



## CENTRAL NEW YORK WORKERS' COMPENSATION BAR ASSOCIATION

*Prominent Attorneys' Group Turns to Mackenzie Hughes to Seek a Permanent Injunction against the State of New York. Mackenzie Hughes Wins in Trial Court, and Wins Again on Appeal.*

The Central New York Workers' Compensation Bar Association is a well-regarded trade association of attorneys who represent claimants and insurance companies in litigation before the New York State Workers' Compensation Board. When the lawyers of the Bar Association needed their own legal representation, they turned to Mackenzie Hughes partner Pete Carmen to fight for them.

### SITUATION

The State Insurance Fund is a government-created insurance agency that provides workers' compensation benefits to employers throughout New York State. Since the Fund is essentially a state agency, it traditionally has benefited from preferential treatment over private litigants – individual claimants and private insurance companies – in litigating cases before the judges of the New York State Workers' Compensation Board. Most recently, the Workers' Compensation Board granted Internet access to State Insurance Fund attorneys during proceedings, while refusing the same access to attorneys representing claimants and private insurance companies. The Bar Association knew it had to take steps to maintain the fair and equal treatment of all parties who litigate their cases before the Board.

### CHALLENGE

Knowing the firm's record of success in developing aggressive strategies to win hard cases, the Bar Association's first choice for its legal team was clear: Mackenzie Hughes. The Bar Association tapped partner Pete Carmen to pursue two clear but challenging goals:

- Win a permanent injunction against the New York State Workers' Compensation Board requiring the fair and equal treatment of all parties in litigation before the Board.
- Prove that the long-standing preferential treatment afforded to the State Insurance Fund violates litigants' right to equal justice.

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*Plain talk. Exceptional expertise.*

## BEST PRACTICES

CENTRAL NEW YORK WORKERS' COMPENSATION BAR ASSOCIATION *con't.*

### SOLUTION

Mackenzie Hughes skillfully crafted and litigated the Bar Association's strategy. First, Carmen won a permanent injunction against the State of New York in the trial court, convincing the court that the State's preferential treatment of the State Insurance Fund was illegal. When the Workers' Compensation Board appealed, Carmen defended the injunction on appeal, winning affirmance of the trial court's ruling. The New York Supreme Court's permanent injunction remains in place today.

### SUCCESS

Mackenzie Hughes has developed an impressive record of fighting and winning important and challenging cases. By utilizing the firm's vast resources, Carmen applied his litigation experience and knowledge of the law to win all of the Bar Association's objectives. More importantly, Mackenzie Hughes used the courts to reshape state policy to outlaw preferential treatment in litigation before the Workers' Compensation Board.

Indeed, law firms and attorneys throughout the region frequently turn to Mackenzie Hughes to handle their own legal matters – from estate planning and corporate transactions to defending them in legal malpractice and grievance matters. The fact that the large group of attorneys who make up the Bar Association entrusted Mackenzie Hughes for their own legal challenge is a testament to the firm's winning reputation.

“When you select an attorney, you want to have confidence in his ability to get the job done and make things happen. Pete Carmen made that easy. Based on his previous cases, we knew Pete had an appreciation for justice and there was no doubt in my mind that he could take the ball and run with it.”

–David Philippone, Esq. (*Oot & Associates*), President, Central New York Workers' Compensation Bar Association



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