

1 Workers' Compensation Court of Appeals

2

3 Adopted Permanent Rules Relating to Procedure

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5 Rules as Adopted

6 9800.0100 DEFINITIONS.

7 Subpart 1. and 2. [Unchanged.]

8 Subp. 3. Appellant. "Appellant" means the first party

9 filing a notice of appeal.

10 Subp. 3a. Cross appellant. "Cross appellant" means any

11 party filing a notice of appeal after the appellant.

12 Subp. 4. to 7. [Unchanged.]

13 Subp. 8. Motion pictures. "Motion pictures" includes

14 video tapes.

15 9800.0300 PREPARATION AND FORM OF LEGAL DOCUMENTS.

16 Pleadings, briefs, and other legal documents filed with the

17 court shall be printed or typewritten, double spaced, and shall

18 use only one side of the paper. All material shall be submitted

19 on 8-1/2 by 11-inch paper.

20 9800.0400 TEMPORARY ORDERS.

21 Petitions for temporary orders filed with the court must

22 conform to Minnesota Statutes, section 176.191 and part

23 1415.2300.

24 9800.0500 CONTINUANCES OF ORAL ARGUMENTS.

25 Subpart 1. Continuances. A continuance of an oral

26 argument shall be granted only upon a showing of good cause. A

27 request for a continuance must be made within five days of the

28 filing of notice of oral argument. The court shall consider

29 later requests only upon a showing that an earlier request could

30 not have been made.

31 9800.0510 NONAPPEARANCE OF COUNSEL.

32 If counsel for a party fails to appear to present argument,

33 the court may hear argument on behalf of a party whose counsel

1 is present, and the case will be decided on the briefs and  
2 argument heard. If no counsel appear for any party, the case  
3 will be decided on the briefs unless the court shall otherwise  
4 order.

5 9800.0900 BRIEFS ON APPEAL.

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

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

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

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

1 the oral argument is waived by all parties.

2 Subp. 3. Filing of brief of respondent. All respondents'  
3 briefs shall be filed with the court within 25 days after the  
4 filing of the appellant's or cross appellant's brief. The  
5 respondent's brief shall address only issues raised in the brief  
6 of the appellant or cross appellant and must be accompanied by  
7 an affidavit stating that service has been made upon all other  
8 parties to the action. The original and four copies shall be  
9 filed with the court in cases where an oral ~~argument~~ argument is  
10 to be held. Only the original brief shall be filed where an  
11 oral argument is waived by all parties.

12 Subp. 4. [See Repealer.]

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

20 Subp. 6. [Unchanged.]

21 9800.1000 ORAL ARGUMENTS ON APPEAL.

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

26 A. whether the request for oral argument was timely  
27 under part 9800.1600, subpart 3 2;

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

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

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

35 Subp. 2. Motion pictures. Any party desiring to show

1 motion pictures at the oral argument must so inform the court  
2 and all other parties in writing within 30 days after the  
3 transcript is received by the court. This notice shall indicate  
4 the length of time necessary for viewing. The party shall  
5 furnish the necessary projection equipment on the day of the  
6 hearing. The court shall on its own motion require the showing  
7 of motion pictures when necessary for a full and fair  
8 adjudication of a case.

9 9800.1100 APPLICATION TO SET AWARD ASIDE AND GRANT A NEW HEARING.

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

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

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

21 9800.1400 APPLICATIONS, PETITIONS, AND MOTIONS.

22 Subpart 1. [Unchanged.]

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

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

33 Subp. 4. [Unchanged.]

34 Subp. 5. Oral argument not permitted. Oral argument on  
35 applications, petitions, or motions shall not be permitted

1 except upon order of the court.

2 9800.1500 PETITION FOR INTERVENTION.

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

11 Subp. 2. and 3. [Unchanged.]

12 9800.1600 COMMENCEMENT OF APPEALS.

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

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

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

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

## 1 9800.1710 DISMISSAL.

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

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

## 14 9800.1720 SUBMISSION WHEN A MEMBER OF THE COURT IS NOT PRESENT.

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

## 24 9800.1800 SUSPENSION OF RULES.

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

32

33 REPEALER. Minnesota Rules, parts 9800.0500, subpart 2;  
34 9800.0600; 9800.0900, subpart 4; and 9800.1300, are repealed.