

STATE OF NEW YORK

INDUSTRIAL BOARD OF APPEALS



**EVELYN C. HEADY
CHAIRMAN**

2002 ANNUAL REPORT

ALBANY

**Empire State Plaza
Agency Building 2, 20th Floor
Albany, New York 12223
(518) 474-4785**

NEW YORK CITY

**345 Hudson Street
Suite 8305
New York, New York 10014-6615
(212) 352-6615**

**NEW YORK STATE
INDUSTRIAL BOARD OF APPEALS**

CHAIRMAN



**Evelyn C. Heady, Chairman
Dutchess County
Poughquag, New York
Term Expires: 12/31/2006**

MEMBERS

**Mark S. Perla, Esq.
Erie County
Clarence, New York
Term Expires: 12/31/2007**

**Gregory A. Monteleone, Esq.
Westchester County
Goldens Bridge, New York
Term Expires: 12/31/2007**

**Walter J. Sakowski, Jr., Esq.
Orange County
Chester, New York
Term Expires: 12/31/2006**

**NEW YORK STATE
INDUSTRIAL BOARD OF APPEALS**



2002 Members of the Industrial Board of Appeals

From Left: Walter J. Sakowski, Jr., Esq., Member, Mark S. Perla, Esq., Member, Evelyn C. Heady, Chairman, Gregory A. Monteleone, Esq., Member

The New York State Industrial Board of Appeals was created by the Legislature in 1975 as an independent review and appeals agency. The Board consists of five (5) members, each appointed by the Governor and confirmed by the New York State Senate, at least one of whom must be an attorney. The Governor designates one member of the Board to serve as Chairman.

The Board's principal responsibilities, powers and duties are derived from various provisions of the Labor Law, the Business Corporation Law, and the Not-for-Profit Corporation Law. In addition to the broad review powers of the Board, many of the functions, powers and duties of the former Board of Standards and Appeals were transferred to the Industrial Board of Appeals.

JURISDICTION OF THE BOARD



2002 Board and Counsel of the Industrial Board of Appeals

From Left: John G. Binseel, Deputy Counsel; Gregory A. Monteleone, Esq., Member; Linda Dwyer Cleary, Associate Counsel; Evelyn C. Heady, Chairman; Mark S. Perla, Esq., Member; Walter J. Sakowski, Jr., Esq., Member

The main statutory duty of the Board is to provide an impartial administrative review of the validity or reasonableness of any rule, regulation or order issued or made by the Commissioner of Labor. In creating this independent quasi-judicial review agency, the Legislature provided the many individuals, businesses and unions in this State who are affected by the Labor Law, with continued exercise of sound and established principles of due process in administrative proceedings. Thus, there has been established for the Department of Labor a reasonable separation of powers and functions, similar to that found in federal and state government.

The Board's major review activities include hearing and adjudicating contested rules, regulations or orders promulgated or issued by the Commissioner of Labor in the following areas:

- Notices of Violation and Compliance orders issued under safety and health standards for public employees;
- Grants or denials of applications for variances from safety and health standards;

- **Notices of Violation of safety rules and regulations regarding amusement rides;**
- **Compliance, penalty and interest orders enforcing various provisions of the Labor Law including, for example, failure to pay wages or wage supplements, minimum wage underpayments, employment of minors, record keeping requirement violations, garment industry registration, and industrial homework; and**
- **Registration and cancellation proceedings for union labels.**

Within the past year the legislature enacted new provisions in the Labor Law regarding the plumbing requirements for certain locations within the state, and the Board's review activities are now extended to:

- **Notices of Violation and Compliance orders relative to violations of Section 10-A of the Labor Law.**

In addition, pursuant to the Business Corporation Law and the Not-for-Profit Corporation Law, the Board's review activities include:

- **Review and approval, or disapproval, of proposed certificates of incorporation, certificates of amendment, dissolution documents, and other corporate instruments where the powers and purposes of the corporation include labor related activities or where the proposed corporate name may indicate such a purpose.**

BOARD OPERATIONS

The Board maintains offices in Albany, at the Empire State Plaza, and in New York City, at 345 Hudson Street. Dedicated and knowledgeable personnel, who make every effort to provide excellence in public service, staff each location.

Formal administrative hearing rooms are on site at each of the Board's office locations, and are used regularly to conduct the administrative hearings necessary to fulfillment of the Board's mandated purpose.

The Board's Albany site operates as the primary office for administrative matters, and is the usual location of the regular monthly Board meetings held to review cases, make decisions, and generally conduct Board business. In addition, the Albany office contains the complete files for all matters filed with the Board, and all decisions rendered by the Board, and acts as the source for all public information requests that may be filed.

The Board staff includes a full time Board secretary in our New York City office, as well as two Board secretaries in the Albany office. In addition, the Board staff includes two attorneys appointed as counsel to the Board, who provide necessary legal and administrative assistance to the Board and the public in many capacities, and who are based in the Board's Albany office.

CONDUCT OF HEARINGS AND BOARD ACTIVITIES

Board hearings and other functions are conducted on a statewide basis and at the Board's two offices, in Albany and New York City. For the convenience of the parties and witnesses, Board hearings are generally held at or near the site of the employment situation involved. Each of the five (5) Board members and the Board's two (2) counsels are designated hearing officers for the Board.



**Mark S. Perla, Esq., Member
Recent Board Meeting**



**Linda D. Cleary, Esq.
Associate Counsel**

The Board's review and appeal activity is invoked by the filing of a petition or application for review under Labor Law Article 3. No part of the Board's program is initiated by the Board. The Board's program goal therefore, is to afford the parties an opportunity to present evidence and be heard in an impartial administrative proceeding, and to render a well reasoned determination in a reasonably consistent and prompt manner.

Once a matter is heard, the designated hearing officer submits a record of the proceeding, including the pleadings, transcript of hearing session(s), briefs and other post-hearing submissions, to the Board with a recommended decision. The Board's decision is based upon a majority vote of the Board members and a resolution containing findings of fact and law is issued from the Board to the parties. The subject rule, regulation or order, or any part thereof, may be affirmed, modified or revoked by the Board.

The decisions by the Board are subject to judicial review in accordance with the Labor Law and Article 78 of the Civil Practice Law and Rules (CPLR).

**WHO'S WHO AT THE BOARD
BIOGRAPHICAL SKETCHES OF OUR BOARD AND COUNSEL**

EVELYN C. HEADY



Chairman

Governor Pataki appointed Evelyn C. Heady to the Industrial Board of Appeals as a Member and the designated Chair on May 14, 1996. She was reappointed to a six-year term on March 2, 2001. A native of New York City, Mrs. Heady has been a resident of Dutchess County for more than 43 years. She was educated at Our Lady of Perpetual Help Business School and Dutchess Community College.

Prior to her appointment as Chairwoman of the IBA, Mrs. Heady was involved in public service in Dutchess County for over twenty-two years having first served as elected Clerk of the Town of Beekman for ten years, Councilwoman for four, Town Supervisor for four terms and the appointed Deputy Clerk of the Dutchess County Legislature for eleven years.

Long active in civic and charitable endeavors, she served as President of the Dutchess County Supervisors and Mayors Association, a Director of the Beekman Chamber of Commerce, and the Matteawan Credit Union Audit Committee. She was a Cub Scout mother, Brownie Leader, Secretary to the Beekman Little League and Athletic Club, and taught religious education at her parish church. She currently serves on the Board of Directors of the Craig House Hospital Center in Beacon.

She and her husband Kenneth continue to reside in Beekman, Dutchess County, and are the proud parents of four children, and the grandparents of four wonderful grandchildren.

BOARD MEMBERS

MARK S. PERLA, ESQ.



IBA Board Member

Mark S. Perla was admitted to the New York State bar in 1978, after his graduation from the State University of New York at Buffalo School of Law. He served as an Assistant District Attorney in Erie County for ten (10) years, having been named Chief of the Buffalo City Court Bureau, and later, Executive Assistant District Attorney.

He later served as an Assistant United States Attorney in the Western District of New York, eventually being named Chief of the Civil Division. In 1995, Governor George Pataki appointed Mr. Perla to the Erie County Court bench. After his tenure on the county court, Mr. Perla commenced the private practice of law with Perla & Perla, LLP in Buffalo, New York, where he continues to practice law as one of the firm's principal attorneys.

Mr. Perla has been a member of the Industrial Board of Appeals since first being appointed in 1997. After completion of a first term of service, Mr. Perla was again nominated, and was reappointed with the Board for a second term on April 16, 2002.

A longtime resident of Erie County, Mr. Perla presently makes his home in the Town of Clarence, where he resides with his wife and two sons.

BOARD MEMBERS

GREGORY A. MONTELEONE, ESQ.



IBA Board Member

Gregory A. Monteleone was born in the Bronx, New York. He received his undergraduate degree at The Catholic University of America, graduating in 1985 with a Bachelor of Arts. In 1990 Greg received the degree of Juris Doctor from St. John's University School of Law, and was thereupon admitted to the practice of law in New York and Connecticut.

Mr. Monteleone is also admitted in the United States District Court for the Southern and Eastern Districts of New York, and is an active member of the New York State Bar Association - Torts Insurance and Compensation Law Section and Trial Lawyers Section, and the Westchester County Bar Association.

Mr. Monteleone began his legal career in the Westchester County District Attorney's Office, and then moved on to practice as a trial attorney in the insurance defense field. Most recently, Mr. Monteleone is engaged in the private practice of law as a principal in the law firm of Monteleone & Monteleone, in Mt. Kisco, New York. He has been a long time resident of Westchester County.

Following a brief appointment for completion of the term of a prior IBA board member, during the past year Mr. Monteleone received confirmation and reappointment on April 16, 2002, for a full second term as a Member of the Board.

BOARD MEMBERS

WALTER J. SAKOWSKI, JR., ESQ.



IBA Board Member

Walter J. Sakowski was appointed and confirmed as a Member of the New York State Industrial Board of Appeals in June 2001. He is a 1984 graduate of Seton Hall University, with a degree in Business Administration. After graduation Mr. Sakowski commenced working for a firm engaged in the business of heavy construction, and continued in this area for the next ten years, working both in the office administration and field aspects of the business.

After a brief period as a small business owner in the early 1990s, Mr. Sakowski went on to complete a course of study at Pace University Law School, where he received the degree of Juris Doctor, and was thereupon admitted to the New Jersey Bar in 1994, and the New York Bar in 1995. He is also admitted to practice in the United States District Court in the Southern and Eastern Districts, as well as the United States District Court for the District of New Jersey.

Mr. Sakowski began the practice of law as an Assistant District Attorney for the County of Rockland, and later commenced the private practice of law in the Law Offices of Walter J. Sakowski, P.C., with offices in New York and New Jersey. Mr. Sakowski makes his home with his wife and four children in Rockland County.

IBA COUNSEL'S OFFICE

JOHN G. BINSEEL, ESQ.



Deputy Counsel

John Binseel is a graduate of The State University of New York at Albany, and received his Juris Doctor degree in 1981 from The State University of New York at Buffalo, School of Law. He is admitted to practice law in the state of New York, the United States Court of Appeals for the Second Circuit, the United States District Courts for the Northern, Southern, Eastern and Western Districts of New York, and the United States Bankruptcy Court for the Western District of New York.

Mr. Binseel spent several years as an officer in active military service with the United States Army, assigned to the Military Police, and stationed at various locations throughout the contiguous United States. After his military service, Mr. Binseel assumed the practice of law as an associate attorney on the litigation team of the law firm of Jacobowitz and Gubits, in Walden, New York.

Mr. Binseel has extensive state service prior to his appointment with the Board, having worked for eight years in the Office of Counsel for the New York State Higher Education Services Corporation, in the positions of Senior Attorney, Associate Attorney, and Deputy Counsel, and as the Director of the Bureau of Financial Aid Programs.

Mr. Binseel has been a counsel to the Board since his initial appointment in 1998. He presently resides in Albany County.

IBA COUNSEL'S OFFICE

LINDA DWYER CLEARY, ESQ.



Associate Counsel

A Capital District native, Mrs. Cleary is a 1980 graduate of the Empire State College of the State University of New York, where she obtained a Bachelor of Arts degree in American Studies. She then attended the Albany Law School of Union University, graduating in 1983 with the degree of Juris Doctor. She was admitted to the state bar in New York in 1984, and thereupon to the United States District Court for the Northern and Western Districts of New York. Mrs. Cleary subsequently relocated to the Commonwealth of Pennsylvania, where she was admitted to the state bar in 1986, and the United States District Court, for the Middle District of Pennsylvania.

During the course of her legal career Mrs. Cleary has worked extensively in the private practice of law. She has obtained further legal and administrative experience in the corporate world, as counsel and legal advisor. In addition, as a college intern and law student, Mrs. Cleary gained invaluable experience with public service positions with the NYS Assembly, the NYS Office of the Attorney General, and with the Albany County District Attorney's Office. She has been a long time community volunteer, in particular with the Junior League and the Girl Scouts.

Upon her return to the Capital District, Mrs. Cleary was appointed as Associate Counsel to the Board, and has acted in that capacity since 1999. She is a 2001 graduate of the Governor's Office of Employee Relations Leadership Classroom program, and continues as an active participant in the related Leadership Network. Mrs. Cleary and her husband, and three children, make their home in the Town of Bethlehem, in the County of Albany.

YEAR 2002 IN REVIEW

The year 2002 brought many challenges and also some changes to the Industrial Board of Appeals. The year marked the conclusion of the first year of my second term as Board Chairman, a year that has brought with it many new challenges and opportunities for growth for the IBA and for me personally. I am pleased and honored to acknowledge Governor Pataki's expressed confidence in my efforts as Chairman of the IBA for the past several years, and his gracious advancement of my request to continue in service as Board Chairman for this new term.

As with prior years, a significant area of focus continued to be the prompt and expeditious handling of all matters filed with the Board to prevent any buildup of case backlog. Additionally, staff received topical training in the proper and effective use of technology as a case management tool, and for maintaining a current case status in all areas of proceedings filed with the Board. Efforts continued with the compilation and review of the IBA case subject index, and development and analysis of IBA case history information.

New areas of concentration included the continued development and modification of the first website presence of the IBA on the Internet, and promotional efforts to make the public aware of the services offered and available on the web, which allows the public immediate access to information about the Industrial Board of Appeals, and how to initiate and conduct business before the Board.

In addition, the Board has engaged in a dedicated effort to fully review, with an eye towards revision of the Board's Rules of Procedure and Practice. These rules have remained virtually unchanged for the past twenty-five years, since originally drafted at the inception of the Industrial Board of Appeals as an entity separate and apart from the prior Board of Standards and Appeals. This many faceted process of review and revision, is expected to continue during 2003.

As a result, the year provided challenges in a great diversity of arenas, making this our most exciting and productive to date. A description of our accomplishments and ongoing efforts in these areas follows.

BOARD MEMBERSHIP



**Industrial Board of Appeals Chairman and Members
Recent Board Meeting - Albany, New York**

Walter J. Sakowski, Jr., Esq., Member; Evelyn C. Heady, Chairman;
Mark S. Perla, Esq., Member; Gregory A. Monteleone, Esq., Member

Board membership remained primarily unchanged during the past calendar year. In the early part of 2002 we acknowledged with sincere regret the resignation of Kristin MacKay, who left to pursue professional development and family interests. Although her term with the Board was short lived, her enthusiasm for the position, and her viewpoint as a non-attorney, were very much appreciated.

The balance of our Board continued in service. Mark Perla, Esq., from Erie County, and Greg Monteleone, Esq., from Westchester County, were renominated by the Governor, confirmed by the Senate, and reappointed on April 16, 2002, to their second terms with the Board. These gentlemen, along with our most recent member, Walter Sakowski, Esq., of Rockland County, continue to provide the Board with dedicated and knowledgeable service, and have provided invaluable assistance in allowing the Board to address some of the more complex issues that have arisen during the past year.

Our Board continues to be representative of the many and various regions of the state, from the far reaches of western New York, to the mid-Hudson Valley, and suburban New York City, providing the Board with a statewide presence, which further allows the Board to provide timely and localized service to the Department of Labor and the public.

Our Board members bring with them a wealth of experience and diverse backgrounds, and have approached their appointments with energy and enthusiasm, and have made all efforts to become familiar with Board practices and procedures, and with the aspects of the Labor Law and other relevant statutes and regulations addressed in the cases presented to the Board.

As we proceed through the year 2003 I have every confidence that the Board will experience a productive and successful year, and look forward with great expectations for progress in all areas accordingly.

EXPEDIENT CASE RESOLUTION AND BACKLOG REDUCTION

A primary goal for my tenure with the Board has been the reduction and elimination of case backlog. Each year we continue to make further progress, and I am pleased to report that with the close of calendar year 2002 the backlog elimination achieved previously has been maintained, and improved upon.

Our Board Members, Counsels and staff have worked diligently in this past year to promptly open files, handle correspondence, address case-specific motions and pleadings, schedule cases, hold hearings, and prepare Resolutions of Decision for Board consideration and adoption. The results are self-apparent, and all are to be congratulated for a job well done.

IBA WEBSITE

During the past year we have received many requests for specific information regarding how to file a Petition for Review with our Board, and inquiries regarding the Board's rules for processing and handling cases. The Board has found that in most instances, whether the inquiry originated from an attorney, a state agency, or from the general public, the inquiring parties confirmed that they had access to the worldwide web, and were pleased and impressed that the necessary information could be so easily, and quickly obtained, through accessing the Board's new website. Feedback to date on the newly activated website has been very positive.

The Board will continue to monitor the usefulness and effectiveness of the website, and the frequency of referrals to the site, and hopes in the future to be able to incorporate additional pages within the site that will further enable the public to obtain maximum value from the online services. In this regard, the Board continues to wholeheartedly support the Governor in his continuing efforts to make New York State foremost in accessibility through a policy of "24/7 Government Without Walls".

IBA CASE INDEX DATABASE

Significant strides continue in the Board's efforts to compile data and historical case information with a goal toward producing a comprehensive index of case decisions, and to make such an index available through computer technology. As the initial phase of this process, during calendar year 2001, the Board completed the collection of all Board Resolutions of Decision encompassing the period for which such records exist in Board annals, that being 1985 to the present, in a consolidated format available for review by any interested persons in the Board's Albany headquarters and New York City office.

During the past year the Board continued the compilation of data regarding cases filed, to include areas of law affected and to classify cases according to final disposition. In the coming year we will seek to further fine-tune our database as a part of our continuing goal to provide excellence in public service.

As another phase of the Board's long term goal to complete and maintain a comprehensive database of all historical case information, the Board proceeded during the past year to add to and verify accuracy of information in the database thus far amassed, which includes a computerized compilation of all cases filed with the Board since 1985, encompassing those cases filed in all areas within the Board's jurisdiction. Looking ahead, the office has taken measures to incorporate this component into the routine office procedures in order that the resulting Index of Resolutions Adopted will be complete and consistently updated and available, for use by the Board and the general public.

This comprehensive index of cases filed with the Board can be accessed by case name or number, and the database for this index contains significant information as to the basis for each filing, and the Board's final determination, all of which information can be easily accessed as needed to respond to requests from the public.

Having such a comprehensive collection of the Board's decisions has accomplished the first step towards making this historical information readily available to the public and to attorneys who may be in need of such information relative to cases being considered today. The long-term value of this project can already be seen in the increase in visitors to the Board offices to access this information as part of preparation for filing Petitions for Review, or research regarding the merits of individual cases of interest to the reviewing parties, which have generally comprised representatives sent from law firms throughout the state, and in some instances, representatives of Counsel's Office for the Department of Labor.

IBA SUBJECT MATTER CASE INDEX

The Board's review and further analysis of prior cases decided also continues with the aim being to produce a comprehensive subject matter index that will allow all interested parties to quickly locate specific prior case decisions which may be of value or interest, based upon the subject matter considered. This project has involved all of the Board's staff in varying degrees, and has proven to be quite challenging and time consuming, and enlightening to all concerned.

In an effort to expedite the review process, and to assist the office staff, the Board was fortunate to be able to continue to participate in the state's student intern program. This past year we were pleased to welcome Joseph Burns, a second year Albany Law School student, who worked diligently to assist the office staff over the summer, and throughout the school year, and enabled the office to make quite significant progress towards the completion of the subject matter index, as well as the aforementioned historical case index database. The Board looks forward to continuing our participation in this very rewarding intern program.

The Board continues the comprehensive work required for the development of the subject matter index, and is presently in the final review phase. We are hopeful that the review can be completed within the calendar year, and that the IBA will be in a position to publish this index during the coming year.

BOARD RULES OF PROCEDURE AND PRACTICE

The original compilation of the Industrial Board of Appeals Rules of Procedure and Practice was completed during the early years of the Board. As no significant review or update of the rules had occurred since that time, and recognizing the need to review such matters on a continuing basis, the Board had begun a comprehensive review and analysis of the Board's rules of procedure and practice.

The regulatory review process applicable to New York state agencies has been implemented, and the initial phases of review have been concluded. The Board is proceeding with each section of the rules individually, and input has been continually sought from the Office of Counsel for the Commissioner of Labor.

Upon completion of the review process, the Board will have formally adopted a number of resolutions approving proposed changes to the rules, which changes will then be forwarded for review to the Governor's Office of Regulatory Reform, and then sent on to the Department of State, for review and publication in the state Register. After the applicable period for comment, the proposed changes will become effective.

The complete revised compilation of the Board's Rules will then be published for distribution to agencies with whom the Board interacts on a regular basis, as well as to the public. These Rules are presently available to all concerned on the IBA's website, which will also be updated to reflect any final changes adopted by the Board.

LOOKING AHEAD

As we continue our progress into this new millenium, our goal will be to continue the focus to meet or exceed the accomplishments of the previous year. Many of the accomplishments realized could never have occurred without the enthusiastic interest, continued cooperation and focus of our energetic Board members. There is no doubt, that all of the initiatives, accomplishments, and successes achieved could not have been realized without the assistance, cooperation, and encouragement received from the Governor's office, and dedicated staff, and from the various offices within the Department of Labor with which we have dealt on a regular basis.

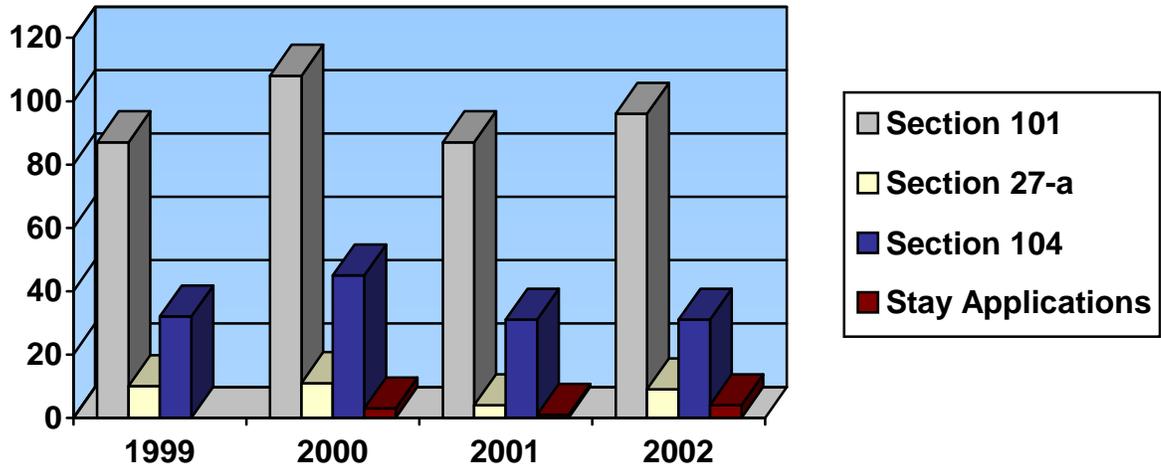
It is therefore with great pride and enthusiasm that I present the Annual Report for the Year 2002 for the New York State Industrial Board of Appeals.

**Evelyn C. Heady
Chairman**

April 15, 2003

ACTIVITY ANALYSIS:

The following four-year activity analysis of new proceedings brought before the Industrial Board of Appeals provides a useful perspective on the volume and types of cases considered annually by the Board.

NEW PROCEEDINGS COMMENCED**Section 101:**

As indicated, Section 101 cases continue to comprise the greater majority of all matters brought before the Board, generally accounting for two-thirds of the Board's caseload. These cases primarily involve issues of unpaid wages and wage supplements due from private employers to employees. They also include cases that are filed for review of safety violations that involve private, and not public employers. Calendar year 2002 saw a significant increase in the number of Section 101 cases filed, to the second highest level in the prior four (4) year period.

Section 27-a:

The level of Section 27-a cases filed with the Board experienced a 100% increase in number of cases filed during calendar year 2002, bringing the total number of new cases more in line with the average level experienced over the past five years. These cases involve review of notices of safety and health violations issued to public employers in New York State.

Section 104:

As with the Section 101 cases, the volume of Section 104 cases remained at the rate seen most commonly over recent years. Filings in this area have been steady, and based upon the Board's interaction with business and law offices filing these corporate instrument approval applications, it appears that there is a much greater level of public awareness of the need for seeking prior approval of the Board for matters concerning labor related corporate filings. Information regarding this highly specialized function of the Board's mandate is now readily available through accessing the Board's website, which is linked to the Department of State, to allow for greater ease of confirmation of name availability for new corporate name filings, which has traditionally proven to be the primary area of deficiency in applications submitted to the Board.

General:

The Board has monitored the instances of new case filings, with particular regard to location, in order to assess any lingering effect from the events of September 11, 2001. After an initial decline in filings arising out of the metropolitan New York area, case filings rose as the year progressed, with particularly heavy filings towards yearend. Early indications are that the level of filings of new Section 101 and Section 27-a cases will continue to rise in the coming year. It is noteworthy that the Board experienced an overall increase in cases filed during calendar year 2002 of nearly twenty (20%) percent over the prior year filings, and the second highest level experienced in the past four years.

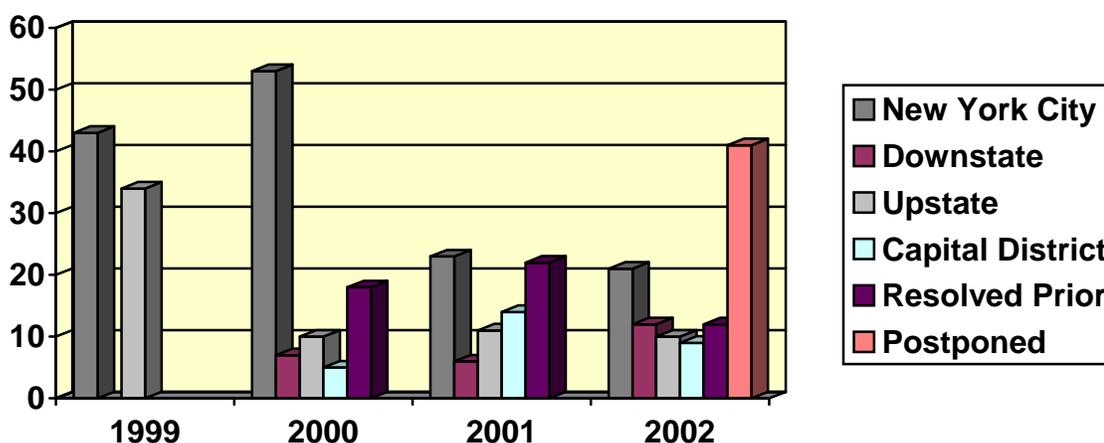
The Board has additionally begun tracking the number of Stay Applications filed pursuant to Section 66.9 of the Board's Rules of Procedure and Practice. These applications result in a number of interim decisions being issued by the Board, in addition to the final resolution issued at the conclusion of each case.

Our office staff additionally provided written responses to twenty-seven (27) requests for copies of the Rules of Procedure and Practice of the Board, and to ten (10) formal requests for copies of Board records made pursuant to the Freedom of Information Law, and made innumerable referrals to the Board's newly activated website.

SCHEDULED HEARINGS:

Hearings are scheduled and held throughout the state at various locations, generally established for the convenience of the parties, the Department, and the Board. The chart below depicts the level of hearings held by region throughout the State during calendar year 2002 and three years prior.

**HEARING SESSIONS HELD / RESOLVED /
POSTPONED PRIOR TO HEARING**



The Downstate region includes counties outside of the immediate New York City area, and in particular, depicts for calendar year 2001, hearings held in Hempstead and White Plains, and for calendar year 2002, hearings held in the new Long Island location of the Department of Labor, at Garden City, and also in White Plains.

The Upstate region includes all areas outside of the Capital District, and for purposes of this analysis, includes hearings held during calendar year 2002 in Binghamton, Syracuse, Rochester and Buffalo.

The Capital District region includes Albany and the immediate environs surrounding the city, and references the number of hearing sessions held in the Board's Albany office.

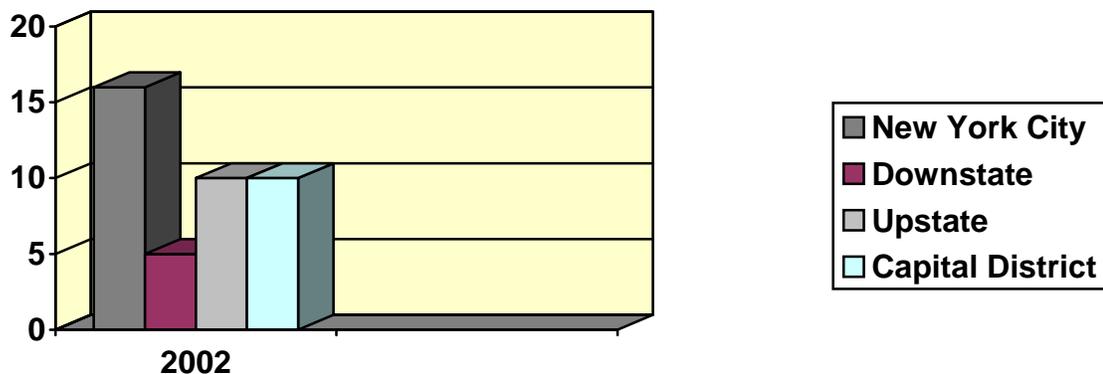
As can be seen, the greatest numbers of hearings continue to be held in the metropolitan New York area, although the Board has experienced in

the past two years a significant increase in cases to be heard in western New York, and in the outlying areas beyond New York City. Additionally, there continue to be a steady number of cases filed for hearing in the Capital District region.

Along with denoting the specific areas where hearing sessions are held, this four year analysis incorporates an additional category this year, reflecting the cases which were scheduled for hearing, and were adjourned, and not held, due to requests by the parties for postponement of hearing sessions, for various reasons. As can be seen from the chart above, these cases represent a significant portion of the Board's work and are a noteworthy element of the Board's annual efforts.

The chart below contains a breakdown of the locations for hearings throughout the state affected by requests for postponement during the year 2002.

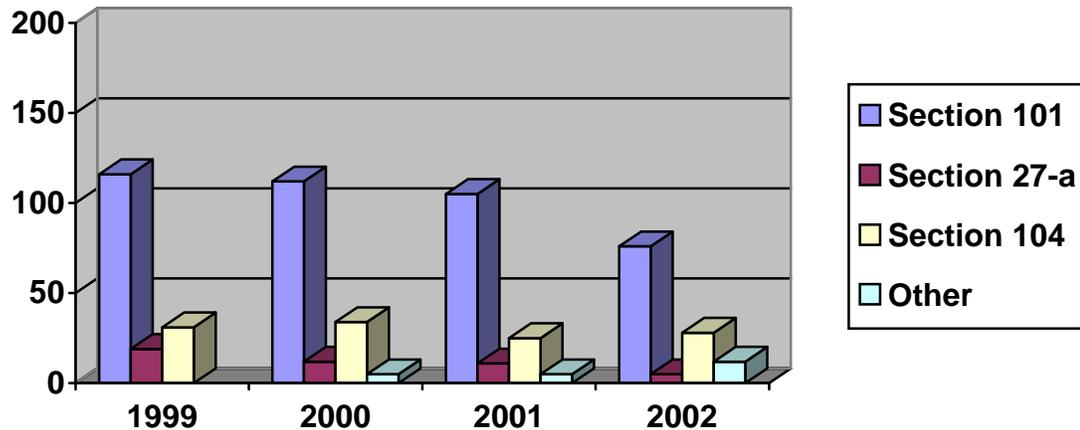
HEARING SESSIONS POSTPONED
PRIOR TO HEARING



The Board has begun to track these requests for postponement to determine the likelihood of potential settlements of cases postponed, and also to take a precautionary approach to granting adjournments, which may have the potential of recreating a backlog of pending cases. Requests for adjournment are treated on a case-by-case basis, and will continue to be viewed with a close eye toward balancing the equities of fairness to the parties involved, while remaining mindful of the need for prompt and expeditious handling of all case files.

BOARD RESOLUTIONS:

As a result of the diligent efforts of the Board, counsel, and the staff, the Industrial Board of Appeals was able to prepare, present to the Board, and approve, one hundred twenty-one (121) Resolutions of Decision during calendar year 2002.

BOARD RESOLUTIONS

The Board reviewed and approved seventy-six (76) Section 101 cases, primarily resolving issues of unpaid wages and wage supplements due to named alleged claimants. In addition, five (5) public employee safety cases filed under Section 27-a were brought to a successful conclusion.

The Board was additionally able to complete final resolutions in twenty-eight (28) Section 104 cases relating to approvals of corporate instruments.

As part of the Board's review of the Rules of Procedure and Practice, ten (10) Resolutions of Decision approving changes to the rules were adopted by the Board during calendar year 2002. We fully expect this number to increase in the year ahead.

INDUSTRIAL BOARD OF APPEALS
2002 ACTIVITY REPORT

Board Meetings Held:	<u>13</u>
New Proceedings Commenced:	<u>140</u>
Section 101 – Review Petitions (PR-02-001 – PR-02-096)	<u>96</u>
Section 27-a – Public Employee Safety (PES-02-001 – PES-02-009)	<u>9</u>
Section 104 – Corporate Documents (CI-02-001 – CI-02-031)	<u>31</u>
Stay Applications (SA-02-001 - SA-02-004)	<u>4</u>
Hearing Sessions Held:	<u>52</u>
New York City	<u>21</u>
Downstate	<u>12</u>
Upstate	<u>10</u>
Capital District	<u>9</u>
Hearing Sessions Scheduled/Not Held	<u>53</u>
Settled/Resolved	<u>12</u>
Postponed	<u>41</u>
Board Resolutions: (Cases Closed/Interim/Other)	<u>121</u>
Section 101	<u>76</u>
Section 27A	<u>5</u>
Section 104	<u>28</u>
Other	<u>12</u>

FOUR YEAR ACTIVITY ANALYSIS

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
<u>Board Meetings Held</u>	15	15	12	13
<u>New Proceedings Commenced</u>	129	167	123	140
Section 101 – Review Petitions	87	108	87	96
Section 27-a	10	11	4	9
Section 104	32	45	31	31
Stay Applications	-	3	1	4
<u>Hearings Held</u>	77	75	54	52
New York City	43	53	23	21
Downstate	-	7	6	12
Upstate	34	10	11	10
Capital District	-	5	14	9
<u>Hearings Scheduled/Not Held</u>	-	-	-	53
Settled/Resolved	-	-	-	12
Postponed				41
<u>Board Resolutions</u>	166	163	146	121
Section 101	116	112	105	76
Section 27-a	19	12	11	5
Section 104	31	34	25	28
Other	-	5	5	12