

BEFORE THE HOUSE FINANCE COMMITTEE  
MAY 29, 2019

Chairman Oelslager, Vice Chairman Scherer, Ranking Member Cera and members of the Finance Committee. My name is Phil Fulton and today I testify as an interested party on behalf of the Ohio Association of Claimants' Counsel (OACC). The OACC is a group of "experienced workers' compensation attorneys who strongly support and believe in Ohio's state monopoly workers' compensation system, educates the public about our system, and who work with the Administrator and all stakeholders in making our WC system the finest in the country.

Many do not know that OAJ was originally founded in 1954 as the Ohio Chapter of the National Association of Claimants' Counsel. Thus, I guess you can say that the OACC has circled back to assist in the original purpose of OAJ.

Attached is my curriculum vitae. You will note that I have spent my entire professional life engrossed in the field of the Ohio WC system. Since 1991, I have authored the treatise, Ohio Workers Compensation Law, with the 5<sup>th</sup> Edition just recently published.

I would like to thank Administrator McCloud and her staff for their continued communication and discussion regarding policy items. I would second that thank you to all of the stakeholders. If you will permit me, I would like to address a number of the amendments.

**PHILIP J. FULTON**

**PERSONAL INFO:**

Home address - 2734 Lymington Road  
Columbus, OH 43220  
Home phone - 614-459-0738  
Business address - 89 E. Nationwide Blvd., Suite 300  
Columbus, OH 43215  
Business phone - 614-224-3838  
Business fax - 614-224-3933  
Business e-mail - Phil@fultonlaw.com  
Business Website - ohiocompensationlawyer.com

**EDUCATION:**

Ohio State University (1977) - B.A.  
Capital University (1980) - J.D.; Order of the Curia

**WORK HISTORY:**

Owner of Philip J. Fulton Law Office  
Firm Profile - Dedicated to representing victims of workplace injuries and disabilities in matters of workers' compensation and social security disability  
AV Rating - Martindale-Hubbell Bar Register of Preeminent Lawyers  
U.S. News, Best Law Firms, First Tier Workers' Compensation Law Claimant, 2010-2019

**ASSOCIATIONS:**

BWC Board of Directors, 2007-2008  
Capital University Law School  
Adjunct Professor, Workers' Compensation Law, 2005-2014  
Board of Counselors, 2005-2014; Chair 2009-2010  
Class of 2012- Adjunct Professor of the Year  
Philip J. Fulton National Moot Court Team  
Franklin County Trial Lawyers,  
Past chairperson, Workers' Compensation Section  
Industrial Commission Nominating Counsel, 2010-2019  
Larson's National Workers' Compensation Advisory Board, Ohio Member  
National Organization of Social Security Claimants Representative  
Ohio Association of Claimants' Counsel, Vice-President  
Ohio Association for Justice (formerly Ohio Academy of Trial Lawyers)  
President 2005-2006  
President Elect 2004-2005  
Vice-President 2003-2004  
Secretary 2002-2003  
Treasurer 2001-2002  
Member, Executive Committee, 1993-94, 2000-2007  
Member, Legislative Committee, 2003-2009  
Chairperson, Workers' Compensation Section, 1994-95, 2000-2001  
Executive Committee member of Workers' Compensation Section  
Co-Legislative Chairperson, Workers' Compensation Section  
Strickland-Fisher Agency Review, Regulatory Climate- Bureau of Workers' Compensation and Industrial Commission, Co-chair  
Workers' Compensation College, Fellow  
Workplace Injury Litigation Group Board Member

**AWARDS:**

Best Lawyers in America, Woodward/White, Inc. (1995-2019)  
Best Lawyers 2018 Columbus-OH Workers' Compensation Law-Claimants Lawyer of the Year  
Best Lawyers 2012 Columbus- OH Workers' Compensation Law-Claimants Lawyer of the Year  
Columbus Monthly, "Top Lawyers, The City's Best and Brightest", Nov., 2003  
Columbus Monthly, "Top Lawyers, The List: Columbus Legal Stars", Aug., 1997  
Consumer Business Review, Workers' Compensation Attorney for New Millennium, 2000  
Ohio Association for Justice Amicus Curiae Award, 2009  
Ohio Academy of Trial Lawyers, Workers' Compensation Outstanding Service Award, May, 2005  
Ohio Academy of Trial Lawyers, Distinguished Service Award, 4/02  
Ohio Academy of Trial Lawyers, Inducted into Workers' Compensation Hall of Fame, 4/25/97  
Ohio Academy of Trial Lawyers, Distinguished Service Award, 4/28/94  
Ohio Academy of Trial Lawyers, Outstanding Effort on Behalf of Injured Workers & Workers' Compensation Section 4/28/94  
Ohio Academy of Trial Lawyers, Outstanding Effort on Behalf of Workers' Compensation Section, 4/28/93  
Ohio State Chiropractic Association, President's Award 2001  
Ohio Super Lawyers 2004-2019  
Ohio Super Lawyers 10-year Ribbon (10 for 10)  
Ohio Super Lawyers - Top 100 Ohio Super Lawyers, 2005  
Ohio Super Lawyers - Top 50 Columbus Super Lawyers, 2004, Law and Politics Magazine

**PUBLICATIONS:**

LexisNexis Expert Commentary- When Are Ohio Permanent and Total Disability Benefits No Longer Permanent:  
State ex rel. Spohn v. Indus. Comm. 115 Ohio St.3d 329, 2007-Ohio-5027  
Ohio Trial - Workers' Compensation: The Unconstitutional Intoxication Defense, Volume II, Issue 3  
- Substantial Aggravation: The More Things Change..., Volume 17, Issue 1  
- Isn't It Ironic? How the Courts "Defer" To The Legislature While Continuing To Expand The Judicially Created  
Voluntary Abandonment Doctrine, Volume 23, Issue 2  
Ohio Workers' Compensation Law, Lexis Nexis, 1991, 1998, 2008, 2011, 2018

**SPEAKER:**

Ohio Association for Justice (formerly Ohio Academy of Trial Lawyers)  
Ohio CLE Institute  
National Business Institute  
Ohio State Chiropractic Association  
AFL-CIO  
Ohio Self-Insured Association  
NFIB

*Armstrong* solution –

Amend RC 4123.01(C)(1)(a)

(a) Where the claimant's psychiatric condition accompanies an injury or occupational disease sustained by the claimant

PTSD solution –

Amend RC 4123.68(BB)

(BB) Post-traumatic stress disorder: Any industrial process which exposes the employee to a deadly weapon or imminent harm; or carrying or treating an injured person that dies shortly after; or witnessing an injury that causes a death or witnessing a death.

Treatment for PTSD is limited to one year, unless evidence shows that without further treatment, the employee's condition may result in a deteriorating disabling condition.

Gatekeeper

*Armstrong*—See *McGrone v. Bank One Corp.*, 107 Ohio St.3d 272, 2005-Ohio-6506

PTSD—1) Occupational disease statute

2) Specific events

3) Treatment due process