

1 Workers' Compensation Court of Appeals

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3 Adopted Permanent Rules Relating to Workers' Compensation Court  
4 of Appeals; Rules of Procedure

5

6 Rules as Adopted

7 9800.0100 DEFINITIONS.

8 Subpart 1. **Application.** For the purpose of parts  
9 9800.0100 to 9800.1900, the following terms have the meanings  
10 given them.

11 Subp. 2. **Administrative judge.** "Administrative judge"  
12 means the judge designated by the chief judge of the court to  
13 receive and consider motions, requests for extension, and other  
14 miscellaneous matters filed with the court.

15 [For text of subps 3 to 5, see M.R.]

16 Subp. 6. **Filed.** "Filed" means the receipt and stamping of  
17 a document by the court, division, or office, in conformity with  
18 Minnesota Statutes, section 176.275.

19 [For text of subps 7 and 8, see M.R.]

20 9800.0300 PREPARATION AND FORM OF LEGAL DOCUMENTS.

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

25 9800.0310 SERVICE.

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

32 9800.0320 FACSIMILE TRANSMISSION.

33 Subpart 1. **Accepted.** The court shall accept facsimile  
34 transmission of any document not listed in subpart 2. Filing

1 shall be deemed complete at the time that the facsimile  
2 transmission is received by the court, provided that  
3 transmissions received after the close of business at 4:30 p.m.  
4 shall be deemed received on the next day that the court is open  
5 for business. The filed facsimile will have the same force and  
6 effect as the original. Only facsimile transmission equipment  
7 that satisfies the published criteria of the Minnesota Supreme  
8 Court may be used for filing in accordance with this part.

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

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

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

23 9800.0510 NONAPPEARANCE OF COUNSEL.

24       If counsel for a party fails to appear to present oral  
25 argument, the court may hear argument on behalf of a party whose  
26 counsel is present, and the case will be decided on the briefs  
27 and argument heard. If no counsel appear for any party, the  
28 case will be decided on the briefs unless the court otherwise  
29 orders.

30 9800.0800 APPEAL OF ATTORNEY FEES.

31       A party dissatisfied with an award of attorney fees may  
32 make application for review of the fees by completing an  
33 application form provided by the court pursuant to Minnesota  
34 Statutes, section 176.081, subdivision 3.

1 9800.0900 BRIEFS ON APPEAL.

2 Subpart 1. Filing of brief of appellant where a transcript  
3 is required. Appellants and cross appellants shall file a  
4 written brief within 30 days after the court receives the  
5 transcript. The brief may address only issues raised in that  
6 party's notice of appeal. Issues raised in the notice of appeal  
7 but not addressed in the brief shall be deemed waived and will  
8 not be decided by the court.

9 Subp. 2. Filing of brief of appellant where no transcript  
10 of proceedings is required. Where no transcript of the  
11 proceedings is required, appellants and cross appellants shall  
12 file a written brief within 30 days after the filing of the  
13 notice of appeal. The brief may address only issues raised in  
14 that party's notice of appeal. Issues raised in the notice of  
15 appeal but not addressed in the brief shall be deemed waived and  
16 will not be decided by the court.

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

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

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

30 Subp. 6. Time limit for briefs. Extensions of time for  
31 the filing of briefs shall be granted only for cause and if  
32 requested within the time for the filing of the brief. The  
33 failure of any party to timely file a brief under this part may  
34 result in the striking of that party's brief from consideration,  
35 or if the untimely brief is that of an appellant or cross  
36 appellant, in the dismissal of the appellant's or cross

1 appellant's appeal under part 9800.1710.

2 9800.0910 PREVIOUS DECISIONS.

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

11 9800.0920 BRIEF OF AMICUS CURIAE.

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

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

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

26 9800.1000 ORAL ARGUMENTS ON APPEAL.

27 [For text of subpart 1, see M.R.]

28 Subp. 1a. **Time allotted for oral argument.** Unless  
29 otherwise authorized by the court, each party shall be allotted  
30 15 minutes to make its presentation to the court, including the  
31 showing of motion pictures.

32 Subp. 2. **Motion pictures.** Any party desiring to show  
33 motion pictures at the oral argument must inform the court and  
34 all other parties in writing within 30 days after the transcript

1 is received by the court. This notice must indicate the length  
2 of time necessary for viewing. The party shall furnish the  
3 necessary projection equipment on the day of the hearing. The  
4 court may on its own motion require the showing of motion  
5 pictures when necessary for a full and fair adjudication of a  
6 case.

7 9800.1050 REFERENCES OF QUESTIONS OF FACT.

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

13 9800.1100 APPLICATION TO SET AWARD ASIDE AND GRANT A NEW HEARING.

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

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

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

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

34 Subp. 5. **Hearing.** Any party to a matter related to an  
35 application under this part may be heard in oral argument. The

1 court shall inquire of the parties if they desire oral  
2 argument. If no party requests oral argument, the court shall  
3 make its determination on the pleadings and submitted evidence,  
4 if such a determination can be made justly and expeditiously.

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

8 9800.1400 APPLICATIONS, PETITIONS, AND MOTIONS.

9 Subpart 1. **Scope.** All applications, petitions, and  
10 motions for relief or consideration by the court, not otherwise  
11 provided for in parts 9800.0100 to 9800.1900, must be filed in  
12 accordance with this part.

13 Subp. 2. **Procedures for filing.** All requests for relief  
14 under this part must be in writing and accompanied by  
15 appropriate documentation. Requests must also state the relief  
16 sought and the basis for the relief, and be accompanied by an  
17 affidavit of service upon all other parties to the action. All  
18 requests for relief must be served and filed no later than ten  
19 days after the date on which the respondent's brief or  
20 responsive pleading is due.

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

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

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

29 9800.1500 PETITION FOR INTERVENTION.

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

32 [For text of subp 2, see M.R.]

33 Subp. 3. **Contents of petition.** The contents and format of  
34 the petition to intervene must conform to part 1415.1200.

35 Responses to the petition must be filed in accordance with part

1 9800.1400, subpart 3.

2 9800.1600 COMMENCEMENT OF APPEALS.

3 [For text of subpart 1, see M.R.]

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

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

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

19 9800.1700 TAXATION OF COSTS AND DISBURSEMENTS.

20 The court may tax actual and necessary costs and  
21 disbursements, as prescribed by Minnesota Statutes, section  
22 176.511. Parties shall comply with the procedure in part  
23 9800.1400 except that petitions under this part must be filed  
24 within 45 days of the filing of the final appellate decision in  
25 the main action.

26 9800.1710 DISMISSAL.

27 If any appellant or cross appellant fails to timely file a  
28 brief as required by part 9800.0900, any party may move this  
29 court for dismissal of the appeal. If the appellant or cross  
30 appellant is in default for more than 30 days and no party has  
31 moved for dismissal, the court may summarily order the dismissal  
32 of the appeal or cross appeal without notice. Dismissals  
33 granted or ordered under this part are subject to a motion to  
34 reinstate.

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

6 9800.1720 SUBMISSION WHEN MEMBER OF COURT IS NOT PRESENT.

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

16 ~~9800.1900-ATTORNEY-FEES-~~

17 ~~The court may, in its discretion, make an award of~~  
18 ~~reasonable attorney's fees on appeal, as provided in Minnesota~~  
19 ~~Statutes, section 176.511, subdivision 3. The court shall~~  
20 ~~establish guidelines for the award of attorney's fees under this~~  
21 ~~part and shall periodically review these guidelines and place a~~  
22 ~~notice of any changes in the State Register.~~

23 REPEALER. Minnesota Rules, part 9800.1200, is repealed.