

CHAPTER 9800
WORKERS' COMPENSATION COURT OF APPEALS
RULES OF PROCEDURE

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9800.0100 DEFINITIONS.

Subpart 1. **Application.** For the purpose of parts 9800.0100 to 9800.1800, the following terms have the meanings given them.

Subp. 2. **Administrator.** "Administrator" means the judge designated by the court to receive documents filed with the court.

Subp. 3. **Appellant.** "Appellant" means the first party filing a notice of appeal.

Subp. 3a. **Cross appellant.** "Cross appellant" means any party filing a notice of appeal after the appellant.

Subp. 4. **Court.** "Court" means the Workers' Compensation Court of Appeals.

Subp. 5. **Division.** "Division" means the Workers' Compensation Division of the Department of Labor and Industry.

Subp. 6. **Filed.** "Filed" means the receipt and stamping of a document by the court, division, or office.

Subp. 7. **Office.** "Office" means the state Office of Administrative Hearings.

Subp. 8. **Motion pictures.** "Motion pictures" includes video tapes.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 13 SR 981*

9800.0200 EXAMINATION OF FILES.

Inspection of any division file that is in the custody of the court is subject to the requirements of Minnesota Statutes, sections 176.231, subdivisions 8 and 9, and 176.138, and part 1415.0600.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698*

9800.0300 PREPARATION AND FORM OF LEGAL DOCUMENTS.

Pleadings, briefs, and other legal documents filed with the court shall be printed or typewritten, double spaced, and shall use only one side of the paper. All material shall be submitted on 8-1/2 by 11-inch paper.

Statutory Authority: *MS s 175A.07 subd 4*

History: *13 SR 981*

9800.0400 TEMPORARY ORDERS.

Petitions for temporary orders filed with the court must conform to Minnesota Statutes, section 176.191 and part 1415.2300.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 13 SR 981*

9800.0500 CONTINUANCES OF ORAL ARGUMENTS.

Subpart 1. **Continuances.** A continuance of an oral argument shall be granted only upon a showing of good cause. A request for a continuance must be made within five days of

the filing of notice of oral argument. The court shall consider later requests only upon a showing that an earlier request could not have been made.

Subp. 2. [Repealed, 10 SR 698; 13 SR 981]

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 13 SR 981*

9800.0510 NONAPPEARANCE OF COUNSEL.

If counsel for a party fails to appear to present argument, the court may hear argument on behalf of a party whose counsel is present, and the case will be decided on the briefs and argument heard. If no counsel appear for any party, the case will be decided on the briefs unless the court shall otherwise order.

Statutory Authority: *MS s 175A.07 subd 4*

History: *13 SR 981*

9800.0600 [Repealed, 10 SR 698; 13 SR 981]

9800.0700 STIPULATIONS FOR SETTLEMENT.

Stipulations for settlement submitted to the court must meet the requirements of Minnesota Statutes, section 176.521 and part 1415.2000.

To be considered for approval, stipulations must be promptly filed with the court by a party. Where a case is settled prior to the filing of the court's decision, the appellant must immediately notify the court that a settlement has been reached.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698*

9800.0800 APPEAL OF ATTORNEY FEES BY AN EMPLOYEE.

An employee dissatisfied with the employee's attorney fees may make application for review of the fees by completing an application form provided by the court pursuant to Minnesota Statutes, section 176.081, subdivision 3.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 17 SR 1279*

9800.0900 BRIEFS ON APPEAL.

Subpart 1. **Filing of brief of appellant where a transcript is required.** Appellants and cross appellants shall file a written brief, which shall address only issues raised in that party's notice of appeal, within 30 days after the court receives the transcript. Issues raised in the notice of appeal but not addressed in the brief shall be deemed waived and will not be decided by the court. The failure of any appellant or cross appellant to timely file a brief under this part may result in dismissal of that party's appeal under part 9800.1710.

The brief shall be accompanied by an affidavit stating that service of a copy of the brief has been made by the appellant upon all other parties to the action. The original brief and four copies shall be filed with the court in cases where a hearing is to be held. Only the original shall be filed where the hearing is waived by all parties.

Subp. 2. **Filing of brief of appellant where no transcript of the proceedings is required.** Where no transcript of the proceedings is required, appellants and cross appellants shall file a written brief, which shall address only issues raised in that party's notice of appeal, within 30 days after the filing of the notice of appeal. Issues raised in the notice of appeal but not addressed in the brief shall be deemed waived and will not be decided by the court. The failure of any appellant or cross appellant to timely file a brief under this part may result in dismissal of that party's appeal under part 9800.1710.

The brief shall be accompanied by an affidavit stating that service of a copy of the brief has been made by the appellant upon all other parties to the action. The original and four copies shall be filed with the court in cases where an oral argument is to be held. Only the original shall be filed where the oral argument is waived by all parties.

Subp. 3. **Filing of brief of respondent.** All respondents' briefs shall be filed with the court within 25 days after the filing of the appellant's or cross appellant's brief. The respon-

dent's brief shall address only issues raised in the brief of the appellant or cross appellant and must be accompanied by an affidavit stating that service has been made upon all other parties to the action. The original and four copies shall be filed with the court in cases where an oral argument is to be held. Only the original brief shall be filed where an oral argument is waived by all parties.

Subp. 4. [Repealed, 13 SR 981]

Subp. 5. **Reply briefs.** Reply briefs shall be filed within ten days after the filing of the respondent's brief. They shall address only issues addressed in the respondent's brief. The original and four copies shall be filed with proof of service upon all other parties when an oral argument is to be held. Only the original brief shall be filed when an oral argument is waived by all parties.

Subp. 6. **Extensions.** Extensions of time for the filing of briefs shall be granted only for cause and if requested within the time for the filing of the brief. Briefs not timely filed shall not be considered by the court unless an extension of time for filing has been granted.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 13 SR 981*

9800.1000 ORAL ARGUMENTS ON APPEAL.

Subpart 1. **Criteria considered in granting oral argument.** The court, in its discretion, may grant the parties permission to participate in oral argument. Factors considered in determining whether to grant oral argument include:

A. whether the request for oral argument was timely under part 9800.1600, subpart 2;

B. whether the resolution of the appealed issues would establish legal precedent; and

C. whether oral argument would significantly aid the court in deciding the issues on appeal.

Each party shall be allotted 15 minutes to make its presentation to the court, including the showing of motion pictures, unless otherwise authorized by the court.

Subp. 2. **Motion pictures.** Any party desiring to show motion pictures at the oral argument must so inform the court and all other parties in writing within 30 days after the transcript is received by the court. This notice shall indicate the length of time necessary for viewing. The party shall furnish the necessary projection equipment on the day of the hearing. The court shall on its own motion require the showing of motion pictures when necessary for a full and fair adjudication of a case.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 13 SR 981*

9800.1100 APPLICATION TO SET AWARD ASIDE AND GRANT A NEW HEARING.

An application to set an award aside and grant a new hearing shall be verified and accompanied by supporting affidavits or medical reports. The application shall be filed with the court and accompanied by proof of service on all parties to any award to which the application applies.

Responses and other pleadings shall be served upon all parties and filed with the court within 20 days after the filing of an application.

The court shall grant the application if it determines that cause exists pursuant to Minnesota Statutes, section 176.461. Applications shall be scheduled for hearing.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 13 SR 981*

9800.1200 WRIT OF CERTIORARI.

The party filing a writ of certiorari pursuant to Minnesota Statutes, section 176.471 shall immediately provide the court with an additional copy of any transcripts of hearings pertaining to the matter on appeal.

Statutory Authority: *MS s 175A.07 subd 4*

9800.1300 [Repealed, 10 SR 698; 13 SR 981]

9800.1400 APPLICATIONS, PETITIONS, AND MOTIONS.

Subpart 1. **Scope.** All applications, petitions, and motions for relief or consideration by the court, not otherwise provided for in parts 9800.0100 to 9800.1800, shall be filed in the following manner and within the following times.

Subp. 2. **Procedures for filing.** All requests for relief under this part shall be in writing, verified, accompanied by appropriate documentation, state the relief sought, the basis therefor, and be accompanied by an affidavit of service upon all other parties to the action. All requests for relief must be served and filed no later than five working days before the time set for oral argument, if any.

Subp. 3. **Responses.** All other parties shall have five working days after the filing of a request for relief within which to file a response in writing.

Subp. 4. **Replies.** A reply shall be filed within five working days after the filing of a response.

Subp. 5. **Oral argument not permitted.** Oral argument on applications, petitions, or motions shall not be permitted except upon order of the court.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 13 SR 981*

9800.1500 PETITION FOR INTERVENTION.

Subpart 1. **Scope.** Persons shall be permitted to intervene in accordance with the requirements of Minnesota Statutes, section 176.361, subdivision 1. After a petition to intervene is granted, the intervenor must appear at all scheduled hearings of the court relating to the claim unless a written stipulation signed by all parties has been filed with the court which settles all issues relating to the intervention.

Subp. 2. **Notice to potential intervenors.** Any person who may have an interest in a case must be placed on written notice of the right to petition to intervene as prescribed by part 1415.1100. A petition to intervene must be filed by the potential intervenor within 30 days of receiving notice.

Subp. 3. **Contents of petition.** The contents and format of the petition to intervene shall conform to part 1415.1200. Responses to the petition shall be filed in accordance with part 9800.1400, subpart 3.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 13 SR 981*

9800.1600 COMMENCEMENT OF APPEALS.

Subpart 1. **Filing notice of appeal.** An appeal is initiated by filing a notice of appeal containing the information required by Minnesota Statutes, section 176.421, subdivision 3. The notice must be filed within 30 days of the filing of the decision being appealed. A respondent may cross appeal within the same 30-day period or within 15 days after service of the notice of appeal on that respondent, whichever is later.

Subp. 1a. **Preparation of transcript.** A written transcript of the record shall be prepared when required by Minnesota Statutes, section 176.421, subdivision 3, unless otherwise ordered by the court. An application for an order under this subpart shall conform to the requirements of part 9800.1400.

Subp. 2. **Notification of receipt of transcript.** The court shall notify the parties of the date that the transcript was received. This notification letter shall also inquire whether the parties desire an oral argument and if so, whether parties prefer oral argument before the entire court or a three member panel.

Parties must file a response to the notification letter within ten days after the court files the notification. Failure to file a timely response shall be considered a waiver of oral argument.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 13 SR 981*

9800.1700 TAXATION OF COSTS AND DISBURSEMENTS.

The court shall tax actual and necessary costs and disbursements as prescribed by Minnesota Statutes, section 176.511. Parties shall comply with the procedure in part 9800.1400 except that petitions under this part must be filed within 45 days of the filing of the final appellate decision in the main action.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698*

9800.1710 DISMISSAL.

If any appellant or cross appellant fails to timely file a brief as required by part 9800.0900, any party may move this court for dismissal of the appeal. If the appellant or cross appellant is in default for more than 30 days and no party has moved for dismissal, the court shall summarily order the dismissal of the appeal or cross appeal without notice, subject to a motion to reinstate.

A motion to reinstate the appeal or cross appeal will be granted only if the appellant or cross appellant can show good cause for failing to timely file a brief, that the appeal or cross appeal is meritorious, and that reinstatement would not substantially prejudice the rights of any other party.

Statutory Authority: *MS s 175A.07 subd 4*

History: *13 SR 981*

9800.1720 SUBMISSION WHEN A MEMBER OF THE COURT IS NOT PRESENT.

Except in exigent circumstances, the oral argument shall be heard before the full panel to which the case has been assigned or before the entire court if the matter is of exceptional importance. When any member of the court is not present at oral argument, the case shall be deemed submitted to that member on the record and briefs. When there is a change of court personnel or a recusal, cases shall be deemed submitted to the new member, or to any other member of the court, as necessary to complete a panel, on the record and briefs.

Statutory Authority: *MS s 175A.07 subd 4*

History: *13 SR 981*

9800.1800 SUSPENSION OF RULES.

Upon a clear showing of extraordinary circumstances not contemplated by parts 9800.0100 to 9800.1720, the court may, upon petition of a party or upon its own petition five days after serving notice on the parties, suspend any requirements of parts 9800.0100 to 9800.1720. Rules implementing requirements imposed by law shall not be suspended even upon a clear showing of extraordinary circumstances.

Statutory Authority: *MS s 175A.07 subd 4*

History: *10 SR 698; 13 SR 981*