



OFFICE OF ADMINISTRATIVE HEARINGS

Memorandum

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TO: Judges and Members of the Worker's Compensation Bar

FROM: Chief Judge Raymond R. Krause

DATE: November 22, 2010

RE: Guidelines for Workers Compensation Division Practice

The purpose of this memorandum is to provide guidance to members of the workers compensation bar and to compensation judges regarding mutual expectations and best practices for the efficient and fair processing of matters before the Office of Administrative Hearings (OAH). Nothing contained herein should be construed to modify or supplant existing rules of the court or statutes pertaining to workers compensation.

- **Certificate of Readiness (COR)** – The purpose of this form, found on the OAH website, is to notify the OAH that a case is ready to be heard within 90 days. Once the form is received, a hearing date will be set within 90 days. The expectation is that the parties have completed, or will have completed prior to the hearing date, the steps outlined in the COR and, absent extraordinary or unforeseeable circumstances, will not need or request a continuance of the hearing date in order to complete preparation for hearing.
- **Objection to COR or non-reply by one party regarding readiness** – If a party files a COR and the opposing party determines that it is not yet ready for hearing, the opposing party may file an objection to the COR. This form is also found on the OAH website. When an objection to a COR is filed or one party is unresponsive to the other party's COR, or when the parties are not in agreement regarding readiness, the block assigned judge shall hold a telephone prehearing conference or otherwise communicate with the parties to determine whether the case is ready to be heard. If the judge determines a case is ready, a scheduling order or hearing notice shall be issued setting the date of hearing and any other relevant dates. If the judge determines that the matter is not ready to be heard, the COR will be rejected with instructions to the parties as to what steps are needed to become ready. When those steps are completed, or when the parties agree, a new COR should be filed.

- **Settlement Conferences** – If the parties determine, prior to the filing of a COR, that a matter is appropriate for a settlement conference they may request that the block assigned judge schedule such a conference. Upon receipt of such a request, the judge **shall** set a date for a conference as soon as practical. A judge may schedule a settlement conference absent a request if the judge deems it useful. A judge may deny a request for a settlement conference if the judge determines that the request was made in order to delay the process or for other good cause. If any party determines that a matter is appropriate for a settlement conference at the time a COR is filed, it should be noted in the Pretrial Statement that must accompany the filing of a COR. The judge may grant the request for a settlement conference if doing so may expedite resolution of the matter. Settlement conferences will be set before a judge other than the block assigned judge.
- **Hearing Length** – Over 84 percent of all workers compensation hearings at OAH are completed in four hours or less. Therefore, cases will normally be set for half day hearings. Should a party determine that a case may require a full day or multiple days to try, the party should so note on the COR. If a full day or multiple day hearing is requested, the request shall be granted upon showing of reasonable cause. Judges shall forward to the Assistant Chief Judge requests for hearings longer than a half day, detailing the reasons that a longer hearing is appropriate.
- **Scheduling** – Members of the bar may continue to submit availability calendars to the OAH. The OAH schedulers will make every attempt to accommodate attorneys' calendars, to avoid conflicts and to provide at least 30 days notice prior to a hearing. However, because 85 percent of all cases set either settle or do not otherwise go to hearing, some "double booking" may occur in order to efficiently utilize available judge resources. If a judge determines that a matter needs to be set for hearing on a specific date, the schedulers will comply with that decision.
- **Continuances** – The assigned judge may grant a continuance for good cause shown. The judge **must** document the continuance with an Order for Continuance that states the reason for the continuance and the party(ies) making the request. A request for continuance because of a scheduling conflict shall be liberally granted if the attorney having the conflict had previously submitted a calendar to the OAH. After the COR is accepted, a request for a continuance for reasons of trial preparation or for reasons that could or should have been foreseen at the time of submission of the COR may result in the matter being stricken and a new COR required.
- **Stipulation Status Conferences** - Once the parties have agreed to settle a case, they must promptly notify the OAH. The judge to whom the matter has been assigned shall, upon notice of settlement, schedule a stipulation status conference for not less than 30 days nor more than 70 days from

the time notice is received. The notice of stipulation status conference shall indicate whether the conference is to be held by telephone or in person. If the conference is to be held in person, the parties **must** appear unless the signed stipulation has previously been submitted to the judge for approval or by leave of the assigned judge. Requests for cancellation of a conference must be approved at least one day in advance of the scheduled conference.

- **Videoconferencing** – Judges should encourage the use of videoconferencing as appropriate. Videoconferencing of an evidentiary hearing is voluntary and any party may object to the use of videoconferencing. A judge may order videoconference of other proceedings not requiring witnesses.
- **Pretrials and Scheduling Orders** – Parties may request and compensation judges are strongly encouraged to set pretrial hearing conferences in order to narrow issues, make preliminary rulings, or address extraordinary circumstances. Issuance of scheduling orders where appropriate is also strongly encouraged.