

NOTICE OF INTENT TO APPEAL

STATE OF MAINE
WORKERS' COMPENSATION BOARD
APPELLATE DIVISION
1037 FOREST AVE, STE 11
PORTLAND, MAINE 04103-3382

CASE NAME: Peter W. Jensen, Sr. v. SD Warren
WCB FILE# or AIJ CASE#: 11036342
ISSUANCE DATE OF DECISION: October 20, 2017
MAIL DATE OF DECISION: October 23, 2017

CHECK ONE:

- APPELLANT HAS ORDERED TRANSCRIPT FROM _____
(please notify Appellate Division when you receive transcript)
- TRANSCRIPT HAS ALREADY BEEN PREPARED
- REQUEST HAS BEEN MADE TO REGIONAL OFFICE TO ORDER TRANSCRIPT

APPELLANT:

COUNSEL NAME: John F. Lambert, Jr.
REPRESENTING: SD Warren
STREET/P.O. BOX: P.O. Box 14215
CITY, STATE, ZIP: Portland, ME 04112-5215
TELEPHONE NUMBER: (207) 874-4000
E-MAIL: jlambert@lambertcoffin.com

APPELLEE:

COUNSEL NAME: James MacAdam
REPRESENTING: Peter W. Jensen, Sr.
STREET/P.O. BOX: 208 Fore St., Ste. 3
CITY, STATE, ZIP: Portland, ME 04101
TELEPHONE NUMBER: (207) 772-2220
E-MAIL: jmacadam@macadamlaw.com

Please include the same information about additional parties on a separate sheet.

NOTICE

A party in interest may file with the Appellate Division a notice of appeal of a decision by an administrative law judge pursuant to 39-A M.R.S.A. §318 within 20 days after receipt of notice of issuance of the decision by the administrative law judge. When filing this notice, the appellant also shall file with the clerk a copy of the decision appealed.

1. On 10 / 25 / 2017, SD Warren received notice of the issuance of a decision by Administrative Law Judge Mike Stovall in the above captioned case.
2. The appellant appeals the following issue(s):
Please see attached.

THEREFORE, the appellant asks the Appellate Division to review the decision pursuant to 39-A M.R.S.A. §321-B.

Keanah Baldacci ME Bar #5774
SIGNATURE OF APPELLANT
for John F. Lambert, Jr., Esq.

DATED: 11 / 14 / 2017
MONTH DAY YEAR

FILING INSTRUCTIONS

1. Mail original notice to the clerk of the Appellate Division at the above address by regular mail, or hand deliver to any regional Board office.
2. Mail one (1) copy by certified mail, return receipt requested to each other party named above.
3. Keep one (1) copy for yourself and keep the green certified mail cards when returned to you by the U.S. Post Office.

The State of Maine provides equal opportunity in employment and programs. Auxiliary aids and services are available to individuals with disabilities upon request. For assistance with this form, contact the ADA Coordinator at the Maine Workers' Compensation Board. Telephone: (888) 801-9087 or TTY Maine Relay 711.

WCB-240 (eff. 1/1/13, rev. 10/21/16)

STATEMENT OF ISSUES

1. Whether the Administrative Law Judge erred in denying the Employer's Motion for Protection and allowing the Employee to take the deposition of its own Expert Witness.
2. Whether the Administrative Law Judge erred in applying 39-A M.R.S.A. § 327.
3. When the Administrative Law Judge applied 39-A M.R.S.A. § 327, whether the Administrative Law Judge erred by applying the presumption as understood in the Maine Rules of Evidence, as opposed to the presumption set forth in *Toomey v. City of Portland*.
4. Whether the Administrative Law Judge erred in concluding that the record supports a conclusion that the employee had lung cancer, let alone that lung cancer contributed to the Employee's death.