

August 31, 1955.

MR. W. LEWIS BAMBRICK,  
*Unsatisfied Claim and Judgment Fund Board,*  
222 West State Street,  
Trenton, New Jersey.

## MEMORANDUM OPINION P-24.

DEAR MR. BAMBRICK:

You have requested our opinion concerning the validity of a notice given under N. J. S. A. 39:6-65 in the following two cases:

In the first case, a husband was involved in an accident while operating a motor vehicle which was registered in the name of his wife. As a result of the accident, the husband sustained personal injuries, and the motor vehicle belonging to his wife was damaged. The husband gave timely notice under N. J. S. A. 39:6-65 of a notice of accident and intention to file claim. In his notice, he listed his own personal injuries and damages to his wife's motor vehicle. We assume that the notice was accompanied with a physician's certification and automobile repairmen's estimates as required by N. J. S. A. 39:6-65.

In the second case, a wife was involved in an accident while operating a motor vehicle which was registered in the name of her husband. As a result of the accident, the wife and her infant child, who was a passenger in the car operated by her, sustained personal injuries, and the motor vehicle belonging to her husband was damaged. The husband gave timely notice under N. J. S. A. 39:6-65 of a notice of accident and intention to file claim. In his notice, he listed the personal injuries of his wife and child and the damage to his motor vehicle. Again, we assume that the notice was accompanied by the required physician's certification and repairmen's estimates.

The questions raised in the above cases are whether one spouse may give notice in behalf of another under N. J. S. A. 39:6-65, and whether a parent may give notice in behalf of a child under N. J. S. A. 39:6-65.

N. J. S. A. 39:6-65 provides as follows:

"Any qualified person, or the personal representative of such person, who suffers damages resulting from bodily injury or death or damage to property arising out of the ownership, maintenance or use of a motor vehicle in this State on or after the first day of April, one thousand nine hundred and fifty-five, and whose damages may be satisfied in whole or in part from the fund, shall, within thirty days after the accident, as a condition precedent to the right thereafter to apply for payment from the fund, give notice to the board, on a form prescribed by it, of his intention to make a claim thereon for such damages if otherwise uncollectible and otherwise comply with the provisions of this section; . . ."

The purpose underlying N. J. S. A. 39:6-65 is evidently to insure that the Unsatisfied Claim and Judgment Fund Board receive all required information within the stated period of time. In the cases which you have referred to us for consideration, the Unsatisfied Claim and Judgment Fund Board received such information by means of notice given within the period of time fixed by the statute.

We, therefore, are of the opinion that the Unsatisfied Claim and Judgment Fund Board may accept as valid notices under N. J. S. A. 39:6-65, notices given by one person in behalf of another in the cases set forth above.

Yours very truly,

GROVER C. RICHMAN, JR.,  
*Attorney General.*

By. CHARLES S. JOELSON,  
*Deputy Attorney General.*

August 31, 1955.

MR. GEORGE M. BORDEN, *Secretary,*  
*Public Employees' Retirement System,*  
48 West State Street,  
Trenton 7, N. J.

#### MEMORANDUM OPINION P-25.

DEAR MR. BORDEN:

You have requested our opinion as to whether the Public Employees' Retirement System should continue the practice of withholding the payment of an accidental disability retirement allowance to a public employee for such period of time as the public employee is collecting workmen's compensation payments as a result of the same accident upon which his claim for an accidental disability retirement allowance is based. You have attached to your request for an opinion a letter from the attorney of a public employee who claims to be entitled to an accidental disability retirement allowance even though he is presently receiving workmen's compensation payments as a result of the same accident upon which his claim for accidental disability retirement is based. In attempting to support such a position, the attorney for the public employee states:

" . . . It is my understanding that the Board has rejected claim on the basis of the provisions of R. S. 34:15-43.

If my understanding is true, I respectfully direct the Board's attention to the fact that that statute provides that workmans' compensation shall not be paid to an employee who has been retired. The statute is under the Workman's Compensation Act. It certainly does not indicate that a person may not be retired who is receiving workman's compensation. I do not believe that the Board should concern itself with workman's compensation. . . ."

N. J. S. A. 43:15A-43 which provides for accidental disability retirement for members of the Public Employee's Retirement System makes no reference to the relationship between workmen's compensation benefits and accidental disability retirement under the Public Employee's Retirement System. However, R. S. 34:15-43, which is to be found in the Workmen's Compensation Act, provides as follows:

"Every employee of the state, county, municipality or any board or commission, or any other governing body, including boards of education, and also each and every active volunteer fireman doing public fire duty under