



## **TENNESSEE BUREAU OF WORKERS' COMPENSATION IN THE COURT OF WORKERS' COMPENSATION CLAIMS**

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### **RE: Temporary Procedures for In-Person Hearings**

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This Order is issued under the authority granted to the undersigned by Tennessee Code Annotated section 50-6-238(b)(2) (2019) to administer the day-to-day operations of the Court of Workers' Compensation Claims.

The Court's dual priorities are to provide fair, efficient determinations, consistent with our mission statement, while ensuring the health and safety of all hearing participants. This order will remain in place until the Court rescinds it.

Whenever possible, parties with cases before the Court should use telephone conferencing, videoconferencing, or on-the-record determinations instead of in-person hearings. For cases where an in-person hearing is necessary, all individuals must comply with the procedures below.

#### **Entry into the Court Building**

To observe social distancing, only parties, their attorneys, witnesses, one court reporter, one interpreter, the judge, and court personnel will be allowed into the Court building during an in-person hearing. Parties, attorneys, court reporters, and interpreters may not enter the building until fifteen minutes before the hearing. Parties or their attorneys shall contact the local court staff before the day of the hearing for instructions as to where and how to enter the building.

Any witnesses expected to testify shall remain outside the Court building until the Court calls them to testify. All persons shall wash their hands or use hand sanitizer immediately on entering the building.

#### **Personal Protective Equipment**

All individuals attending an in-person hearing shall wear a mask covering their nose and mouth at all times and shall put on the mask before entering the building. Anyone not wearing a mask will not be admitted. Parties or their attorneys must bring their own masks.

Parties or their attorneys also must ensure that their witnesses, interpreter, and court reporter have masks. Any person attending a hearing may use additional personal protective equipment such as gloves or body coverings, subject to the judge's approval.

### **Health Screening**

Parties or their attorneys are responsible for confirming, the day before the hearing, that all individuals expected to attend an in-person hearing answer "no" to each of the following questions:

- Have you been diagnosed with COVID-19?
- Are you experiencing a cough, shortness of breath, or sore throat?
- Have you been in close contact with a confirmed case of COVID-19 within the last 14 days?
- Have you had a fever in the past 48 hours?
- Have you had a new loss of taste or smell?
- Have you experienced vomiting or diarrhea during the past 24 hours?

If anyone answers "yes" to any of these questions, the party or attorney shall immediately notify the Court staff.

The judge retains discretion to exclude anyone from the courtroom or other areas of the building if that individual exhibits COVID-19 symptoms. The hearing may be continued, or other means may be provided to consider the individual's testimony, including telephone or videoconferencing, if the judge considers it necessary.

### **Social Distancing**

Parties and attorneys shall sit in seats as directed by the Court or staff to maintain appropriate social distancing and shall maintain six-foot distances from each other. If a party and their attorney need to consult with one another, the attorney shall request permission to go to a private location for consultation. Parties or attorneys will conduct examination or cross-examination from their seats, and parties shall testify from their seats. Other witnesses may be asked to testify from locations other than the witness stand. Once a nonparty witness has completed their testimony, they must immediately leave the building. Once the hearing is concluded, all individuals shall leave the building as soon as possible. These directives are subject to alteration by the judge hearing the case.

### **Exhibits**

The directives below are also subject to alteration by the judge hearing the case.

Parties shall not physically share documentary exhibits during the hearing. Instead, parties shall discuss the documents they plan to submit as exhibits and, if possible, agree on them before the hearing. The parties shall then prepare an electronic file compiling all

exhibits, in complete form, that the parties intend to offer for admission into evidence during the hearing. The parties shall pre-number the pages of the compiled exhibits consecutively from the first document in the compilation to the last and shall prepare a table of contents for the compilation.

The parties shall file the exhibit compilation no later than ten business days before the hearing. Documents shall not be passed between parties, attorneys, witnesses, or the Court during the hearing. The parties may provide all participants with a hard copy of the compilation before the hearing.

With regard to rebuttal documentary evidence, the parties shall comply as closely as possible with the directives above and in particular shall not pass documents during the hearing.

**Pre-trial Conference**

At the Court's discretion, parties or their attorneys shall participate in a telephonic pretrial conference to discuss the filing requirements and procedures outlined in this order.

**IT IS ORDERED.**

**Entered May 11, 2020**

*Kenneth M. Switzer*

**KENNETH M. SWITZER, CHIEF JUDGE**  
**Court of Workers' Compensation Claims**