

**Title 40**  
**LABOR AND EMPLOYMENT**  
**Part I. Workers' Compensation Administration**  
**Subpart 2. Hearing Rules**

**Chapter 55. General Provisions**

**Subchapter A. Definitions**

**§5501. Purpose; Definitions**

- A. The purpose of these Rules is to govern the practice and procedures before the Workers' Compensation Court which is a statewide court having jurisdiction of claims for workers' compensation benefits, the controversion of entitlement to benefits and other relief under the workers' compensation act. These rules are designed to facilitate the equitable, expeditious and simple resolution of workers' compensation disputed claims filed with the Court.**
- B. As used in these rules, unless otherwise indicated the following words shall have the following meanings.**
- (1) Claimant- shall refer to the injured employee.**
  - (2) Court-shall mean the Office of Workers' Compensation court within the Office of Workers' Compensation Administration of the Louisiana Department of Labor.**
  - (3) Director-shall mean the director of the Office of Workers' Compensation Administration of the Louisiana Department of Labor.**
  - (4) Judge-shall mean a workers' compensation judge.**
  - (5) Mediator-shall mean a workers' compensation mediator.**
  - (6) Office-shall mean the Office of Workers' Compensation Administration of the Louisiana Department of Labor.**
  - (7) Petitioner-shall, as the context requires, mean the employer, the insurance carrier, the group self-insurance fund, the health care provider, claimant, or a dependant of a claimant.**

- (8) **Judicial district – as referred to in R.S. 1310.4, any of the 10 locations of a workers' compensation district office, i.e., Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, Baton Rouge, Covington, New Orleans, Harahan, Houma, and the parishes each encompass.**

#### **SUBCHAPTER B. JURISDICTION**

##### **§5503. Jurisdiction Authority**

- A. **Jurisdiction over workers' compensation matters is conferred upon the Office of Workers' Compensation Administration pursuant to Louisiana Constitution Article V, §16.A.(1) and R.S. 23:1310.3, et. seq.**

##### **§5505. Jurisdiction over Subject Matter and Persons**

- A. **Jurisdiction of the workers' compensation judges shall be governed by R.S. 23:1310.3.**

#### **SUBCHAPTER C. COMMENCEMENT**

##### **§5507. Commencement of a Claim**

- A. **"Form LDOL-WC-1008" shall be the form to initiate a claim or dispute arising out of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950.**
- B. **Any claim may be initiated with the director, office of worker's compensation administration, or the district office of proper venue by hand delivery, United States mail, facsimile transmission or electronic transmission (with verified signature) addressed to the office of worker's compensation administration.**
- C. **Any party aggrieved by the RS 23:1203.1(J) determination of the medical director may seek judicial review by filing a "Form LWC-WC-1008" in a workers' compensation district office within 15 days of the date said determination is mailed to the parties. A party filing an appeal under this section must simultaneously notify the other party and the medical director that an appeal of the medical director's decision has been filed. Upon receipt of the appeal, the workers' compensation judge shall immediately set the matter for an expedited hearing to be held not less than 15 days nor more than 30 days after the receipt of the appeal by the office. The workers' compensation judge shall provide notice of the hearing date to the parties at the same time and in the same manner.**

**§5509. Delay for Answering**

- A. A defendant shall file his answer within 15 days after service of the citation in accordance with Code of Civil Procedure Articles 1001, 1005 and 1006. The defendant shall certify that a copy of the answer was sent to all parties to the claim.
- B. The filing of the answer shall be deemed timely when the answer is filed as provided in R.S. 23:1310.3.D.

**§5511. Service**

- A. Service of process in a workers' compensation claim shall be as provided for in R.S. 23:1310.3(C).
- B. Repealed.

**SUBCHAPTER D. VENUE**

**§5515. Proper Venue**

- A. Proper venue in a workers' compensation claim shall be governed by R.S. 23:1310.4. When a claim has been filed in a district of improper venue, the judge shall, by written order and in the interest of justice, transfer the claim to a district of proper venue.
- B. When the claimant or his dependent is not a party to the disputed claim, the petitioner shall have the right to select the venue of necessary hearings by the workers' compensation judge as provided in the Code of Civil Procedure.

**SUBCHAPTER E. RECUSAL**

**§5525. Procedure for Recusal of a Workers' Compensation Judge**

- A. Recusal or a workers' compensation judge shall be governed by Code of Civil Procedure Article 151.
- B. A workers' compensation judge may recuse himself, prior to a judgment being rendered, whether a motion for his recusation has been filed by a party or not, in any cause in which a ground for recusation exists.
- C. If a judge recuses himself pursuant to this Section, he shall provide in writing to the

**chief judge the specific grounds under Code of Civil Procedure Article 151 for which the recusal is ordered within fifteen days of the rendering of the order of recusal.**

- D. On written application of a workers' compensation judge, the chief judge shall immediately reassign the matter to another workers' compensation judge in either the same workers' compensation district office or another workers' compensation district office.**
- E. Any party to a workers' compensation claim may file a written motion for recusal of the judge to whom the matter is assigned specifying the grounds for recusal. This motion shall be filed prior to trial or hearing unless the party discovers the facts constituting the ground for recusal thereafter. In such case, the motion shall be filed immediately after the facts are discovered, but in no case after judgment. If a valid ground for recusation is set forth in the motion, the judge shall either recuse himself or refer the matter to the chief judge. Upon receipt of the motion the chief judge shall either try the motion or assign it to another workers' compensation judge for trial. Trial of the motion shall be held in an expedited manner and in no event later than 14 days following filing of the motion.**
- F. If a valid ground for recusation is not set forth in the motion, the judge shall deny the motion and proceed with the trial of the cause. Any party aggrieved by any denial may file an appeal in accordance with the provisions of R.S. 23:1310.5.**
- G. Consolidated cases are to be considered as one case within the meaning of this Section.**

**§5529. Repealed**

**SUBCHAPTER F. POWER AND AUTHORITY**

**§5533. General**

- A. Workers' compensation judges shall have the power to enforce any lawful order and the discretionary authority to use necessary sanctions, including dismissal, in order to control the orderly process of the hearing, enforce orders, and these rules.**
- B. All workers' compensation judges shall be subject to the Code of Judicial Conduct, Civil Service Rules, the Louisiana Code of Governmental Ethics and the Louisiana State Bar Association Code of Professional Conduct.**
- C. All workers' compensation mediators shall be subject to the Civil Service Rules, the Louisiana Code of Governmental Ethics, and the Louisiana State Bar Association Code**

**of Professional Conduct.**

- D. A workers' compensation judge or mediator shall not refer any claimant to an attorney for representation in a workers' compensation matter except under the following circumstances:**
- (1) when ordered to appoint an attorney for an unrepresented party by a court of competent jurisdiction;**
  - (2) except as provided in §5709.B of these rules; or**
  - (3) when the judge has a reasonable belief that the unrepresented party lacks capacity to represent himself.**
- F. The court shall have available a list of attorneys, compiled by the director, who have indicated a willingness to handle workers' compensation matters.**

**§5535. Contempt**

- A. Contempt of court is any act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority.**
- B. Contempt proceedings in a workers' compensation proceeding shall be governed by R.S. 23:1310.7.B. This procedure is favored and shall be construed to accomplish the just, speedy, and orderly process of the hearing.**

**§5537. Procedure**

- A. The procedure for contempt of court shall be as found in R.S. 23:1310.7.**

**SUBCHAPTER G. CLERKS**

**§5539. District Clerk; Pleadings Filed; Docket Books**

- A. Each workers' compensation district and the Records Management division shall have a clerk(s), who shall have the authority to certify records of the office. The supervisor of the Records Management division shall be the custodian of all records and documents for that district or the office and no such records, documents, or paper shall be withdrawn.**
- B. All pleadings and documents to be filed in a claim instituted or pending and all exhibits**

**introduced in evidence shall be delivered to the clerk of the district for that purpose. The clerk shall endorse the date of filing, and shall retain possession of the pleading or document for inclusion in the record or in the files of the Office.**

- C. The manager of the records management division shall be the custodian of all records and documents for that district or offices and no such records, documents, or paper shall be withdrawn.**

## **SUBCHAPTER H. BAILIFFS**

### **§5541. Security**

- A. The term "Bailiff" shall refer to any peace officer or duly commissioned reserve officer assigned by the Director to maintain order at each workers' compensation court.**
- B. The bailiff may in his discretion, or as ordered by the judge, inspect any object carried by any person entering the premises. No one shall enter or remain in the premises without submitting to such an inspection if requested to do so.**
- C. Unless authorized by the Judge, no camera, recording equipment or other type of electrical or electronic device shall be brought into the premises.**
- D. No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a weapon unless he or she has been authorized in writing by the workers' compensation judge to do so, or unless he or she is a peace officer or duly commissioned reserve officer.**
- E. The bailiff shall enforce the whole of this rule, and pursuant to his authority as a peace officer or duly commissioned reserve officer, shall be authorized in his discretion to take any legal action necessary to preserve the order and security of the premises.**

## **SUBCHAPTER I. ATTORNEYS AND OTHER PERSONS BEFORE THE COURT**

### **§5543. Workers' Compensation Courtroom Decorum**

- A. The following shall be observed in the opening of workers' compensation court and general courtroom decorum.**
  - (1) The bailiff shall open each session of workers' compensation court with an appropriate recitation and order.**
  - (2) No tobacco in any form will be permitted at any time.**

- (3) No food or beverage shall be brought into the courtroom.
- B. As officers of the workers' compensation court, attorneys are reminded of their obligations to assist in maintaining the dignity of the court. All attorneys and other officers of the court shall dress appropriately. For gentlemen, this means a coat and tie. For ladies, this means appropriate professional attire.

**§5545. Attorneys**

- A. In all hearings before the Workers' Compensation Judge the parties may appear in person or by counsel licensed to practice law in the State of Louisiana. Corporate entities, unincorporated associations, insurance companies and own-risk carriers shall appear only by such counsel. Counsel who will appear before the Workers' Compensation Judge on behalf of a party in any proceeding shall notify the Office of Workers' Compensation of their appearance by filing an entry of appearance or other appropriate pleading and shall be bound by Code of Civil Procedure Article 371.

**§5547. Withdrawal of Counsel**

- A. When an attorney seeks to obtain an ex parte order to withdraw as counsel for a party, he shall include in his application the last known address of the claimant along with a statement that he has given written notice to the party he was previously representing that he is no longer of counsel to him and of the status of the case on the court's docket. The attorney shall certify to the court that he has given notice to all counsel of record at the same time and in the same manner as notification to the court. A copy of such written notice and certification shall be attached to the application for the ex parte order for withdrawal. An attorney who has been permitted by ex parte order to withdraw shall give notice of same to all parties.
- B. Counsel of record who withdraws or is discharged prior to submission of the case, and desires to assert a claim for fees, must attach an affidavit to that effect and set forth the period of time during which his client was under his or her representation. If asserting a claim, counsel shall also file a lien form, to be developed by the director, identifying any attorney lien he alleges on the pending claim for payment of attorney fees.

**CHAPTER 57. ACTIONS**

**SUBCHAPTER A. GENERAL PROVISIONS**

**§5701. Prescription; Filing Procedure**

- A. Prescription periods shall be as set forth in R.S. 23:1031.1.E, F, I, 1209, and 1234. Time limits shall be calculated from the date of mailing as shown by the post mark, other proof of mailing, the date a facsimile or electronic mail transmission (with verified signature) is received.**
- B. All pleadings filed with the court may be filed by facsimile transmission or electronic transmission (with verified signature) to the assigned facsimile number or electronic address of the district of proper venue. A facsimile or electronic transmission (with verified signature), when filed, has the same force and effect as the original. If the party fails to comply with the requirements of Paragraph C, of this Section, a facsimile filing shall have no force or effect.**
- C. (1) Within five days, exclusive of legal holidays, after the district office or the records management division has received a facsimile transmission, the party filing the document shall forward the following to the district office or records manager:
  - a. the original signed document;**
  - b. the applicable filing fee, if any; and**
  - c. a transmission fee of \$5 for the first 10 pages and \$1 for each page thereafter.**(2) Repealed.**
- D. Upon receipt in the office, the pleading or forms and any other correspondence shall be stamped with the date of receipt by the appropriate court personnel.**

**§5703. Prematurity**

- A. Prematurity in a workers' compensation claim shall be governed by R.S. 23:1314.**

**§5705. Abandonment**

- A. A claim may be dismissed without prejudice after contradictory hearing properly noticed by the court on the judge's own motion or on ex parte motion of a party for the following reasons:
  - (1) where no service of process has occurred within 60 days after the Form LWC-WC-1008 has been filed. This provision shall not apply if the claim is awaiting action by the workers' compensation court;****



- (2) where no responsive pleadings have been filed and no default has been entered within 60 days after service of process;
  - (3) where a claim has been pending six months without proceedings being taken within such period. This provision shall not apply if the claim is awaiting action by the workers' compensation court;
  - (4) where a claimant fails to appear for any properly noticed conference or hearing;
  - (5) where an attorney or pro se litigant fails to keep the workers' compensation court apprised of an address change or when a notice is returned to the workers' compensation court for the reason of an incorrect address and no correction is made to the address for a period of 60 days.
- B. Any formal discovery as authorized by these rules and served on all parties whether or not filed of record, including the taking of a deposition with or without formal notice, shall be deemed to be a step in the prosecution or defense of an action.
- C. Any order of dismissal shall allow for reinstatement of the action within 30 days for good cause shown.
- D. The workers' compensation judge may order the claim dismissed, with prejudice, after a contradictory hearing, when it is shown that more than 90 days has elapsed since a claim was dismissed for any reason listed in Sub-Section A of this Section and no good cause has been shown for reinstatement.

**§5707. Class Actions**

- A. No class action will be permitted.

**SUBCHAPTER B. SETTLEMENT**

**§5709. Joint Petition Settlements**

- A. (1) A lump sum or compromise settlement shall be presented to the presiding judge in a pending disputed claim or to any judge in an undisputed claim for approval on Form LWC-WC-1011 and upon joint petition of the parties.
- (2) The procedure for perfecting settlements shall be governed by R.S. 23:1272. A hearing in open court with all parties present shall be required when one or more parties are not represented by counsel. Appearance by the parties and/or their

representative may be waived if all parties are represented by counsel. In special circumstances and in the interest of judicial economy, the judge may allow the unrepresented party to waive his appearance and permit the party to appear by telephone. Appearance by the represented parties and/or their representative may be waived in written form.

- B. When one or more parties is not represented by counsel, the judge may appoint an attorney to assist the court in determining whether the settlement does substantial justice and is in the best interest of all parties. In such cases the court may approve an attorney's fee to be paid out of the proceeds of the settlement.

## CHAPTER 58. PLEADINGS

### SUBCHAPTER A. GENERAL

#### §5801. Pleadings Allowed

- A. The pleadings allowed in workers' compensation claims, whether in a principal or incidental action, shall be in writing and shall consist of petitions, exceptions, written motions, answers, and Office of Workers' Compensation Administration forms.

### SUBCHAPTER B. SUPPLEMENTAL/AMENDED PLEADINGS

#### §5805. Amendment of Claim and Answer

- A. Amendment of a claim and answer shall be governed by Code of Civil Procedure Article 1151, et seq.

### SUBCHAPTER C. FORMS

#### §5809. Forms

- A. The Office of Workers' Compensation Administration shall prepare and adopt such forms for use in matters before the Office of Workers' Compensation Administration as it may deem necessary or advisable. Whenever Office of Workers' Compensation Administration forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to any district office, the office of the director, or from the website, [www.lawworks.net](http://www.lawworks.net).

#### §5811. Format of Documents

- A. Any pleading or other document submitted to the Director or to any judge shall be typed or printed legibly on 8 1/2" x 11" paper and shall bear the name and signature of the person who prepared it, the firm name, if applicable, the complete address including the zip code, an electronic address, if available, the telephone and facsimile number, including the area code and the docket number, if one has been assigned to the claim and the number of the Judge assigned to the claim, if available. All attorneys shall note their bar roll number on all documents and correspondence.**
- B. Copies of all correspondence and any other instruments sent to the Office of Workers' Compensation Administration shall be sent at the same time and in the same manner by the party originating the correspondence to all other parties of record in the case and a certificate to that effect shall be attached to the original and filed with the office.**
- C. All documents filed into the court record that are notarized shall comply with R.S. 35:12.**

#### **SUBCHAPTER D. MEDIATION**

##### **§5813. Mediation Conference**

- A. Parties who have a workers' compensation dispute as defined by LSA-R.S. 23:1310.3(A) and who desire to engage the services of a Louisiana Workforce Commission, Office of Workers' Compensation Administration mediator, may make a joint written request for a mediation conference to any Office of Workers' Compensation mediator selected by mutual agreement of the parties. The parties shall forward to the selected mediator, along with the written request, a confidential position statement, not to exceed 10 pages, outlining the issues in dispute and the respective position of the parties. Upon receipt of the joint written request, the selected mediator shall schedule a mediation conference and provide notice in the same manner and at the same time to all parties of the date and time of the conference. Notice of any scheduled mediation conference may be given by telephone, but shall be confirmed by United States Mail, facsimile transmission, or electronic transmission. The location of the mediation conference shall be in the assigned district office of the selected mediator.**
- B. A mediation conference may also be scheduled upon order of a presiding workers' compensation judge in any pending workers' compensation disputed claim (LWC-WC-1008). If the parties select an Office of Workers' Compensation mediator, the court-ordered mediation conference shall be conducted in the district office in which the selected mediator is assigned.**
- C. On the scheduled date of the mediation conference, each party shall provide a representative to participate in the mediation conference, either in person or via**

telephone, who has been provided with authority to enter into negotiations in a good faith effort to resolve the issue(s) in dispute. The attorneys for the parties may participate in the mediation conference via telephone only upon mutual consent of the parties. No stenographic report shall be taken at any mediation conference and no witnesses shall be called. All statements made at any mediation conference shall be privileged and shall not be admissible in any subsequent status conference, pretrial conference, hearing, or trial. Any party to the claim and/or their representative may request a copy of the Form 1008 filed in the claim prior to the scheduled mediation conference. No such request shall be denied by any employee of the Office of Workers' Compensation Administration. If the parties agree, the mediator may schedule additional mediation conferences when deemed appropriate.

- D. Nothing in this rule shall prohibit parties from requesting the services of an Office of Workers' Compensation mediator prior to the filing of a disputed claim for compensation (LWC-WC-1008). Said request shall be made by the parties in the same manner as provided for in Section A of this Section. However, neither the request nor the participation in a pre-1008 mediation conference shall interrupt the running of prescription.
- E. Nothing in this rule shall prohibit the parties from engaging the services of a private mediator to conduct a mediation conference at a location mutually agreeable to the parties. Within five days of the conclusion of said private mediation, the parties shall certify to the court that a private mediation has occurred and the results thereof. Said certification shall be provided by the parties via United States mail, electronic transmission, or facsimile transmission.
- F. Repealed.
- G. Repealed.

**§5815. Repealed**

**§5817. Conclusion of Mediation Conferences held by an Office of Workers' Compensation Mediator**

- A. When it becomes apparent during the course of a pre-1008 mediation conference that an agreement on all issues cannot be reached, the Office of Workers' Compensation mediator shall issue a report stating the result of the conference. The report shall be issued to the parties immediately following the conference by facsimile transmission, by electronic transmission or by mail within five days thereof.
- B. When it becomes apparent during the course of a post-1008 mediation conference that

agreement on all issues cannot be reached, the Office of Workers' Compensation mediator shall issue a report stating the results of the conference. The report shall be issued immediately following the conference to the parties and to the judge where the claim was filed. The report shall be issued in person, by facsimile transmission, by electronic transmission, or by mail within five days thereof.

- C. Following a mediation conference, at which agreement is reached on all issues in dispute, a report embodying the agreement shall be issued to the parties in person, by facsimile transmission, by electronic transmission, or by mail within five days thereof. The mediator shall file the original report with the judge presiding over the district where the claim was filed or in the case of a pre-1008 mediation conference, with the judge presiding over the district situated within the parish of the claimant's domicile. The report may require dismissal of the claim or the filing of an LWC Form 1011 within 30 days.
- D. Repealed.

**§5819. Failure to Attend; Sanctions**

- A. If any party fails to appear at a mediation conference ordered by the judge or requested by the parties, after proper notice and without just cause, the presiding workers' compensation judge, upon request of a party, may fine the delinquent party an amount not to exceed \$500, which shall be payable to the Office of Workers' Compensation Administrative Fund. In addition, the presiding workers' compensation judge may assess against the party failing to attend, costs and reasonable attorney's fees incurred by any other party in connection with the conference. The penalties provided for in this Section shall be assessed by the presiding workers' compensation judge only after a contradictory hearing which shall be held prior to the hearing on the merits of the dispute.

**SUBCHAPTER E. PETITION**

**§5821. Required Elements**

- A. The required elements of a workers' compensation claim shall be as provided in R.S. 23:1311.

**SUBCHAPTER F. EXCEPTIONS**

**§5823. Kinds of Exceptions; Time for Pleading**

- A. Exceptions shall be governed by Code of Civil Procedure Articles 921, et seq.

**§5824. Rule to Show Cause; Time for Filing Memoranda**

- A. Any party may seek to have any exception heard by filing a rule to show cause.
- B. The memorandum in support shall be filed no later than 14 days prior to the hearing. The memorandum in opposition shall be filed no later than 8 days prior to the hearing.

**SUBCHAPTER G. MOTIONS**

**§5831. Motion or Rule Day**

- A. Each district office shall designate a specific day of the week for the hearing of rules, motions, exceptions and arguments. A list of the rule days for each district shall be available in any district office.
- B. The judge may require the parties to submit briefs in connection with any exception, rule, or motion. A copy of the brief shall be served upon all counsel of record at the same time and in the same manner as submitted to the court.
- C. In advance of the date set for the hearing of an exception, motion or rule, any counsel may notify the court that he waives his appearance and is willing to submit the matter on briefs. At the time set for the hearing, any person may waive oral argument.
- D. A motion for summary judgment shall be filed no later than 45 days prior to trial unless both parties agree to waive the deadline with the approval of the court.

**§5833. Written Motion Required; Exception**

- A. An application to the court for an order, if not presented in some other pleading, shall be by motion which, unless made during trial or hearing or in open court, shall be in writing. The written motion shall state the grounds therefor and the relief or order sought.

**§5835. Ex Parte and Contradictory Motions; Rule to Show Cause Favored**

- A. Ex parte and contradictory motions shall be governed by Code of Civil Procedure Articles 963, et seq. A contradictory hearing properly noticed by the court with the adverse party may be held unless waived upon joint motion of the parties. Appearance by the parties and/or their representative may be waived in written form. The judge may entertain such motion by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone

conference.

## **CHAPTER 59. PRODUCTION OF EVIDENCE**

### **SUBCHAPTER A. GENERAL**

#### **§5901. Discovery and Attendance of Witnesses**

- A. The hearing process shall be available to aid any party in pursuit of discovery and to compel attendance of witnesses or production of evidence. The judge on his own motion at any conference may order the production of discoverable material and make any other order facilitating discovery. Copies of discovery documents, including, but not limited to, deposition notices, are to be mailed to all parties and shall not be filed in the record of the proceedings unless attached as an exhibit to a motion or ordered by the judge.

#### **§5903. Objections to Evidence**

- A. Except as otherwise provided in Title 23 or by these rules, objection to any evidence shall be governed by the Louisiana Code of Evidence and Code of Civil Procedure.

#### **§5905. Protective Orders**

- A. Upon motion by a party or by a person from whom discovery is sought, and for good cause shown after contradictory hearing properly noticed by the court, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. The judge may entertain such motion by telephone conference with all necessary parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

### **SUBCHAPTER B. SUBPOENA**

#### **§5909. Issuance; Service**

- A. Subpoenas issued in connection with any workers' compensation matter shall be served by the party requesting issuance of the subpoena, and may be served by certified mail return receipt requested or any other manner provided in §5511. Proof of service shall be the responsibility of the party requesting the subpoena. Once issued and served, a subpoena may be canceled by the requesting party only after written notice to the opposing side. It shall be the responsibility of the requesting party to provide written notification of cancellation to all opposing parties as well as the person under subpoena.

**It shall be the responsibility of the parties to copy each other on the subpoenas they issue.**

- B. In order to be enforceable, subpoenas for hearing shall be served seven days prior to the scheduled hearing date; subpoenas to compel attendance of medical experts shall be served 10 days prior to hearing. Subpoenas for hearing may be issued after expiration of these time limits only by leave of court for good cause shown or upon written consent of all parties.**
- C. Written request for unemployment records must be made to the workers' compensation court at least seven (7) days prior to the scheduled hearing at which the documents sought are to be submitted.**

**§5911. Exceptions**

- A. No official of the Social Security Administration shall be subject to subpoena under these rules except for good cause shown.**
- B. An independent medical examiner shall be subject to subpoena only as provided in R.S. 23:1317.1.**
- C. The subpoena of the director or any other employee of the Office of Workers' Compensation Administration shall be governed by R.S. 23:1318.**

**§5913. Subpoena of Confidential Records**

- A. The subpoena of confidential records shall be governed by R.S. 23:1293.A.(1) and 1310.15.**

**SUBCHAPTER C. DISCOVERY**

**§5915. Scope of Discovery**

- A. Discovery shall be governed by Code of Civil Procedure Articles 1421, et seq.**

**SUBCHAPTER D. DEPOSITIONS**

**§5921. General; When Taken**

- A. The taking of a deposition shall be governed by Code of Civil Procedure Articles 1437, et seq.**

**§5925. Depositions in Advance of Hearing; Perpetuation of Testimony**



- A. **Depositions in advance of hearing shall be governed by R.S. 23:1319.**
- B. **Any party seeking to offer the testimony of a witness at trial by deposition may take a deposition to perpetuate the trial testimony of such witness at any time prior to trial. Such deposition may be offered by any party and shall be admissible upon consent of the parties or as otherwise provided by these rules, the Code of Evidence and the Code of Civil Procedure.**

**§5927. Expert Witness Fee**

- A. **For just cause shown, the workers' compensation judge may set a reasonable witness fee for expert testimony.**

**SUBCHAPTER E. INTERROGATORIES**

**§5931. General**

- A. **Interrogatories shall be governed by Code of Civil Procedure Articles 1457, et seq.**

**SUBCHAPTER F. PRODUCTION OF DOCUMENTS**

**§5933. Production of Documents; General; Medical Evidence**

- A. **In general, the production of documents shall be governed by Code of Civil Procedure Articles 1461, et seq. and R.S. 23:1127.**
- B. **Objection to medical evidence shall be as provided in R.S. 23:1122. When a timely objection is received, the judge may set a hearing on the motion, or rule on the matter at the trial on the merits. The judge further has the discretion to order, after a contradictory hearing properly noticed by the court, a deposition of the doctor if necessary to clarify a report or to obtain additional information, during the discovery period or at the trial on the merits.**

**SUBCHAPTER G. ADMISSIONS**

**§5941. Requests for Admission**

- A. **Requests for admission shall be governed by Code of Civil Procedure Articles 1466, et seq.**

**SUBCHAPTER H. MEDICAL EXAMINATIONS**

**§5943. Independent Medical Examinations; Report; Deposition of Examiner; Objections**

- A. The procedure for requesting an independent medical examination shall be as provided in R.S. 23:1317.1.
- B. Objections to the independent medical examination shall be made on form LDOL-WC-1008 and shall be set for hearing before a judge within thirty days of receipt. No mediation shall be scheduled on disputes arising under this Section.

**§5953. Right of an Employee to Written Report of Medical Examination**

- A. Entitlement of an employee to the written report of a medical examination shall be as provided in R.S. 23:1125.

**SUBCHAPTER I. MOTION TO COMPEL**

**§5955. Motion for Order Compelling Discovery**

- A. Motion for order compelling discovery shall be governed by Code of Civil Procedure Articles 1469, et seq., and R.S. 13:3715.1 and §5963.
- B. Prior to filing a motion to compel discovery, a party shall comply with Rule 10.1 of the Rules for Louisiana District Courts adopted by the Louisiana Supreme Court.

**SUBCHAPTER J. SANCTIONS**

**§5961. Refusal to Obey Subpoena**

- A. When a person who, without reasonable excuse, fails to obey a subpoena, the judge may proceed with contempt proceedings as provided in R.S. 23:1310.7

**§5963. Failure to Comply with Order Compelling Discovery**

- A. Failure to comply with order compelling discovery shall be governed by Code of Civil Procedure Article 1471. In addition, the judge may proceed with contempt proceedings as provided in R.S. 23:1310.7.

**CHAPTER 60. PRETRIAL PROCEDURE**

**§6001. Scheduling Conferences**

- A. Within 60 days following receipt of the answer a scheduling conference for the purpose of setting pretrial deadlines shall be held by telephone.**
- B. Issues to be considered and determined at the scheduling conference may include:**
  - (1) the necessity or desirability of amendments to pleadings;**
  - (2) discovery anticipated by the parties;**
  - (3) deadlines for amendments to pleadings; completion of discovery and scheduling of pretrial motions;**
  - (4) scheduling of the pretrial conference and the scheduling of a pretrial mediation conference;**
  - (5) scheduling of the trial;**
  - (6) the need for and scheduling of a pretrial conference;**
  - (7) such other matters as may aid in the disposition of the action.**
- C. At the conclusion of the scheduling conference and no longer than 14 days following the conference, a scheduling order, developed by the director, shall be issued by the judge setting forth the actions taken and deadlines set at the conference. Such order shall control the subsequent course of the claim, unless modified to prevent manifest injustice upon motion of a party or by order of the court.**
- D. The judge in his discretion may require a pretrial conference to be held by telephone.**
- E. The trial date should not be more than six months from the scheduling conference.**
- F. If the parties agree, discovery may be conducted after the date set in the scheduling order for the completion of discovery and the parties shall notify the court.**

**§6003. Repealed**

**§6005. Pretrial Conference**

- A. When requested by the court, each party to the dispute shall file a pretrial statement with the appropriate district office within the time frame designated by the court.**

- B. The party or counsel who prepared and submitted the pretrial statement to the workers' compensation court should attend the pretrial conference. Any substitute permitted by the court to attend the conference shall be knowledgeable of all aspects of the case and shall possess the necessary authority to commit his client or associate regarding changes, stipulations, compromise/settlements, and trial dates.**
- C. The pretrial conference will be held by telephone, unless in the judge's discretion, attendance in person at the conference is necessary.**

**§6007. Pretrial Order**

- A. The pretrial statement shall include:
  - (1) stipulations agreed to by all parties;**
  - (2) issues to be litigated;**
  - (3) contentions;**
  - (4) a list and brief description of all exhibits to be offered at trial. Exhibits to be used for impeachment or rebuttal need not be included in the list. Proposed stipulations as to exhibit authenticity and/or admissibility shall be noted in the exhibit list;**
  - (5) a list of all witnesses to be called at trial. The list shall include a short statement as to the nature but not the content of their testimony, and whether the testimony will be live or by deposition. Except for the witnesses listed, no other witnesses may be called to testify except for good cause shown. This requirement shall not apply to impeachment and rebuttal witnesses;**
  - (6) outstanding discovery and depositions to be taken.****
- B. Amendments to the pretrial statement shall only be by written motion and permitted only for good cause shown. No new issues shall be raised except by written order of the judge for good cause or upon mutual agreement of the parties.**

**§6009. Repealed**

**CHAPTER 61. HEARINGS**

**SUBCHAPTER A. EXPEDITED HEARINGS**

**§6101. Examination of an Injured Employee**

- A. The examination of an injured employee shall be governed by R.S. 23:1124.1.

**SUBCHAPTER B. CONTINUANCE AND STAYS**

**§6103. General**

- A. Continuances shall be as provided in Code of Civil Procedure Articles 1601, et seq.
- B. A continuance shall not be granted for the absence of a subpoenaed witness if the subpoena was not issued in accordance with §5909 of these rules.
- C. A continuance will not be entertained based upon a conflict in the schedule of any party or attorney if the conflict arose after the date of the scheduling conference, except for good cause shown or in cases of criminal assignments.
- D. (1) If all parties are represented by counsel and the motion is uncontested, the moving party shall certify to the court that he has spoken to opposing counsel, that no opposition exists and that all witnesses have been timely notified of the continuance. Only one uncontested motion must be granted. A new trial date shall be established by mutual agreement of the parties.
- (2) Subsequent uncontested motions for continuance by represented parties may be granted at the discretion of the workers' compensation judge and when the workers' compensation judge believes it is in the best interest of the parties.
- E. If any of the parties are unrepresented, the uncontested motion may be granted if there are good grounds therefor and if the workers' compensation judge believes it is in the best interest of the parties.
- F. The request for continuance shall state the reasons the continuance is necessary, that all parties have been notified of the request, and whether all parties agree to the continuance.
- G. Joint requests for continuance of a pre-1008 or post-1008 mediation conference held by an Office of Workers' Compensation mediator shall be submitted to the selected mediator in writing.
- H. Joint requests for continuance of a court-ordered mediation conference may be permitted for good cause shown by written motion to the judge where the claim was

filed no later than three business days prior to the scheduled conference. The request shall state the reasons why the continuance is necessary, that all parties have been notified of the request and that all parties agree to the continuance.

- I. Contradictory motions for continuance of a court-ordered mediation conference shall be submitted by written motion to the judge where the claim was filed no later than five business days prior to the scheduled mediation. The judge may entertain such motion by telephone status conference with all parties participating. Such telephone status conference shall be initiated by the party requesting the continuance.

**§6104. Stays**

- A. Upon motion of a party and for good cause shown, or at the discretion of the court in the interest of justice, the workers' compensation judge may order a stay of the claim.
- B. When a stay is granted, a telephone status conference shall be set at such intervals as directed by the workers' compensation judge but at least every six months.
- C. Section 5705.A of these rules shall not apply to any matter subject to a stay order as long as such order is in effect.

**CHAPTER 62. TRIAL**

**SUBCHAPTER A. TRIAL PROCEDURE**

**§6201. Repealed**

**§6203. Trial on the Merits**

- A. The trial of a workers' compensation claim shall be governed by R.S. 23:1317.

**§6205. Cumulative Medical Testimony**

- A. The introduction of medical testimony in a hearing or trial shall be governed by R.S. 23:1124.1.

**§6209. Testimony of Medical Personnel**

Expert medical testimony may be admitted by:

- A. certified medical records;

- B. deposition;**
- C. oral examination in open court proceedings; however, no more than two physicians may present testimony for either party except by order of the judge;**
- D. any other manner provided by law.**

#### **SUBCHAPTER B. DISMISSAL**

##### **§6211. Dismissal**

- A. Except as provided in §5705, dismissals shall be governed by Code of Civil Procedure Articles 1671, et seq.**

#### **SUBCHAPTER C. ASSESSMENT OF COSTS**

##### **§6215. Assessment of Costs**

- A. The determination of whether costs shall be assessed against a party shall be governed by R.S. 23:1310.9.**

### **CHAPTER 63. JUDGMENTS**

#### **SUBCHAPTER A. GENERAL**

##### **§6301. Submission of Evidence; Submission for judgment/decision; Post hearing briefs**

- A. The parties shall file into the record all evidence at the time of trial or hearing unless the court, for good cause shown, grants an extension.**
- B. A case or other matter shall be considered as having been fully submitted for decision immediately upon the conclusion of trial or hearing or final submission of all evidence or post-trial/hearing briefs, whichever occurs latest.**
- C. Whenever, the judge allows or orders post-trial/hearing briefs, the parties shall be allowed a maximum of fifteen working days from the conclusion of the trial or final submission of all evidence, whichever occurs latest, to file the briefs.**
- D. The brief must be received in the district office either through the United States Postal Service, facsimile transmission, or electronic transmission (with verified signature) within the delays provided and without benefit of the use of the postmark to meet the deadline.**

**§6303. Completion of Trial; Pronouncement of Judgment; Time for Judgments or Orders; Written Reasons**

- A. The procedures for completion of trial and pronouncement of judgment shall be governed by R.S. 23:1310.5.A.(1) and 1201.3.A. All such orders, decisions, or awards shall be rendered no later than 45 calendar days after conclusion of trial, submission of all evidence or filing of post-trial/hearing briefs, whichever occurs later.
- B. Written reasons shall only be rendered if requested in written form by any party to the claim within 10 days of the signing of the judgment. The written reasons shall be issued by the judge not later than 45 calendar days following the request.
- C. After the submission of all evidence oral rulings may be issued from the bench immediately after the trial or subsequent to the trial. In either case, the oral ruling shall be made by recitation of the reasons for judgment in open court and capable of being transcribed from the record of the proceeding. The transcript of the oral reasons for judgment may be considered the written reasons for judgment.

**SUBCHAPTER B. DEFAULT**

**§6305. Default; General Provisions; Scope of Judgment**

- A. The general rule regarding default in a workers' compensation claim shall be governed by R.S. 23:1316 and 1316.1 and Code of Civil Procedure Article 1703.

**SUBCHAPTER C. MODIFICATION**

**§6311. General**

- A. The modification of an award shall be governed by R.S. 23:1310.8 (A)(1), (B) and (F).

**§6313. Amendment of Judgment**

- A. Amendments of judgment shall be governed by Code of Civil Procedure Article 1951.

**§6315. Request for Modification**

- A. Any party to the claim may apply for modification pursuant to §6311. If the original decision or award was made by a District Court Judge, the party seeking the



**modification shall furnish the workers' compensation judge with the appropriate evidence and documents from the district proceedings.**

**§6317. Exception**

- A. A motion for new trial shall be governed by Code of Civil Procedure Articles 1971, et seq.**

**CHAPTER 64. APPELLATE PROCEDURE**

**SUBCHAPTER A. GENERAL**

**§6401. General**

- A. All appeals shall be taken in accordance with the procedures set forth in R.S. 23:1310.5 and, where not in conflict, the Louisiana Code of Civil Procedure and the relevant rules of the appropriate circuit court of appeal.**

**§6405. Payment of Appellate Costs**

- A. Payment of appellate costs shall be governed by Code of Civil Procedure Articles 2126, et seq.**

**CHAPTER 65. SPECIAL DISPUTES**

**SUBCHAPTER A. ATTORNEY FEES**

**§6501. Disputed Attorney Fees**

- A. When a dispute arises among several attorneys as to the identity of claimant's counsel of record, or when several successive attorneys lay claim to a fee in the same case, the judge shall decide the issues raised and allocate the fee allowed in accordance with Rule 1.5 of the Rules of Professional Conduct of the Louisiana Supreme Court.**

**§6503. Attorney Fees; Application, Review and Approval**

- A. Whenever the judge renders an award of penalties or attorney fees due to the conduct of the other party under any provision authorized by the Workers' Compensation Act, the judgment shall state the specific acts or omissions of the party which gave rise to the award of a penalty or attorney fee. When attorney fees are awarded due to the conduct of a party the judgment shall state the basis for the amount of the award.**

- B. Attorney fee claims under R.S. 23:1141 for allowable portions of periodic payments of indemnity benefits recovered by claimants shall only be authorized after approval by the presiding judge upon filing of a motion for such fees filed by the claimant's attorney.**

**§6505. Reserved**

**SUBCHAPTER B. SOCIAL SECURITY OFFSET**

**§6507. Offset**

- A. A request for offsets pursuant to R.S. 23:1225(C) made in connection with a disputed claim shall be made by filing Form LDOL-WC-1008 or by responsive pleading. An order shall be issued recognizing the entitlement to the offset for social security benefits from the date of judicial demand, and setting the amount of the offset after a determination of the character of the disability, the right to the offset, and calculation of the offset. A contradictory hearing properly noticed by the court may be set by the judge for this determination. Notice shall be provided to the claimant or his representative prior to issuance of the order. The order shall be served by certified mail upon all parties and the Social Security Administration. Such offsets may be taken upon receipt of proof of service of the order upon the Social Security Administration by the Office of Workers' Compensation Administration. Such offsets shall not be taken unless the social security offset has been removed.**
- B. A request for offsets pursuant to R.S. 23:1225(A) made in connection with a claim not in dispute may be made by motion on form LWC-WC-1005(A) or by letter, filed in the appropriate district office. When properly filed, the motion or letter requesting an offset may be granted ex parte from date of filing. Such offsets shall not be taken unless the social security offset has been removed. No fee shall be charged in connection with a request made under this Subsection.**
- C. A unilateral reverse offset shall not be recognized by this office after March 20, 1993. A unilateral offset under any other Subsection of R.S. 23:1225 shall not be recognized by this office after January 1, 2000.**
- D. Information concerning receipt of social security benefits and the amounts thereof shall be obtained on Form LDOL-WC-1004, which shall be properly executed by an official designated by the Social Security Administration.**
- E. An official of the Social Security Administration shall not be subject to subpoena under this rule unless for good cause shown.**

**§6508. Reserved**

**SUBCHAPTER C. FINANCIAL AND COMPLIANCE HEARINGS**

**§6509. Financial and Compliance Hearings**

- A. Any party may request a mediation conference which shall be held within 15 days of the filing of an appeal for financial and compliance matters.**
- B. If a resolution is not reached, a hearing on the appeal held pursuant to R.S. 23:1171 shall be held within 15 days of the conclusion of the initial mediation conference, and shall be conducted in accordance with the provisions of the Administrative Procedure Act.**
- C. Suspensive appeals of a determination of the financial and compliance officer will not be entertained.**

**CHAPTER 66. MISCELLANEOUS**

**SUBCHAPTER A. GENERAL**

**§6601. Other Applicable Rules**

- A. Unless otherwise provided for in the these rules, any practice or procedure not in conflict with either the Workers' Compensation Act or these rules will be guided by practice and procedure provided for in the Louisiana Code of Civil Procedure.**

**§6603. Local Rules Prohibited**

- A. Local rules by any district office of the Office of Workers' Compensation Administration are prohibited.**

**§6605. Fees**

- A. The clerks for the Office of Workers' Compensation Administration shall be entitled to demand and receive the following fees in a Workers' Compensation dispute.**
  - (1) filing of 1008-\$30; filing of 1011 where no 1008 has been filed-\$30;**
  - (2) service of Process on Secretary of State-\$25;**
  - (3) copies of any paper in any suit record-\$0.25 per page;**

- (4) for each certification-\$1;
- (5) filing by facsimile transmission-\$5 for the first 10 pages and \$1 for each page thereafter;
- (6) cost of preparation of record for appeal-available upon request from the district offices;
- (7) cost of service by certified mail-available upon request from the district offices.

**§6607. Posting of Docket**

- A. The clerk of the district office shall keep a docket upon which shall be entered the docket reference number of all matters set for mediation, hearing, or trial. The docket shall be posted on the Department of Labor website and in a conspicuous location of the district office on the first work day of each week for that week.

**SUBCHAPTER B. COSTS**

**§6609. General**

- A. The awarding of costs shall be governed by R.S. 23:1317.B and Code of Civil Procedure Article 1920.
- B. The costs of preparing an appeal shall be initially sustained by the appellant. In the case of pauper, the costs incurred by the Office of Workers' Compensation Administration in preparing the transcript shall be sustained by the Office of Workers' Compensation Administration only where the pauper is the losing party.

**§6611. Medical Costs**

- A. Except as provided in R.S. 23:1034.2(E), the determination of all medical reimbursement shall be based upon the reimbursement schedule in effect at the time the services are rendered. Every attempt to resolve disputes over medical reimbursement shall be made by applying said schedule(s).

**SUBCHAPTER C. WAIVER OF COSTS FOR INDIGENT PARTY**

**§6613. General**

- A. Waiver of costs for indigent party shall be governed by Code of Civil Procedure Articles 5181, et seq. The request for waiver of costs shall be made on WC Form No.

**1027.**

**SUBCHAPTER D. SEVERABILITY OF SECTIONS**

**§6627. General**

- A. **If any provision or item of a section, or the application thereof, is held to be invalid, such invalidity shall not affect other provisions, items, or applications of the section which can be given effect without the invalid provision, item or application.**