

Sarah C. Makin
Workers' Compensation Judge

Decision Outline

The following is offered to assist attorneys in their preparation and submission of proposed findings of fact and conclusions of law. This is a general outline and order of how I organize my decisions. In appropriate cases, well prepared submissions, supported by evidence of record, will be adopted to form the basis of this Workers' Compensation Judges decision. I hope that this outline assists you in drafting findings of fact and conclusions of law that will be useful to me in rendering a decision. Thank you for your anticipated cooperation in conforming your submissions with this format which was updated in February of 2015.

Outline and Order of Decision

Exhibits: All of the Claimant's, Employer's, Provider's and Judge's/Bureau Exhibits must be listed. **Please note** that I rarely use the term 'Defendant'. I generally use the term 'Employer' and if appropriate 'Carrier'.

Ruling on Preserved Objections: If objections have been preserved and no decision has been issued ruling on the preserved objections, they will be decided in the final decision in a separate section. If there are no preserved objections, this section can be deleted.

Findings of Fact: I have a set pattern to the order of the Findings of Fact. The findings should be in an order that follows the burden of proof and not necessarily in the order that the evidence was presented. If the decision is on a Petition for Termination, Employer's evidence should be summarized first as Employer has the burden of proof. Similarly, on a Claim Petition, Claimant's evidence would be summarized first.

Initial Findings or opening numbered paragraphs of the decision must provide a brief factual and procedural history of the case. Findings as to what petitions and answers have been filed, a finding of any interlocutory orders (supersedeas, etc.) and findings about the injury (i.e. if the injury has been accepted by an NCP or if there are any supplemental agreements or final receipts executed by Claimant), should all be included here.

Factual Findings: Each and every witness and piece of documentary evidence must be dealt with in a finding of fact. These can be done in paragraph form citing the critically important aspect of the witness's testimony or the relevance of the exhibit. Do not simply recount every word the witness said. All of the witnesses must be separated. If a witness, particularly the Claimant has testified several times or once but in a convoluted manner, **ORGANIZE** the testimony so that the findings are coherent and succinct.

Credibility determinations: After all of the essential facts have been determined, a credibility determination must be made with regard to **all** of the evidence. These determinations are done in separate findings. **Please list specific reasons why the evidence is either credible or not credible.** This is the 'reasons' part of the decision and should be as specific as possible.

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Final Findings: After the credibility determinations are made, the Findings as to the outcome of the Petitions should be made. **THESE MUST MIRROR WHAT SPECIFIC RELIEF IS BEING REQUESTED.** The relief requested must be detailed and specific.

“Claimant sustained an injury to his/herwhatever.....in the course and scope of his employment with Employer on insert date and as a result of that injury, Claimant became disabled on insert date or partially disabled or incurred reasonable and necessary medical bills, whatever.....”

or

“Claimant did not sustain an injury to his/her _____ in the course and scope of his employment with Employer on insert date.....”.

“Claimant is entitled to compensation to be paid at the rate ofalso do medical bills, litigation costs and make a finding as to whether or not the contest was reasonable - whatever is appropriate.

Conclusions of Law: All conclusions of law should be done as to the burden of each party.

“Employer/Claimant has/has not sustained its'/his/her burden of proving that.....”

After all of the Petitions have been dealt with a ‘burden finding’, then **specific** conclusions of law should be made as to the disposition of each petition (i.e. granted or denied) and what should be paid and by whom with a starting or ending date whatever is appropriate. Again, these findings must be specific and detailed as to the relief being awarded.

Order: The Order is really just of mirror of the conclusions without the numbers.