

POTTSVILLE JUDGES' OFFICE
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STANDING INTERLOCUTORY ORDER

AND NOW, this 26th day of February 2003, it is hereby Ordered that the following Standing Interlocutory Order (SIO) shall apply to all proceedings before Workers' Compensation Judge (WCJ) Terry W. Knox.

1. All parties and their counsel shall comply fully with the Special Rules of Administrative Practice and Procedure before Workers' Compensation Judges, as amended December 7, 2002, (Rules) and with this SIO. Any failure on the part of any party to comply with the Rules or with this SIO may result in appropriate sanctions, pursuant to the applicable provisions of the Rules, unless the non-complying party shall establish compelling reasons for its noncompliance.
2. At the first hearing, the following shall occur:
 - a. The moving party shall file a completed First Hearing Filing on the prescribed form.
 - b. The moving party shall file the completed Stipulation of Undisputed Facts. If the form was not previously completed, all counsel should arrive 15 minutes before the scheduled hearing time so that completion of the form will not delay the hearing.
 - c. If the moving party has not already done so, the moving party shall provide to the responding party the items and information referred to in Rule 131.61.
 - d. If the claimant is the moving party, the claimant shall testify. The time allotted for the testimony of the claimant shall be 45 minutes. At any time during the course of the testimony, if it appears the time allotted is insufficient, the WCJ may inform the parties that they shall complete the testimony of the claimant by deposition or at a subsequent hearing.
 - e. If the employer/carrier desires a medical examination of the claimant with a physician or other health care provider, the employer/carrier shall schedule the same within 15 days following the first hearing and complete the same within 45 days of the first hearing. No requests for continuances or extensions to schedule or complete the examination will be entertained unless requested before the expiration of the first 15-day time period, unless the reasons arose thereafter.
 - f. If the employer/carrier is the moving party, the hearing shall be conducted as a pre-trial conference. If supersedeas or special supersedeas is requested, the parties shall present their documents and exhibits at the first hearing. All documents and exhibits offered for this purpose shall, if admitted, be admitted solely for the purpose of deciding the employer/carrier's request for supersedeas. The WCJ will consider all relevant evidence submitted in conformity with Section 413(a.1) and (a.2) of the Act in ruling on the employer/carrier's request for supersedeas. These documents and exhibits shall not be admitted into evidence on the merits of the case in chief, unless they are offered again for that purpose and are admitted pursuant to the applicable rules of evidence.

Claimant is expected to submit an affidavit and medical reports and records at the first hearing. Additional time may be granted to submit the affidavit and records and reports, generally not to exceed 14 days, with the concurrence of opposing counsel or if unusual circumstances justify an extension.
 - g. At the conclusion of the first hearing, the moving party shall advise the WCJ of the scheduled dates of the depositions needed to proceed with the moving party's evidence. If depositions have not yet been scheduled, the matter will be relisted for a 15-minute status call in 60 days, which can be canceled upon submission of a Notice of Deposition (or scheduling letter) before the status hearing.
3. Within 45 days following the first hearing, the following shall occur:
 - a. The responding party shall file its completed Responding Party – 45-Day Filing on the prescribed form.

- b. If the responding party has not already done so, the responding party shall provide to the moving party all items and information referred to in Rule 131.61.
4. Upon new information received, either party may submit a Motion to Supplement its filing, based upon facts or circumstances which occurred subsequent to the preparation of its initial filing. If a Motion to Supplement is submitted, the other party or parties shall have 20 days within which to file any objections to such Motion. If no objection is received by the WCJ within 20 days after the filing of the Motion, it shall be presumed that the other party or parties have no objection, and the Motion will be deemed granted and the filing amended. If there is an objection, the party seeking to supplement its filing shall be responsible to request, within seven days of receipt of the objection, either a conference call or hearing to resolve the dispute. Failure to schedule shall be deemed an abandonment of the Motion.
5. Witnesses not identified either in the First Hearing Filing, the Responding Party – 45-Day Filing, or Supplement will not be permitted to testify, absent extraordinary circumstances. Generic descriptions, such as “representative of the employer” or “other witnesses identified during the course of litigation,” are not acceptable. The use of such descriptions, if objected to by the opposing party, may lead to the preclusion of the testimony.
6. The attention of all parties is directed to Rule 131.61, as well as 131.68 and 131.70, of the Rules. One of the purposes of the Rules in mandating prompt discovery and exchange of evidence is to facilitate prompt (and, when possible, amicable) resolution and final disposition of petitions. Therefore, the WCJ’s adherence to the enforcement provisions is to be anticipated and expected by all parties.
7. To the extent practicable, any matters requiring a ruling by the WCJ before the next scheduled hearing may be scheduled for a conference call among all counsel and the WCJ. If possible, a *verbatim* transcript of the conference will be made to preserve the record. If a *verbatim* record cannot be made, and any party wishes to preserve the record, the parties will send a joint letter confirming the results of the conference call and any ruling made or, when deemed necessary, the WCJ will issue an Interlocutory Order. Any party who wishes to preserve a further record shall so indicate at the next proceeding where a record is made, or shall be deemed to have waived any argument or objection not specifically preserved in the joint letter or the Interlocutory Order.
 - a. It is anticipated that counsel will cooperate to resolve issues before requesting a conference call. Counsel will not, under any circumstances, litigate by mail. Unnecessary and argumentative correspondence simply clutters the file and is not part of the preserved record. If there is a sincere factual or legal dispute which cannot be amicably resolved by discussion between or among counsel, a simple oral or written request for a conference call is adequate.
8. Because the WCJ believes that counsel are entitled to rulings on deposition objections at the earliest opportunity, the following procedure will apply. If the deposition was taken more than 30 days before the hearing at which the transcript is being offered, written objections will be submitted at the time the transcript is submitted. Objections should refer to the page of the transcript, the objection made, and a brief statement of the reason for the objection, citing to the applicable Pennsylvania Rule of Evidence. If the deposition was taken less than 30 days before the hearing at which it is offered, written objections will be submitted at the next hearing. When practicable, objections will be ruled upon when presented. All objections will be ruled upon before the close of the evidentiary record. Objections not properly preserved will be deemed waived.
9. All requests for continuances will be subject to Rule 131.13. All continuances require the completion and submission of the appropriate form. If you do not receive written confirmation that a continuance has been granted, then you should assume it has not been granted and act accordingly. Continuances requested less than 10 days before the hearing will not be granted unless agreed to by all parties and approved specifically by the WCJ. Staff do not have the responsibility or authority to make such decisions, so do not assume that your request has been granted simply by advising them of your request.
10. At the final hearing, the following shall occur:
 - a. The parties shall be prepared to conclude the presentation of all evidence, whether live testimony, deposition testimony, or exhibits, including costs and *quantum meruit* fee evidence. Evidence will not be submitted by mail after the last evidentiary hearing, except that specifically permitted by the WCJ and subparagraphs (c) and (d) of this paragraph. The parties are directed to have available sufficient copies of all documentary evidence, which will be used and/or offered for purposes of testimony and/or submission as evidence. No copy machine is available.

- b. If the claimant is entitled to seek payment of medical bills or expenses, the claimant shall have assembled them collectively as one exhibit, which exhibit shall include a cover sheet indicating the name of each health care provider, the dates of service/treatment/prescription, etc., the amount of the bill, and indicate any portion of the bill that has been paid and by whom, and any portion of the bill that is still unpaid. The WCJ will not accept submissions of individual medical bills by mail before or after the date of the final hearing.
 - c. If the claimant is seeking reimbursement of any costs and expenses of litigation, the claimant shall have assembled any such costs and expenses for submission as one exhibit, which exhibit shall include a cover sheet indicating the date that the cost or expense was incurred, the type of cost or expense (i.e., whether for a transcript, medical records or reports, a deposition, fee, etc.), the name of the supplier of the services, and the amount of the costs or expense. The WCJ will not accept submissions of individual bills or invoices for costs and expenses by mail before the date of the final hearing, or after the final hearing except the cost of the transcript of the final hearing.
 - d. If the claimant is seeking the imposition of a *quantum meruit* attorney's fee, counsel shall submit an itemized statement of services rendered, including the date performed, a brief description of the service rendered (not including privileged communication or work product), and the time spent performing that service. The statement shall calculate the total hours spent. The statement shall include a certification by the attorney that the time spent was reasonable and necessary to perform the service and that the service performed was reasonable and necessary to properly represent the claimant's interests. The statement is to be submitted at the final hearing, and should have been submitted to all opposing counsel at least 10 days before the hearing so that appropriate objection or argument can be made at the time of submission. A supplemental statement itemizing the services rendered after the date of the exhibit may be submitted with counsel's post-hearing submission. Opposing counsel may respond with employer's post-hearing submission. Failure to submit such evidence shall be deemed an admission that the contest is reasonable.
- 11. Counsel are reminded that, in addition to the Judges' Rules, 34 Pa. Code §131.1 *et seq.*, they should familiarize themselves with and adhere to the pertinent provisions of the Pennsylvania Code of Civility and the Rules of Professional Conduct.
 - 12. The preceding paragraphs of this SIO are intended to supplement, emphasize, and, to some extent, modify certain of the Rules. Unless any of the preceding paragraphs modify any of the existing Rules, all of the Rules shall remain applicable to proceedings before the WCJ. The WCJ has prepared responses to the procedural questionnaire for the "Judges' Book." A copy of the questionnaire and responses may be requested from the office of the WCJ.
 - 13. This SIO may be modified or amended from time to time as circumstances and/or experience warrant.

Terry W. Knox
Workers' Compensation Judge
Reading, Berks County