STATE OF NEW YORK - WORKERS' COMPENSATION BOARD

ATTORNEY/REPRESENTATIVE'S CERTIFICATION OF FORM C-3 OR NOTICE OF CONTROVERSY

WCB Case No.	Carrier Case No.	Date of Accident, Illness or Injury

Name	Address
CLAIMANT	
EMPLOYER*	
CARRIER	
ATTORNEY OR REPRESENTATIVE	

*In volunteer firefighters' and volunteer ambulance workers' benefit cases, the liable political subdivision (or unaffiliated ambulance service as defined in Sec. 30 VAWBL) is deemed to be the "EMPLOYER."

INSTRUCTIONS

To: Claimant's Attorney/Representative: Complete item 1 below and file this form with the Workers' Compensation Board within five days after you have been retained by a claimant who has previously filed Form C-3, Employee's Claim, without your certification as required by 12 NYCRR 300.37 (see Regulations 300.37 and 300.38 on reverse of this form for complete filing instructions). This form must be served on all other parties.

To: Carrier's Attorney/Representative: If a notice of controversy has been filed in the case identified above, your written certification is required by 12 NYCRR 300.38 (see citations on reverse of this form for complete filing instructions), before you may appear on behalf of the insurance carrier. You must complete item 2 below and file this form with the Workers' Compensation Board and serve it on all other parties at or before the pre-hearing conference.

☐ **1. CLAIMANT'S ATTORNEY/REPRESENTATIVE'S CERTIFICATION OF FORM C-3**

I certify to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that the allegations and other factual matters asserted in the Form C-3 dated _____ filed by the claimant in the case identified above, have evidentiary support, or are likely to have evidentiary support after a reasonable opportunity for further investigations or discovery.

Signature of Atty/Rep: _____ Date: _____

Print Name: _____ Title: _____

ID No., if any: **R** _____ If Licensed Rep., License No.: _____ Expiration date: _____

☐ **2. CARRIER'S ATTORNEY/REPRESENTATIVE'S CERTIFICATION OF A NOTICE OF CONTROVERSY**

By signing in the spaces provided below, I certify in the case identified above, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that the allegations and other factual matters asserted on the notice of controversy dated _____, in controverting the claim or the defenses asserted have evidentiary support, or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

Signature of Atty/Rep: _____ Date: _____

Print Name: _____ Title: _____

ID No., if any: **R** _____ If Licensed Rep., License No.: _____ Expiration date: _____

For claimant legal representatives:

12 NYCRR §300.37

(d) (1) If the claimant has retained a legal representative at the time the Employee Claim form is filed with the Board, the legal representative shall file with the Employee Claim form:

(i) a written certification, signed by the legal representative, that to the best of the legal representative's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual matters asserted on the Employee Claim form have evidentiary support or if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(ii) a list of all documents in the possession, custody or control of the claimant that may be used to support the claim.

12 NYCRR §300.38

(d) Subsequent retention of legal representative. If a claimant retains a legal representative after a claim is indexed or after the carrier files a form to controvert the claim when the claim is not indexed, the legal representative shall, within five days thereof, file with the Board and serve on all other parties a notice of retainer on the form prescribed by the Chair together with:

(1) An Employee Claim form, if not previously filed, or the legal representative's certification of a previously filed Employee Claim form or, if the previously filed form is incomplete, incorrect or in need of supplementation, an amended Employee Claim form and certification thereof; and

(2) The list of documents required to accompany the Employee Claim form of a claimant who has retained a legal representative as required in §300.37(d)(1); and if the claimant has retained a legal representative prior to the pre-hearing conference, a pre-hearing conference statement pursuant to subsection (f) of this section. Certification shall have the same meaning as in §300.37 (d)(1)(i).

For carrier legal representatives:

12 NYCRR §300.38

(a) Notice of controversy:

An insurance carrier who controverts a claim shall file with the Board and serve upon all other parties a notice of controversy on the form prescribed by the Chair in accordance with Workers' Compensation Law section 25 (2) (a) or (b) or section 300.22(d)(3) of this Part. The notice of controversy shall comply with the following:

(1) it must be complete and provide a factual basis for the insurance carrier's controverting the claim and for any asserted defenses;

(2) it must contain a written certification signed by the insurance carrier, or if represented, by its legal representative, that to the best of his or her knowledge, information and belief, formed after an inquiry reasonable under the circumstances that the allegations and other factual matters asserted in controverting the claim or the defenses asserted have evidentiary support, or if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. The written certification may be made at the pre-hearing conference prescribed in subdivision (g) and (h) herein. If the initial certification is not signed by a legal representative, then before a legal representative may appear on behalf of the insurance carrier, the legal representative shall file and serve the required certification;

(3) it must provide the name and, if known, the address and telephone number of each individual likely to have information that the insurance carrier may use to support its factual basis for controverting the claim or for supporting a defense, and briefly describe the information; and

(4) it must provide a list of all documents in the possession, custody or control of the insurance carrier that it may use to support the factual basis for controverting the claim or for supporting a defense.