now functional at the prototype level, subject to testing before being deployed statewide. It is possible to file Petitions for Benefits electronically, and it is possible for judges to file their orders in Tallahassee (as required by statute) by wire as well.

When the system is fully implemented, every participant (except the unrepresented claimants or employers) will have a valid email address registered with OJCC. Every document filed in every case will be rendered as a pdf document, and some will never even exist in paper form. Documents and orders will be served via email, eliminating delays, losses, and postage expenses valued in the millions of dollars.

At its core, the E-JCC system is patterned after the electronic filing system in use in the federal courts. The Middle District of Florida now requires filings to be electronic, in pdf format. See, http://www.flmd.uscourts.gov/cmecf/default.htm . The E-JCC system adopts the federal standard with a few variations. For example, the case files maintained by OJCC are freely viewable by the public, not limited to the "one free look" available under the federal system.

The most important difference between the E-JCC and the federal system is the automation of certain functions under E-JCC that is not possible under a generalist system such as the federal or state courts. For example, granting the necessary approvals for a lump sum settlement requires a set of very specific and easily ascertainable facts. Under development is a settlement package that will allow counsel to provide necessary information, and will in turn generate a standardized pdf document to memorialize the agreement, and also generate the (proposed) order approving the transaction. Thus, the settlement information can be submitted with the same amount of effort it now takes to type the motion for approval, but the motion will be transmitted and docketed instantly, and presented to the judge for consideration. In the proper case, a judge will be able to issue the necessary approval order with one click.

In addition to automatically processing settlements and opening new cases, the system will allow employers and carriers to file responses to the Petitions interactively, with the defense to each claim specified next to the claim itself. The ultimate goal is to have the OJCC clerical staff transform from a data-entry staff to a quality-control staff. It is expected that the central clerical office staff will shrink though attrition, and currently as personnel leave they are not replaced. Current attrition rates suggest that layoffs will not be necessary.

As mentioned last year, a note of caution is in order. Once the new system is fully implemented, the OJCC will have deployed every high-yield efficiency improvement measure that exists. Further efficiency gains will result from fine-tuning of existing processes, but it would not be realistic to continue to expect the significant levels of improvement seen in each of the last three years.

UNATTAINABLE STATUTORY REQUIREMENTS

The statutory time frame for bringing cases to final hearing is unintelligible and thus difficult to satisfy. The 2003 amendments inserted “allowing the parties sufficient time for discovery” to qualify the requirement that a hearing be held within 90 days after mediation, converting what was an objective, quantifiable standard into something that is not a standard but a vague direction. Similarly, providing that " the claimant may waive the time frames within this section for good cause shown" seems internally inconsistent, since using the term “claimant may waive” typically means the claimant has a choice, but the phrase “good cause shown” would seem to deny the claimant the same choice. The OJCC measures the time-to- hearing and reports the result, without characterizing it as being in compliance or in violation of the standard. The OJCC is in the process of developing a method for reporting the timeliness measures separately for cases in which the timeframe has been waived.

RECOMMENDED CHANGES OR IMPROVEMENTS.

The OJCC recommendations for legislative action are largely unchanged from last year. The suggestion of a filing fee has been deleted, since the 2003 amendments now require that a petition contain all the claims that are ripe at the time it is filed, and permits dismissal of a portion of a petition, so the underlying problem of excessive numbers of petitions per case has diminished. The suggestion of additional resources to meet statutory timelines has also been deleted this year, because the 2003 amendments established timelines that appear to be attainable with the current level of cases.

While it is recognized that the substantive reforms were necessary in order to avert a deepening crisis, the procedural components of those reforms were both insubstantial and unhelpful in terms of improving dispute resolution. The following measures which need to be addressed should not materially alter the balance of interests, and should improve efficiency, timeliness, and accuracy.

1. Venue. Current law requires that a hearing be held “in the county where the accident occurred” unless the parties otherwise agree. When a claimant has two or more accidents in different counties, this provision prevents consolidating the cases unless the parties agree, which they sometimes do not. This is not only inefficient, but it creates the risk of inconsistent adjudications. In addition, the current statute requires the judges to travel from county to county within their districts to hear cases, sometimes driving in excess of an hour each way to hear a fifteen minute case. It would be much more efficient and less costly to require the litigants to come to the judge, rather than vice versa. All this is easily fixed by deleting statutory references to where the hearing must take place and allowing the OJCC to determine the most equitable and efficient location by rule or order.

2. Attorneys' Fees. The 2003 amendments have eliminated discretion to approve attorneys' fees in excess of the statutory schedule, and there is no reason to refuse to approve fees that are within the schedule. Accordingly, the requirement that attorneys' fees be approved by a judge is an anachronism, inconsistent with the attorney fee scheme in the current law. It is not an application of discretion or judgment, but rather an automatic function. Accordingly, the legislature is requested to delete all requirements that judges approve stipulated attorneys' fees, or in the alternative, authorize delegation of this function to the administrative staff of OJCC instead of the judges.

Under the new law, approval of settlements is a quintessentially bureaucratic, rather than judicial, function. It requires the protection of persons not party to the case (with respect to child support) and it requires taking an advocacy position with respect to the claimant versus his own counsel when attorney fees are assessed. Both functions are outside of the proper role for a neutral adjudicator charged with deciding between competing interests presented by the parties. Fundamentally, it is inconsistent with the model of impartial adjudicator to expect that the judge will protect a client from his own counsel in the context of a proceeding in which the counsel speaks for the client. The judges are nearly unanimous in concluding that this function is unnecessary, and ultimately ineffective in protecting the clients in any event.

There are three approaches to relieving the Judges of the clerical responsibility of processing settlements, and freeing their time for matters truly requiring quasi-judicial attention. One approach would be to substantively eliminate the provision that attorney fees and child support allocations be scrutinized. That is not recommended, however, because the collection of child support would be compromised, and though that is not among the core functions of a workers' compensation system, it is a valuable public service which circumstances permit the system to perform at little or no cost. A second approach would be to assign all settlement approvals to a General Master employed by OJCC (the mediators already hold the title General Master, so no new employees would be reuired). This would be fine for the vast majority of cases, but it is unlikely the staff could be prepared for the unusual cases that require unique approaches. This suggests the third approach might be in order- all settlements are referred to a General Master for consideration under a specified set of conditions, and if the Division finds the conditions are met, it approves the settlement and no further proceedings are required. If, on the other hand, the Division finds the case to be an unusual one not meeting the specified conditions, it certifies the case to the JCC for further proceedings.

3. Petitions. Require Petitions to be filed first with the employer or carrier, and filed with OJCC only when the dispute is ready for OJCC action. The current procedure for presentation of claims and commencement of cases results in filing of a large number of petitions that never require OJCC action. The petitions nevertheless require processing by the clerk's office, assignment to a judge, some further processing by a judge's staff, the scheduling of a mediation conference, and mailing of notices. If the process were changed to require that a claimant must submit his or her claims to the employer or carrier first, giving a reasonable time to decide whether the claim is valid or not, the handling of unnecessary papers by the OJCC would be diminished. One suggestion is to

prohibit filing of claims until after they have been presented to, and denied by, the carrier, either explicitly or by expiration of a 14-day period in which to act.

4. Expedited Hearings. The current law's expedited hearing procedure is potentially valuable but currently useless. Because it essentially requires parties to stipulate in advance that the case is worth less than $5,000, it is never used. The result is that all cases, even those with very low stakes or very high urgency, are placed on the long full-litigation track, taking at least 180 days to get to hearing. Cases should be presumed to be small until shown to be large, not vice versa. One change that could profoundly improve the flow of cases through the system would be to eliminate the $5,000 limit for the expedited hearing track.

5. Rulemaking Procedure. A more compact and transparent set of procedural statutory provisions would reduce litigation costs. The current statute has procedural provisions sprinkled throughout, and in some places contradicting others. If the law placed all the procedural provisions in the same part of the statute, and also was more explicit and broadly worded in granting rulemaking authority to the OJCC, the result would be better-understood procedures, reducing litigable issues. In oral argument on the Rules case, the Chief Justice remarked that she found the rulemaking authority unclear and confusing. Evidently, it would still be beneficial to clarify the scope of the rulemaking authority by placing it in Section 440.29 or 440.25 that pertain to procedure, rather than 440.45 that pertains to internal organization of OJCC.

6. Electronic Filing. Expressly authorize the Office to require electronic filing by counsel and carriers. While arguably this can be accomplished with rulemaking, explicit statutory authority would eliminate the uncertainty that might exist if the rules were challenged in court. Given the volume of paper moving through the system, it is imperative that an effective electronic filing system be implemented. Litigants will adapt to electronic filing only when required to do so, or induced to comply by filing fees that are lowered for electronic transmission.

7. Policy Guidance Mechanisms. The Workers' Compensation system is in need of policy guidance and direction, and the current system of policymaking by ad hoc adjudication in a single district court of appeal continues to be marked by unpredictability. This results from a defect in the statutory scheme, not from any failing on the part of the court. In a democratic system, judges should be the followers, not the leaders, on questions of policy, and the statute leaves very large gaps in which policy decisions must be made. The statute thus places the appellate court in the role of the policy stewards of the workers' compensation system, in addition to their other responsibilities for criminal law, common law, administrative law, family law, and various other kinds of cases. The appellate judges are legal experts, adept at determining whether there is legal error in a lower tribunal's decision. While they obviously should have the power of judicial review of administrative policymaking action, they should not be required to make policy in the first instance in an area as intricate as workers' compensation. That is considered important enough to be a full-time profession in most

other states, and there is nothing easier or less important about workers' compensation in Florida that renders a less thorough approach adequate here.

The administrative agency model of policy guidance, in which the agency reviews the judge's legal conclusions for policy coherence prior to the dispute reaching judicial review, is one that functions well in most other subject areas and should be considered. Every other large state has a Workers' Compensation Commission or similar body that has authority to conduct the basic review of workers' compensation trial judge decisions, and articulate the policy considerations underlying the result. Moreover, in every other area of the law judicial review is conducted by the court having territorial jurisdiction over the place where the case arose, with the potential of review by the Supreme Court in the event of conflicts among districts. The current scheme sends the public a message that workers' compensation law is not of sufficient stature to merit review by the Supreme Court on an equal footing with every other kind of case. As the number of people who interact with the workers' compensation system is larger than the numbers affected by most, if not all, other bodies of law, it seems unfortunate that the system would treat workers compensation law as less worthy than any other field. The OJCC does not request any specific policy guidance mechanism, but does suggest that the legislature address what has become the fundamental problem of administration of the workers' compensation law.

9. Education. Consider funding of the education and research functions that have been assigned to OJCC, or transference of those functions to another agency. The 2001 amendments, expressly require the Deputy Chief Judge to "establish training and continuing education for new and sitting judges," Section 440.45(3) Florida Statutes, and the current budget does not provide funding for the requirement.

CONCLUSION

The Office of Judges of Compensation Claims was remarkably successful in carrying out its mission in fiscal year 2003-2004, producing a higher volume of output at significantly lower cost without diminution in quality of performance. OJCC remains proud of its contribution to child support enforcement, having resulted in the collections of unpaid child support arrearages in the amount of nearly two-thirds of its total annual budget.

The mediators continue to be able to efficiently resolve the cases of more than half the claimants who come before them, and have partially resolved a significant number as well, all at a cost much lower than the private mediation alternative. The Judges of Compensation Claims have enjoyed a strengthening reputation for fairness and impartiality, and the thoroughness and quality of their output has been praised by knowledgeable officials. The appeals court has affirmed their decisions in almost 90% of appealed cases, and there are many more cases that are not appealed because even the losing party believes they are legally sustainable. The office is proud of the quality of its output, and is supported by every measure. Generating a high quality result takes time

and attention to detail. This is true in connection with mediation as well as with trying and deciding cases.

The delays in mediating and hearing cases were cited as the most unsatisfactory aspect of the OJCC's performance last year, and although the delays are still greater than the optimal level, the improvement has been substantial. The rapid increase in new cases took a break in 2003-04, and while that has yet to relieve the amount of work in the offices its effect should be felt soon. One can be optimistic that the decline in the volume of new cases, if it persists, will reduce the stress levels among the support staff, and result in lower turnover rates. The OJCC is committed to having a smaller, more professional, and better paid support staff, so it will no longer seem the OJCC serves as a training ground for entry-level support staff, who move into much higher-paying jobs in the private sector as soon as they become qualified.

The challenge the OJCC now faces is to continue its advances by effectuating the transition to a new filing system. As predicted last year, the new statute should cause a reduction in litigation if it is not voided or eviscerated by the appellate courts. Most provisions of the 2003 amendments will only apply to accidents occurring after October 1, 2003, and it takes at least a year before the "new law cases" make up a detectable proportion of the overall case mix. Two years ago, this report implored the policymakers to stem the rising tide of cases. The Governor and Legislature rose to the occasion and passed a law that has some prospect of providing the needed relief; and preliminary signals indicate it is beginning to work. Over the next year, we will expect to see the effect of the new law fully realized.

Respectfully submitted,

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