

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. **Administrative judge.** "Administrative judge" means the judge designated by the chief judge of the court to receive and consider motions, requests for extension, and other miscellaneous matters 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, in conformity with Minnesota Statutes, section 176.275.

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*

History: *10 SR 698; 13 SR 981; 19 SR 1131*

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 must be printed or typewritten, double spaced, and must use only one side of the paper. All material must be submitted on 8-1/2 by 11-inch paper.

Statutory Authority: *MS s 175A.07*

History: *13 SR 981; 19 SR 1131*

9800.0310 SERVICE.

Copies of all notices, documents, and papers that any party is required to file must be served by that party on all other parties to the appeal or review. Service on a party represented by an attorney must be made on that party's attorney of record. If required by Minnesota Statutes, chapter 176, service must be made on the party as well as the attorney.

Statutory Authority: *MS s 175A.07*

History: *19 SR 1131*

9800.0320 FACSIMILE TRANSMISSION.

Subpart 1. **Accepted.** The court shall accept facsimile transmission of any document not listed in subpart 2. Filing shall be deemed complete at the time that the facsimile transmission is received by the court, provided that transmissions received after the close of business at 4:30 p.m. shall be deemed received on the next day that the court is open for business. The filed facsimile will have the same force and effect as the original. Only facsimile transmission equipment that satisfies the published criteria of the Minnesota Supreme Court may be used for filing in accordance with this part.

Within five days after the court has received the transmission, the party filing the document must mail or deliver the original signed document to the court. Upon failure to do so, the court may make such orders as are just, including dismissal of the motion or application to which the document filed by facsimile transmission relates.

Subp. 2. **Not accepted.** The court shall not accept filing of any of the following documents by facsimile transmission:

- A. notices of appeal or cross appeal;
- B. briefs or memoranda of law;
- C. applications to set aside award and grant new trial or responsive and reply pleadings thereto; or
- D. any other document exceeding three pages in length, not including the cover sheet.

Statutory Authority: *MS s 175A.07*

History: *19 SR 1131*

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 oral 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 otherwise orders.

Statutory Authority: *MS s 175A.07*

History: *13 SR 981; 19 SR 1131*

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.

A party dissatisfied with an award of 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*

History: *10 SR 698; 17 SR 1279; 19 SR 1131*

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 within 30 days after the court receives the transcript. The brief may address only issues raised in that party's 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.

Subp. 2. Filing of brief of appellant where no transcript of proceedings is required. Where no transcript of the proceedings is required, appellants and cross appellants shall file a written brief within 30 days after the filing of the notice of appeal. The brief may address only issues raised in that party's 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.

Subp. 3. Filing of brief of respondent. All respondents' briefs must be filed with the court within 25 days after the appellant's or cross appellant's brief is filed. The respondent's brief may address only issues raised in the brief of the appellant or cross appellant.

Subp. 4. [Repealed, 13 SR 981]

Subp. 5. Reply briefs. Reply briefs must be filed within ten days after the respondent's brief is filed. They may address only issues addressed in the respondent's brief.

Subp. 5a. Requirements for briefs. Any briefs filed under this part must be accompanied by an affidavit stating that a copy of the brief has been served upon all other parties to the action, as provided in part 9800.0310. The original brief and four copies must be filed with the court in all cases.

Subp. 6. Time limit for briefs. 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. The failure of any party to timely file a brief under this part may result in the striking of that party's brief from consideration, or if the untimely brief is that of an appellant or cross appellant, in the dismissal of the appellant's or cross appellant's appeal under part 9800.1710.

Statutory Authority: *MS s 175A.07*

History: *10 SR 698; 13 SR 981; 19 SR 1131*

9800.0910 PREVIOUS DECISIONS.

All decisions of the court, published and unpublished, may be cited in a brief or at oral argument. Where unpublished decisions are cited in a brief, a copy of the decision cited must be attached to the copies of that brief which are submitted to all other parties. Where a party intends to cite, at oral argument, an unpublished decision not noted in that party's brief, copies of the decision must be provided to all other parties at least ten days prior to the date of oral argument.

Statutory Authority: *MS s 175A.07*

History: *19 SR 1131*

9800.0920 BRIEF OF AMICUS CURIAE.

Subpart 1. Filing. A brief of amicus curiae may be filed with leave of the court. A request for leave to file an amicus brief must be filed with the court and served upon all parties prior to the time fixed for filing of the initial appellant or cross appellant briefs. A request for leave must identify whether the applicant's interest is public or private in nature and must state the reasons why an amicus brief would be beneficial to the court in resolving the issues.

Subp. 2. Time limit. An amicus brief must be filed within the time limits applicable to the party or parties whose position the amicus brief is intended to support, and must conform with part 9800.0900, unless the court directs otherwise.

Subp. 3. **Oral argument.** An amicus curiae may not participate in oral argument except with leave of the court.

Statutory Authority: *MS s 175A.07*

History: *19 SR 1131*

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. 1a. **Time allotted for oral argument.** Unless otherwise authorized by the court, each party shall be allotted 15 minutes to make its presentation to the court, including the showing of motion pictures.

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

History: *10 SR 698; 13 SR 981; 19 SR 1131*

9800.1050 REFERENCES OF QUESTIONS OF FACT.

The court may refer any question of fact to the chief administrative law judge of the Office of Administrative Hearings for assignment to a compensation judge to hear evidence, make findings of fact, and report them to the court, pursuant to Minnesota Statutes, chapter 176.

Statutory Authority: *MS s 175A.07*

History: *19 SR 1131*

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

Subpart 1. **Applications.** An application to set an award aside and grant a new hearing must be accompanied by appropriate supporting affidavits, medical reports, and other documentary evidence, and by a memorandum of law. The application must be filed with the court and accompanied by proof of service on all parties to any award to which the application applies.

Subp. 2. **Cause.** Each application must specifically state the basis upon which cause to vacate the award may be found pursuant to Minnesota Statutes, section 176.461, and the reasons why that basis exists.

Subp. 3. **Responsive pleadings.** Responses and other pleadings must be served upon all parties and filed with the court within 45 days after the filing of an application. All responsive pleadings must be accompanied by appropriate supporting affidavits, medical reports, and other documentary evidence, and by a memorandum of law.

Subp. 4. **Reply memoranda.** Reply memoranda, if any, must be served upon all parties and filed with the court within 15 days after the filing of responsive pleadings. They may address only issues raised in any responsive pleadings.

Subp. 5. **Hearing.** Any party to a matter related to an application under this part may be heard in oral argument. The court shall inquire of the parties if they desire oral argument. If

no party requests oral argument, the court shall make its determination on the pleadings and submitted evidence, if such a determination can be made justly and expeditiously.

Subp. 6. Determination. The court shall grant the application if it determines that cause exists pursuant to Minnesota Statutes, section 176.461.

Statutory Authority: *MS s 175A.07*

History: *10 SR 698; 13 SR 981; 19 SR 1131*

9800.1200 [Repealed, 19 SR 1131]

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, must be filed in accordance with this part.

Subp. 2. Procedures for filing. All requests for relief under this part must be in writing and accompanied by appropriate documentation. Requests must also state the relief sought and the basis for the relief, 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 ten days after the date on which the respondent's brief or responsive pleading is due.

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

Subp. 4. Replies. A reply may be filed within five working days after the response is filed.

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*

History: *10 SR 698; 13 SR 981; 19 SR 1131*

9800.1500 PETITION FOR INTERVENTION.

Subpart 1. Scope. Persons shall be permitted to intervene according to Minnesota Statutes, section 176.361, subdivision 1.

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 must conform to part 1415.1200. Responses to the petition must be filed in accordance with part 9800.1400, subpart 3.

Statutory Authority: *MS s 175A.07*

History: *10 SR 698; 13 SR 981; 19 SR 1131*

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 must 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 must 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 will 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*

History: *10 SR 698; 13 SR 981; 19 SR 1131*

9800.1700 TAXATION OF COSTS AND DISBURSEMENTS.

The court may 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*

History: *10 SR 698; 19 SR 1131*

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 may summarily order the dismissal of the appeal or cross appeal without notice. Dismissals granted or ordered under this part are 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 and can show 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*

History: *13 SR 981; 19 SR 1131*

9800.1720 SUBMISSION WHEN MEMBER OF COURT IS NOT PRESENT.

Except in exigent circumstances, oral arguments 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*

History: *13 SR 981; 19 SR 1131*

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*