

VIRGINIA TRIAL LAWYERS ASSOCIATION

919 EAST MAIN STREET
SUITE 620
RICHMOND, VIRGINIA 23219
(804) 343-1143 • (800) 267-8852
(804) 343-7124 fax
www.vtla.com

Elliott M. Buckner
President
7130 Glen Forest Drive, Suite 400
Richmond, VA 23226
ebuckner@breitcantor.com

Valerie M. O'Brien
Executive Director
vobrien@vtla.com

April 8, 2020

The Honorable Ralph S. Northam
Governor of Virginia
Governor's Office
Third Floor, Patrick Henry Building
1111 East Broad Street
Richmond, VA 23219

Dear Governor Northam,

I am the current President of the Virginia Trial Lawyers Association, and I am writing to you at this time on behalf of our members and their clients throughout the Commonwealth. During these difficult and unprecedented times caused by the COVID-19 pandemic, we continue to express a great concern for protecting all of our citizens, and especially all of our "essential employees" that are keeping the rest of us safe and continue to provide for our most essential needs during this time. Countless first responders, hospital workers, grocery store workers, auto mechanics, and retail employees are just a few of the workers who are risking exposure to COVID-19 to help protect and serve the citizens of this Commonwealth.

At this time, we are concerned that the Virginia Workers' Compensation Act may not provide the protections and coverage that all of these workers will need should they become infected with COVID-19, or even suspect infection. Under current Virginia Workers' Compensation laws, there is no clarity that an infectious disease like COVID-19 would be covered under any of the presumptions provided in the Workers' Compensation Act. It is very possible that a worker who contracts an occupational disease such as COVID-19 may have the tremendous burden to show that, at best, the illness more than likely came from his or her work, that there was no substantial exposure outside of the workplace, and may even need to show "clear and convincing" evidence that he or she contracted the disease at work. Given that this disease has become so widespread now as to be considered a pandemic, with potential exposures anywhere, these standards will make it exceptionally difficult for these workers, even despite having a much greater risk, to receive benefits should they contract this disease. As such, it is absolutely necessary that action be taken immediately so that these employees who are continuing to work to provide essential services for our citizens, and who are ultimately diagnosed with COVID-19 or are unable to work due to required quarantines due to possible exposure to COVID-19, be entitled to the peace of mind and clarity that would come with a specific presumption that COVID-19 was contracted through exposure at work, without essentially having to meet the impossible burden of ruling out the possibility that they contracted it elsewhere.



We ask you to consider immediate action through an Executive Order to explicitly clarify that all of our “essential employees” who require medical treatment and miss time from work due to exposure from COVID-19, or any contagious diseases reaching pandemic status, be entitled to a presumption that he or she contracted the disease in the course and scope of his or her employment. Several other states are already taking similar actions to amend their own laws to provide these protections. We believe that it is imperative to provide legal protections and benefits to the brave men and women who are exposing themselves to harm every day to protect the rest of us. As such, we strongly urge you to take action to ensure these workers are entitled to benefits should this virus affect them.

Thank you for your attention and consideration of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Elliott Buckner', with a long horizontal flourish extending to the right.

Elliott Buckner
President, Virginia Trial Lawyers Association