

# Dawn M. Nicholson

Partner



## Philadelphia

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Dawn concentrates her practice on the defense of national and regional insurance carriers, third-party administrators, and self-insured in workers' compensation matters throughout Pennsylvania.

She has successfully litigated clients in a variety of industries including commercial transportation, food and hospitality, retail, and manufacturing. Dawn has handled all aspects of litigation from utilization review, depositions, mediations, hearings, and testimonies. Additionally, she has obtained favorable decisions before workers' compensation judges, the Pennsylvania Workers' Compensation Appeal Board, and the Commonwealth Court.

Dawn was a judicial clerk to the Honorable Richard J. Geiger, New Jersey Superior Court – Civil Division, Cumberland County, and twice served as a judicial intern to the Honorable Reneé Marie Bumb, United States District Court for the District of New Jersey. She holds a dual JD degree/Masters in Public Affairs and Politics.

Dawn was selected by her peers for inclusion in the 2022 edition of Best Lawyers in America for her workers' compensation practice. "Ones to Watch" awards recognize extraordinary lawyers who have been in private practice for less than 10 years in the United States and is based entirely on peer review. Since 2022, Dawn has been included in the Pennsylvania edition of Super Lawyers magazine as a "Rising Star," an honor given to the top 2.5 percent of attorneys in the Commonwealth. *For more information regarding methodology for these accolades, pursuant to New Jersey Lawyer Advertising guidance, please see here: <https://bit.ly/WGBestLawyers> and <https://bit.ly/WGSuperLawyers>. No aspect of this advertisement has been approved by the Supreme Court.*

## Assistant

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## Industries

Staffing Companies, Employment  
Agencies and PEOs  
Transportation  
Retail  
Healthcare

## Practices

Workers' Compensation

## Education

Rutgers School of Law - Camden, J.D.,  
2013

Rutgers, The State University of New  
Jersey, M.P.A.P., *summa cum laude*,  
2012

University of Pittsburgh, B.A., *summa  
cum laude*, 2005

## Bar Admissions

Pennsylvania  
New Jersey

Dawn is a member of Weber Gallagher's Diversity & Inclusion Committee and the Professional Development Committee.

### Experience

- ***Results may vary depending on your particular facts and legal circumstances.***
- Prevailed in a carrier versus carrier case where Review and Joinder Petitions were filed by the Claimant's employer, a subcontractor, and its insurance carrier. The subcontractor sought reimbursement from, and a shifting of all or a pro-rata share of future liability to the general contractor and its insurance carrier pursuant to a "wrap-up" workers' compensation insurance policy. Under the policy, the general contractor agreed to provide workers' compensation benefits to employees of subcontractors, but only when injured on the project site. Any injuries occurring off the project site were to be covered by the subcontractor's workers' compensation policy. The case was complicated by the fact that both carriers utilized the same TPA, raising questions as to how coverage decisions were made. The subcontractor did not dispute that the Claimant's injury occurred off-site, but argued there may have been other instances in which general contractor paid for an injury that occurred off-site, thereby precluding the general contractor's denial of liability based on past practice. The subcontractor subpoenaed records from the general contractor, seeking a review of any and all claims paid. We objected to the subpoena as overly broad and unduly burdensome given the scale of the project at issue, and asserted that the subcontractor was estopped from denying liability based on the clear and unambiguous language of the underlying policies. The WCJ sustained our objection to the subpoena of general contractor's file and denied the subcontractor's Review and Joinder Petitions on the merits.
- Successfully defeated a claim petition for psychological injuries. The Claimant, a third-shift cashier at a convenience store, alleged that she sustained PTSD and anxiety following two armed robberies. While the medical experts in the case acknowledged that Claimant had evidence of work-related PTSD, the WCJ found that Claimant failed to provide timely and adequate notice of the work injury, and so denied the Claim Petition. Claimant appealed and the WCAB affirmed the WCJ's Decision.
- Successfully prosecuted a termination petition and obtained a termination of benefits. In that matter, the claimant sustained a groin injury and underwent surgery, although, continued to have

ongoing complaints and pursued medical treatment. The WCJ opted to terminate compensation in accordance with an IME opinion of full recovery. In this regard, the WCJ found the IME physician to be more knowledgeable and informed in terms of claimant's condition as compared to claimant's medical expert, who recently commenced treatment. The WCJ specifically took note that IME physician reviewed more of claimant's medical records, was more familiar with the medical history, treatment and details regarding claimant's work injury and employment history. Most crucial was the fact the WCJ was persuaded by IME physician's explanation for the claimant's ongoing complaints, which he attributed to an unrelated urological condition, something discounted by claimant's treating physiatrist. As a result of the decision, the client is able to avoid liability for claimant's ongoing medical treatment, including medications, and is not responsible for reimbursement of counsel's litigation costs which total nearly \$3,000. Once the decision is final, the client will be able to pursue a sizable supersedeas reimbursement sum for medical benefits paid out over the last year.

- Successfully prosecuted a termination petition in a matter involving a registered nurse, who sustained a lower back work-related injury. She was employed by a national healthcare company and was injured as the result of riding in a bus. The Workers' Compensation Judge accepted the defendant's argument that the nurse was fully recovered as of an initial physical medicine and rehabilitation IME. The Judge accepted that the nurse did not sustain any additional injuries to her cervical spine, and or aggravation of a pre-existing lower back condition, which was based upon diagnostic studies from both before and after the date of injury, which defendant established failed to show any substantial change in nurse's lumbar spine. As a result of the decision, the client experienced a significant cost savings and could be eligible for a sizable recovery from the supersedeas reimbursement fund.
- Workers' Compensation Judge found that the defendant/employer satisfied its burden of proving that a variety of medications, including Lidoderm patches, Zolpidem (aka Ambien), Cymbalta, Omeprazole, OxyContin and Carisoprodol (aka Soma), were unreasonable and unnecessary treatment, as prescribed by the employee's treating neurologist. As the result of this decision, the defendant/employer experienced an immediate significant cost savings of thousands of dollars, which, over the life of the claim, could result in a savings of in excess of \$70,000, possibly more.

- Successfully defended an international shipping company against a Claim Petition, in which the employee alleged that he sustained an umbilical hernia as a cumulative result of lifting and carrying packages over time. The employee sought wage loss and medical benefits from the date of injury and ongoing. In denying the Claim Petition, the Judge found the employee's testimony to be incredible given the temporal proximity of the worker's symptoms with him recently helping a family member move. The Judge questioned the employee's assertions that he lifted only light items during the move. The Judge also found the employee's medical expert testimony not believable to the extent that it suggested that the employee's umbilical hernia was causally related to his occupational duties. The Judge specifically found the defense medical expert's testimony credible. Given the employee's notable compensation rate, the win resulted in substantial savings for the client and eliminated the potential for ongoing benefits. She wrote the brief for this matter.
- Successfully obtained a modification of benefits via prosecution of a labor market survey based modification petition when representing an international telecommunication company. As the result of the favorable decision, the defendant is scheduled to save over \$45,000 over the life of the claim. The Workers' Compensation Judge rejected the employee's testimony as not credible and accepted the opinions of the IME doctors and employer's vocational expert on the issues of the employee's ability to work and his applicable earning capacity, respectively.
- Successfully obtained termination of benefits and defended against a claim for reinstatement of indemnity benefits and a more expansive injury description when representing a national automotive distributor. As a result of the decision, the defendant saved nearly \$50,000 and is not responsible for ongoing medical and indemnity benefits. The Workers' Compensation Judge rejected the employee's testimony as not credible and accepted the IME doctor's opinions on the issue of recovery and extent of the work injury.

## Professional & Community Involvement

- Pennsylvania Bar Association, Workers' Compensation Section
- New Jersey Bar Association
- Gress Mountain Ranch, Board of Directors
- UCC Appeals Board, Springfield Township
- Planning Commission Member, Springfield Township, Chairwoman
- Southern Lehigh Chamber of Commerce, past Board of

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Directors