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Rules of the Court Administrator

Article 1. Definitions and General Provisions

§10210. Definitions.

As used in the Article 1 through Article 10:

(a) "Administrative Director" means the Administrative Director of the Division of Workers' Compensation or his or her designee.

(b) "Appeals Board" means the commissioners and deputy commissioners of the Workers' Compensation Appeals Board acting en banc or in panels.

(c) "Applicant" means any person asserting a right to relief under the provisions of Labor Code Section 5300.

(d) "Application for Adjudication" or "application" means the initial pleading that asserts a right to relief under the provisions of Labor Code Section 5300.

(e) "Case file" means a Division of Workers' Compensation adjudication file maintained by the Division of Workers' Compensation in either paper or electronic format, including a temporary paper case file.

(f) "Court Administrator" means the administrator of the workers' compensation adjudicatory process at the trial level, or his or her designee.

(g) "Declaration of Readiness to Proceed" or "Declaration of Readiness" means a request for a proceeding before the Division of Workers' Compensation or the Workers' Compensation Appeals Board.

(h) "Declaration of Readiness to Proceed to Expedited Hearing" means a request for a proceeding before the Division of Workers' Compensation or the Workers' Compensation Appeals Board pursuant to Labor Code section 5502(b).

(i) "Defendant" means any person against whom a right to relief is claimed.

(j) "Document" is a pleading, petition, medical report, record, declaration, exhibit, or another filing submitted by a party or lien claimant, or by a representative of a party or lien claimant on that party or lien claimant's behalf. A "document" may be in paper or electronic form, including an electronically scanned version of a document that was filed in paper form. Each medical report or other record having a different author and/or a different date of service is a separate "document."

(k) "Document coversheet" means the form placed on top of a document or set of documents being filed at one time in a specific case and that identifies the date of filing, the case number (if previously assigned), the case name (i.e., the injured employee's name), and the unit within DWC to which the document(s) is/are being directed. The "document coversheet" also may identify the title(s) or type(s) of the document(s) being filed, and may specify whether the document or documents are being filed on a walk-through basis.

(l) "Document separator sheet" means the form that identifies the title, the author, and the date of each document and each attachment being filed and that is: (1) placed on top of each individual document, when one or more documents are being filed at the same time in the same case; and (2) placed on top of each individual attachment to each document being filed, when an individual document has one or more attachments.

(m) "Electronic Adjudication Management System" or "EAMS" means the computer-based case management system used by the Division of Workers' Compensation to electronically store and maintain the Division of Workers' Compensation or Workers' Compensation Appeals Board's case files and to perform other case management functions.

(n) "Electronic filing" or "e-filing" means the electronic transmission of a document into EAMS for purposes of filing, in accordance with the provisions of these rules.

(o) "Electronic facsimile" or "e-fax" means a document that has been electronically served by the Division of Workers' Compensation or Workers' Compensation Appeals Board using the dedicated fax servers within EAMS.

(p) "Electronic form" or "e-form" is a non-downloadable form within EAMS, accessed and completed on-line using a standard web browser, that is submitted through EAMS for electronic filing.

(q) To “file” a document means: (1) to electronically transmit a document to EAMS for the purpose of having it included in the case file or (2) to deliver a document or cause it to be delivered to the Workers’ Compensation Appeals Board or to any Division of Workers’ Compensation district office for the purpose of having it included in the case file.

(r) “Hearing” means any trial, mandatory settlement conference, rating mandatory settlement conference, status conference, lien conference, or priority conference.

(s) “Legacy case” or “legacy file” means a paper case file that existed before EAMS.

(t) “Lien claimant” means any person claiming payment under the provisions of Labor Code section 4903 or 4903.1.

(u) “Lien conference” means a proceeding held for the purpose of assisting the parties in resolving disputed lien claims pursuant to Labor Code section 4903 or 4903.1 or, if the dispute cannot be resolved, to frame the issues and stipulations in preparation for a lien trial.

(v) “Mandatory settlement conference” means a proceeding before the Division of Workers’ Compensation to assist the parties in resolving their dispute or, if the dispute cannot be resolved, to frame the issues and stipulations in preparation for a trial. A Workers’ Compensation Administrative Law Judge shall preside over such conferences.

(w) “OCR form” (i.e., optical character recognition form) means a paper form designed to be scanned so that its information is automatically extracted and stored in EAMS.

(x) “Party” means: (1) a person claiming to be an injured employee or the dependent of an injured employee; (2) a defendant; or (3) a lien claimant where either (A) the case of the injured employee or the dependent(s) of an injured employee has been resolved or (B) the injured employee or the dependent(s) of an injured employee choose(s) not to proceed with his, her, or their case.

(y) “Petition” means any request for action by the Division of Workers’ Compensation other than an Application for Adjudication, an Answer or a Declaration of Readiness to Proceed.

(z) “Priority conference” means a proceeding before the Division of Workers’ Compensation in which the applicant is represented by an attorney and the issues in dispute at the time of the proceeding include employment and/or injury arising out of and in the course of employment.

(aa) “Rating mandatory settlement conference” means a mandatory settlement conference conducted to facilitate determination of the existence and extent of permanent disability through the use of informal ratings issued by the Disability Evaluation Unit, where the only unresolved issues are permanent disability and the need for future medical treatment.

(bb) “Regular hearing” means a trial.

(cc) To “serve” a document means to personally deliver a copy of the document, or send it in a manner permitted by these rules, to a party, lien claimant, or attorney or other representative who is entitled to a copy of the document.

(dd) “S-signature” means a representation of a person’s signature on an electronically filed document consisting of the notation “/s/” followed by the person’s typed name (e.g., “/s/ John Doe”).

(ee) “Status conference” means a proceeding set for the purpose of ascertaining if there are genuine disputes requiring resolution by the Division of Workers’ Compensation of providing assistance to the parties in resolving disputes, of narrowing the issues, and of facilitating preparation and trial if a trial is necessary. A status conference includes a lien conference.

(ff) “Submission” means the closing of the record to the receipt of further evidence or argument.

(gg) “Trial” means a proceeding set for the purpose of receiving evidence.

(hh) “Venue” means the district office, as established by Labor Code section 5501.5 or 5501.6, at which any proceedings will be conducted and from which any orders, decisions, or awards will be issued.

(ii) “Workers’ Compensation Appeals Board” means the Appeals Board, commissioners, and deputy commissioners.

Authority cited: Sections 133 and 5307(c), Labor Code.

Reference: Section 5500.3, 5502, Labor Code.

§10211. Compliance with Rules of the Court Administrator.

The failure to comply with the Rules of the Court Administrator shall be deemed a bad faith action or tactic that is frivolous or solely intended to cause unnecessary delay unless that failure results from mistake, inadvertence, surprise, or excusable neglect.

Authority cited: Sections 133, 5307(c) and 5500.3, Labor Code.

Reference: Section 5813, Labor Code.

§10212. Division of Workers' Compensation Records.

(a) The case files shall not be taken from the Division of Workers' Compensation's offices either on informal request or in response to a subpoena duces tecum or any order issued out of any other court or tribunal. The case files shall not be produced pursuant a subpoena issued under Labor Code section 130.

(b) Except as provided by Government Code Section 6254, certified copies of portions of the records shall be delivered upon payment of fees as provided in the Rules of the Administrative Director.

Authority cited: Sections 133, 138.7 and 5307(c), Labor Code.
Reference: Section 138.7, Labor Code.

Article 2. The Electronic Adjudication Management System

§10215. Case Names and Case Index.

An index of all cases filed with a District Office shall be maintained in EAMS under the name of the person claimed to have been injured, whether or not that person is an applicant. Reference to the case shall be by the name of the injured person and the case number.

Authority cited: Sections 127.5, 133, 5307 and 5500.3, Labor Code.
Reference: Section 126, Labor Code.

NOTE: See current Rule 10306.

§10216. Division of Workers' Compensation Case Files

(a) All cases filed on and after July 1, 2008 shall be maintained by the Division of Workers' Compensation in an electronic format in EAMS. All paper documents properly filed in such cases shall be scanned into the EAMS case file and then be destroyed.

(b) Except as provided in section 10274, the Division of Workers' Compensation shall maintain a legacy case file in paper format until such time as it is scanned and converted to electronic format. If, however, a legacy case file is maintained in paper format on or after July 1, 2008, an EAMS case file shall also be created and any documents filed thereafter shall be maintained electronically in EAMS, in accordance with subdivision (c).

(c) For all documents filed in a legacy case on or after July 1, 2008, and until the legacy file is fully converted:

(1) if the documents are electronically filed, the documents shall be maintained in electronic format in EAMS and shall not be printed out and placed in the paper file; and

(2) if the documents are properly filed in paper form, the documents shall be scanned into EAMS and then maintained in electronic format in EAMS. After scanning, the paper documents shall be destroyed and shall not be placed in the paper file.

(d) A legacy case file may be scanned into EAMS by the Division of Workers' Compensation at any time. If a legacy case file is scanned into EAMS:

(1) the Division of Workers' Compensation shall notify the parties to the case of the change in how the file is maintained; and

(2) the paper legacy case file may be destroyed.

(e) During extended EAMS system unavailability, or for any other reason, the Court Administrator may direct the creation of temporary paper files for EAMS cases. Documents in such temporary paper files may be destroyed after they are scanned into EAMS.

Authority cited: Sections 127.5, 133, 5307 and 5500.3, Labor Code.

Reference: Section 126, Labor Code.

§10217. Official Address Record and Duty to Furnish Correct Address.

(a) The Division of Workers' Compensation shall maintain an official address record for each case, which shall contain the names and mailing addresses of all parties and lien claimants, and their attorneys or agents of record. In addition, where parties and lien claimants, or their attorneys or agents of record, have provided or have been required to provide telephone numbers, fax numbers or electronic mail addresses, the official address record shall contain these numbers and addresses.

(b) All residence addresses are confidential and shall not be disclosed, except as provided in Labor Code section 138.7(b)(5).

(c) Every attorney, every party, every lien claimant, and every representative of any party or lien claimant having an interest in an active case pending before the Division of Workers' Compensation or Workers' Compensation Appeals Board shall advise the Division of Workers' Compensation and all other known interested parties of any change of address (which shall include any change of mailing address, as well as any change of telephone numbers, fax numbers or electronic mail (e-mail) addresses, where provided or required) by promptly furnishing the correct and current address(es) and/or number(s). An electronic form (e-form) will be available through EAMS. All parties required to file documents via electronic format shall submit the change of address using the electronic form.

(d) Every lien claimant having an interest in an active case pending before the Division of Workers' Compensation or Workers' Compensation Appeals Board: (1) shall advise all known interested parties of any change in the identity and/or telephone number of the person with authority to resolve the lien by promptly furnishing the correct name and daytime telephone number of that person to the interested parties; and (2) shall advise the Division of Workers' Compensation of any such change(s) after a Declaration of Readiness is filed.

(e) Every party, attorney, hearing representative and lien claimant having an interest in an inactive case: (1) shall advise all other known interested parties and known interested lien claimants of any change of address (which shall include any change of mailing address, as well as any change of telephone numbers, fax numbers or electronic mail addresses, where provided or required) by promptly furnishing the correct and current address(es) and/or number(s); and (2) shall advise the Division of Workers' Compensation of any such change(s) if there is an outstanding award of further medical treatment or if the case is still within the continuing jurisdiction of the Division of Workers' Compensation or Workers' Compensation Appeals Board.

Authority cited: Sections 127.5, 133, 5500.3 and 5307 (c), Labor Code.
Reference: Section 126, 127, 5316, 5502 and 5504, Labor Code.

NOTE: See current Rules 10308 and 10396.

§10218. Designated Preferred Method of Service

(a) A party, a lien claimant, or an attorney or other representative for a party or lien claimant may designate first class mail, e-mail or e-fax as their preferred method of service.

(b) All parties, lien claimants, and attorneys or other representatives shall notify all other parties, lien claimants, and attorneys or other representatives of their designated preferred method of service and of any change in their designated preferred method of service.

(c) A party, lien claimant, attorney or other representative shall be served by their designated preferred method both by the Division of Workers' Compensation or the Workers' Compensation Appeals Board and by all other parties and lien claimants, except that if the service is being made by an unrepresented injured worker, dependent or uninsured employer, then the service may be made by first class mail even where e-mail or e-fax service has been designated.

(d) A party, a lien claimant, or an attorney or other representative for a party or lien claimant may change the designated preferred method of service at any time, with proper notice in accordance with section 10217(c).

(e) A party, a lien claimant, or an attorney or other representative for a party or lien claimant who does not designate a preferred method of service shall be served by first class mail.

Authority cited: Sections 127.5, 133, 5307 and 5500.3, Labor Code.
Reference: Section 126, Labor Code.

§10219. EAMS login and passwords

(a) Every attorney, every representative of any insurance company, every representative of any self-insured employer, every representative of any third party administrator, and every representative of any lien claimant who intends to file any documents or to access any workers' compensation case shall register with the Division of Workers' Compensation for an individual EAMS login and password.

(b) Every law firm, every insurance company, every self-insured employer, every third party administrator, and any lien claimant who intends to file any documents or access any workers' compensation case shall register with the Division of Workers' Compensation for an EAMS login and password for the organization.

(c) Persons using either organizational or individual logins and passwords shall have access only to the EAMS case file(s) in which the organization or individual is a party, a lien claimant, or an attorney or other representative for a party or lien claimant.

(d) The individual logins and passwords of persons employed by a law firm, insurance company, self-insured employer, third party administrator, or lien claimant shall be subordinate to and dependent upon the validity of the employing organization's login and password.

(e) Any unrepresented injured worker, any unrepresented person claiming benefits as a dependent of a deceased injured worker, or any unrepresented uninsured employer who intends to electronically access his, her or their workers' compensation case may register with the Division of Workers' Compensation for an individual EAMS login and password.

(f) The Division of Workers' Compensation shall register a person as an EAMS participant only upon completion of the following requirements:

(1) The person shall complete an EAMS subscriber agreement and file the completed form with the Division of Workers' Compensation. An incomplete subscriber agreement shall not be processed and shall be returned to the person who submitted the subscriber agreement.

(2) Upon receipt of a completed EAMS subscriber agreement, the Division of Workers' Compensation shall review the subscriber agreement and verify the information in it for accuracy. Once the information has been verified, the person seeking registration shall successfully complete an on-line training course provided by the Division of Workers' Compensation about EAMS.

(3) Upon successful completion of the EAMS on-line training course, the Division of Workers' Compensation shall issue the subscriber an individual login and password providing access to EAMS.

(g) All individual and organizational EAMS subscribers shall be responsible for the security of their logins and passwords. Any document filed or action taken using an EAMS subscriber's login and password is deemed to be the responsibility of the EAMS subscriber. If a subscriber learns of information constituting reasonable evidence of the likely compromise of

the confidentiality of the subscriber's login or password, the subscriber shall immediately notify the Division of Workers' Compensation.

(h) If an individual EAMS subscriber has a high rate of filing errors or a consistent pattern of failing to comply with the rules of the Court Administrator or the Workers' Compensation Appeals Board regarding the electronic filing of documents, the Division of Workers' Compensation may take corrective measures, including requiring the subscriber to take additional training.

(i) If the Division of Workers' Compensation or the Workers' Compensation Appeals Board finds that an individual or organizational EAMS subscriber's login and password was obtained in violation of the Labor Code, the Rules of the Appeals Board, or the Rules of the Court Administrator, the individual or organizational EAMS subscriber's login and password may be restricted, suspended or revoked by the Court Administrator.

Authority cited: Sections 133, 5500.3 and 5307(c), Labor Code.
Reference: Sections 126 and 5500.3, Labor Code.

§10220. EAMS Availability.

(a) EAMS shall be available for use 24 hours a day, except where the system is unavailable because of scheduled maintenance or unanticipated causes. The maintenance schedule shall be posted on the website of the Division of Workers' Compensation in advance.

(b) Notwithstanding subsection (a), the provisions of section 10230 shall govern the date and time that a document received electronically shall be deemed filed.

(c) Electronic filing of documents shall be suspended if EAMS is out of service for more than 24 hours due to extraordinary circumstances. Notice of the suspension of operation shall be posted on the website of the Division of Workers' Compensation, if the website remains operational. In the case of a suspension of operation, all documents shall be filed in accordance with the declaration of the Court Administrator, or his or her designee, made pursuant to Rule 10225.

Authority cited: Sections 133, 5500.3 and 5307 (c), Labor Code.
Reference: Sections 126 and 5500.3, Labor Code.

§10223. Corrective Measures for Misfiled or Misdirected Documents into the Case Management System.

(a) The Division of Workers' Compensation shall have the ability: (1) to perform document substitution on electronically filed documents; (2) to repair scanned documents; or (3) to move electronically filed or scanned documents to other case files.

(b) Substitution - Where a technical problem (i.e. a readability and/or legibility error) exists with a document e-filed by an attorney, the attorney may seek a substitution of the document by filing a Petition to Substitute. The "Proposed Document for Substitution" must be appended to a Petition to Substitute. If the Petition to Substitute is granted, the "Proposed Document for Substitution" will replace the document that was unreadable or illegible. EAMS will retain as viewable the originally-filed document for those who have access to the electronic file.

(c) Repair - Where a document originally scanned by the Division of Workers' Compensation fails to reflect the original paper document, the Division of Workers' Compensation may "repair" that document so that the scanned image accurately reflects the original paper document.

(1) When such a document is brought to the attention of the Division of Workers' Compensation, the clerk shall perform the repair.

(2) EAMS will retain as viewable the original document for those who have access to the electronic file, and a notice of the repair will be provided to all parties.

(d) Move Document - When a document originally scanned by the Division of Workers' Compensation or electronically filed is misfiled into the wrong file, the Division of Workers' Compensation will be able to "move" the document.

(1) If the misfiling is done by an attorney, a Petition to Move that contains an explanation of the misfiling and a request for the moving of the document from the incorrect file to the correct file shall be filed by the attorney. The Petition shall be filed in the case where the document was originally supposed to be filed, using that case number as the one associated with the docketing of the Petition. If the Petition to Move is granted, the Division of Workers' Compensation will move the document. The e-filing system will retain as viewable the originally-filed document for those who have access to the electronic file and a notice of the move will be provided to all appearing parties in both the original incorrect case and in the correct case. An activity notification will be displayed in the original case file identifying the case number to which the document was moved.

(2) When the misfiling of a document by the Division of Workers' Compensation staff is brought to the attention of the Division of Workers' Compensation, the Division of Workers' Compensation will obtain an order from the presiding workers' compensation judge of the district office having venue directing the moving of the document to the correct case file. A workers' compensation judge may issue such an order sua sponte in the event s/he finds a misfiled document. Upon receipt of the order, the Division of Workers' Compensation will move the document to the correct case file. A notice of the move will be provided to all appearing parties in both the original incorrect case and in the correct case. An activity notification will be displayed in the original case file identifying the case number to which the document was moved.

The notice of move shall contain the following information: (i) the case number of the original case in which the document was filed; (ii) the date that the document was filed in that original case; (iii) the case number of the case to which the document was moved; and (iv) the date of the move.

(e) The following documents cannot be moved: (1) documents that are electronic forms; (2) documents that are sealed; and (3) documents that are in the process of being repaired.

Authority cited: Sections 127, 133, 5500.3 and 5307 (c), Labor Code.

Reference: Sections 126, 5500.3 and 5502, Labor Code.

§10224. Technical Problems and Temporary System Unavailability.

(a) A party whose filing is untimely as the result of a temporary technical failure of EAMS may seek appropriate relief by petition. Upon satisfactory proof of the technical failure, the presiding workers' compensation judge of the district office having venue, or the Appeals Board, may enter a nunc pro tunc order directing that the document be deemed received, as provided by section 10230(b), as of the date and time it was first attempted to be sent electronically.

(b) Except as provided in section 10220(c), EAMS shall be considered to have a temporary technical failure if EAMS is unable to accept filings continuously or intermittently for more than two hours after 12:00 p.m. (Noon) and before 9:00 p.m. on any court day. The Division of Workers' Compensation will maintain a log of all periods of technical failure.

(c) A technical problem on the filer's end (such as phone line problems, Internet Service Provider (ISP) problems, or other hardware and software problems) does not constitute a technical failure under these rules and does not excuse an untimely filing. If there are technical problems on the filer's end, the filer is responsible for filing the document conventionally. Upon a clear showing of good cause, the assigned workers' compensation judge, or the Appeals Board, may grant appropriate relief for an untimely filing solely resulting from unavoidable technical problems on the filer's end.

Authority cited: Sections 127.5, 133, 5307(c) and 5500.3, Labor Code.

Reference: Sections 5502 and 5700, Labor Code.

§10225. Extended System Unavailability.

(a) If, for any reason, there is a technical failure of EAMS for longer than the period set forth in section 10224(b), the Court Administrator, or his or her designee, may in his or her discretion declare that all or any part(s) of the operations performed by or through EAMS shall be accomplished conventionally, to the extent feasible.

(b) The declaration by the Court Administrator, or his or her designee, may among other things:

- (1) require that all documents filed by the parties with the Division of Workers' Compensation or the Workers' Compensation Appeals Board shall be filed in accordance with the paper filing provisions of these rules;
- (2) require that all such paper documents shall be filed only with the district office having venue over the matter, or only with the Appeals Board if the matter is pending before the Appeals Board for action on a petition for reconsideration, removal, or disqualification;
- (3) require that service of all documents by the Division of Workers' Compensation or the Workers' Compensation Appeals Board shall be made by first class mail;
- (4) provide that filed documents shall be maintained in temporary paper case files;
- (5) provide that the time for filing any document shall be extended by a specified period or until EAMS is declared to be operational, or, if the filing deadline may affect the Division of Workers' Compensation or the Workers' Compensation Appeals Board's ability to exercise jurisdiction over the issue(s) presented, provide that the filing party may request that the presiding workers' compensation judge of the district office having venue, or the Appeals Board, issue an order directing the filing of the document nunc pro tunc;
- (6) provide that the time for performing any action, whether by the parties or by the Division of Workers' Compensation or the Workers' Compensation Appeals Board, shall be extended by a specified period or until EAMS is declared to be operational; or
- (7) require or allow any other actions or remedies, as deemed appropriate under the circumstances.

(c) Any such declaration issued by the Court Administrator, or his or her designee, shall be posted on the website of the Division of Workers' Compensation, if the website remains operational, and shall be posted at every district office and at the office of the Appeals Board.

(d) Any such declaration shall remain in effect until such time as the Court Administrator, or his or her designee, issues a subsequent declaration that EAMS is operational. The subsequent declaration may provide for a delay, of a specified period, before reverting to normal procedures.

(e) The declaration also may be issued by the Court Administrator, or his or her designee, if EAMS is not fully operational as of the effective date of this section.

Authority cited: Sections 127.5, 133, 5307(c) and 5500.3, Labor Code.

Reference: Sections 5502 and 5700, Labor Code.

§10226. Access To and Viewing of EAMS Case Files.

(a) A party, a lien claimant, or an attorney or other representative for a party or lien claimant may access and view the specific EAMS case file(s) in which the party, lien claimant, attorney, or representative is a case participant: (1) by linking to EAMS through the website of the Department of Industrial Relations (www.dir.ca.gov) using a standard web browser; and (2) by entering the accessing person's individual login and password, obtained in accordance with section 10219.

(b) A member of the general public who is not a case participant may search for a limited set of basic information regarding cases within EAMS by linking to EAMS through the website of the Department of Industrial Relations (www.dir.ca.gov) using a standard web browser. A member of the general public: (1) will not be able to access and view any specific EAMS case file(s) in which he or she is not a case participant, even if he or she has an EAMS login and password for other EAMS cases; and (2) will not otherwise be able to access or view certain information through EAMS, including but not limited to the residence addresses, social security numbers, and dates of birth of injured employees or their medical records.

Authority cited: Sections 133, 5307 and 5500.3, Labor Code.

Reference: Sections 126, 138.7 and 5500.3, Labor Code.

§10227. EAMS Access After Termination of Employment or Representation.

(a) Where the employment of an attorney with a law firm, of a representative or claims adjustor with an insurance carrier, self-insured employer, or third-party administrator, or the representative of a lien claimant is terminated for any reason, the entity employing that person shall immediately notify the Division of Workers' Compensation of the termination of the employment relationship. Upon receipt of such notification, the Division of Workers' Compensation shall end-date the person's individual login and password on a case-by-case basis. The law firm, insurance carrier, self-insured employer, third-party administrator, or lien claimant will continue to have access to all EAMS case files to which the terminated attorney, representative, or claims adjustor had been assigned through the law firm or organization's login and password.

(b) Where a party or lien claimant who has been represented by a law firm, solo practitioner, or other person or entity terminates that representation (i.e., the party or lien claimant dismisses or substitutes out the law firm, solo practitioner, or other person or entity), the party or lien claimant shall immediately notify the Division of Workers' Compensation of the termination of the representation. Upon receipt of such notification, the Division of Workers' Compensation shall end-date the organizational or individual login(s) and password(s) of the law firm, solo practitioner, or other person or entity on a case-by-case basis.

Authority cited: Sections 133, 5500.3 and 5307(c), Labor Code.

Reference: Sections 126 and 5500.3, Labor Code.

Article 3. Filing of Documents

§10228. Place and Time of Filing Documents.

(a) Documents that are filed on paper, as permitted by these regulations, may be filed with any district office. Except as provided by section 10865, paper documents shall not be filed with the Appeals Board, unless ordered by the Appeals Board.

(b) Electronically filed documents are filed through EAMS.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Sections 126 and 5502 Labor Code.

NOTE: See current Rule 10390.

§10229. Manner of Filing Documents.

(a) Documents submitted for filing by any unrepresented injured employee, any unrepresented dependent of an injured employee, or any unrepresented uninsured employer may be in paper form. An unrepresented employee, dependent or uninsured employer may electronically file documents, but is not required to electronically file.

(b) All paper documents filed in accordance with subsection (a), above, shall be scanned into the EAMS case file and then the paper will be destroyed.

(c) With the exception of paper documents that are prepared at hearing or that, for good cause, are filed at trial, each of the following persons or entities must file all documents relating to Division of Workers' Compensation or Workers' Compensation Appeals Board proceedings using e-forms and attachments to e-forms:

- (1) any attorney representing any party or any lien claimant;
- (2) any insurance carrier or any representative of any insurance carrier (including any claims adjuster);
- (3) any self-insured employer or any representative of a self-insured employer (including any claims adjuster);
- (4) any third-party administrator or any representative of a third-party administrator (including any claims adjuster); and
- (5) any lien claimant or any representative of any lien claimant, with the exception of: (A) a lien claimant (or a non-attorney representative of a lien claimant) asserting a living expenses lien under Labor Code section 4903(c); (B) a lien claimant (or a non-attorney representative of a lien claimant) asserting a burial expenses lien under Labor Code section 4903(d); or (C) a lien claimant (or a non-attorney representative of a lien claimant) asserting a spousal or child support expenses lien under Labor Code section 4903(e), however, state, county, or local agencies pursuing such liens are not covered by exception (C).

(d) A document filed electronically shall have the same legal effect as a document filed in paper form.

(e) Except as provided in subdivision (f), whenever any party or lien claimant files any document electronically, the party or lien claimant shall use the appropriate e-form listed in section 10232(d). If the filing party or lien claimant determines that one of the specific e-forms listed in section 10232(d) is not appropriate, or if it cannot determine which e-form is appropriate, the filing party or lien claimant shall use the e-form for unstructured documents, which is found within EAMS.

(f) Whenever any party electronically files any compromise and release agreement or any or stipulation with request for award, the party shall submit both: (1) a fully completed compromise and release agreement e-form or stipulation with request for award e-form; and (2) a scanned copy of the original fully executed compromise and release agreement or stipulation with request for award, submitted as an attachment to the compromise and release agreement e-form or the stipulation with request for award e-form. Only the scanned copy of the original fully executed compromise and release agreement or stipulation with request for award shall be deemed to have been filed for purposes of inclusion in the record of proceedings under section 10750. To the extent there is any conflict between the fully completed compromise and release agreement or stipulation with request for award e-form and the copy of the original fully executed compromise and release agreement or stipulation with request for award, the copy of the fully executed original shall control.

(g) A document that has been sent directly to Division of Workers' Compensation or the Workers' Compensation Appeals Board by e-mail or by fax shall not be accepted for filing or deemed filed, shall not be acknowledged, and may be discarded.

Authority cited: Sections 133 and 5307, Labor Code.

Reference: Section 126, Labor Code.

§10230. Time of Filing Documents.

(a) A paper document, including one filed by mail (regardless of when posted), is deemed filed on the date it is received, if received prior to 5 p.m. of a court day (i.e., Monday through Friday, except designated State holidays). A paper document received after 5 p.m. of a business day shall be deemed filed as of the next business day.

(b) A document received electronically at or before 9 p.m. of a court day (i.e., Monday through Friday, except designated State holidays) shall be deemed filed as of the date of its receipt by EAMS. An electronically transmitted document shall be deemed to have been received by EAMS when the electronic transmission of the document into EAMS is complete. A document received electronically after 9 p.m. of a court day shall be deemed filed as of the next court day.

(c) When a document is filed by mail, by delivery service, or personally, the person who received the document for filing shall affix on it an appropriate endorsement as evidence of the fact and date of receipt, which endorsement may be made by handwriting, by hand-stamp, by electronic date stamp, or by other appropriate means.

(d) When a document is filed electronically, EAMS shall affix on the document an appropriate endorsement as evidence of the fact, date, and time of receipt into the case management system. In addition, EAMS shall send electronic notification, to the filing party only, confirming the electronic receipt of the document when its transmission is complete. In the absence of a confirmation of receipt, there is no presumption that EAMS received the document.

Authority cited: Sections 133 and 5307, Labor Code.

Reference: Section 126, Labor Code.

NOTE: See current Rule 10390.

§10232. Form and Size Requirements for Filed Documents.

(a) All documents, whether filed electronically or on paper, shall be filed in accordance with the following standards:

- (1) Only one side of each page shall be used.
- (2) All documents shall include in the heading the name of the injured employee and, for existing cases, the Workers' Compensation Appeals Board case number.
- (3) All paper documents shall be on 8½ x 11 inch white paper, not less than 12-pound weight. All electronically filed documents shall be in PDF (Portable Document Format) format with a page setup of 8½ x 11 inches, portrait format, on white background. For both paper and electronically filed documents, the top and bottom margin of each page must be at least one inch and the left and right margins must be at least 1½ inch. There must be no typed or handwritten text in any of the margins.
- (4) Except as otherwise provided by this section, all documents shall be typed. The typeface shall be Times New Roman, Times, Courier, Palatino, Century Schoolbook, or other similar serif font. The type size shall be 12-point font. The color of the print shall be black.
- (5) No single document shall exceed 25 pages in length, without prior leave of the Appeals Board or of the presiding workers' compensation judge of the district office having venue.
- (6) All pleadings, petitions, briefs and notices shall include in the heading the name of the injured employee and the EAMS case number.
- (7) The lines of text (i.e., not including case captions) of all petitions, answers to petitions, trial briefs, points and authorities and other similar legal pleadings shall be either one-and-a-half-spaced or double-spaced, except that: (i) headings and footnotes may be single-spaced; and (ii) quotations may be block-indented and single-spaced.
- (8) If any document within subsection (a)(7) is being filed by an attorney, both the heading and the signature line shall list the name, office address, law firm (if any), and State Bar membership number of the attorney filing the document.

(9) This subdivision shall not apply to proposed exhibits, with the exception that narrative medical reports and medical-legal reports shall comply with subdivisions (a)(1), (a)(3), and (a)(4).

(b) Documents filed on paper shall be filed in accordance with the following standards:

(1) Each document or set of documents filed at one time in the same case shall be topped by a completed document coversheet. Each document within a set of documents shall be topped by a completed document separator sheet. In addition: (A) if an individual document includes an attachment, the attachment shall be topped by a completed document separator sheet and (B) if an individual document includes multiple attachments, each individual attachment shall be topped by its own completed document separator sheet. This paragraph shall not apply to any unrepresented employees, dependents or uninsured employers who do not have ready access to document coversheets and document separator sheets.

(2) In the event of an unrepresented worker, an unrepresented uninsured employer, or unrepresented dependents, a hand-printed document may be submitted if compliance with subdivision (a)(3) is not feasible because the filer does not have ready access to a computer or typewriter. Any hand-printed document shall be legible and shall otherwise comply with subdivision (a).

(3) Oversized documents shall be filed only at the time of trial in accordance with the provisions of section 10603.

(c) Electronic documents shall be filed in accordance with the following standards:

(1) All electronically filed documents shall be in PDF (Portable Document Format) format with a page setup of 8½ x 11 inches, portrait format, on white background and shall otherwise comply with subdivision (a).

(2) Whenever feasible, all documents electronically filed must be prepared as a "text PDF," meaning that the document has been converted to PDF format electronically and not by scanning.

(3) With the exception of e-forms, no embedded data shall be allowed in electronically filed documents.

(4) No single document over three megabytes, except for medical reports, shall be electronically filed without prior leave of the Appeals Board or of the presiding workers' compensation judge of the district office having venue.

(5) Any document that is required to accompany an electronic form shall be filed as an attachment to the electronic form as provided by EAMS.

(6) The filing party shall take all reasonable steps to ensure that the filing does not contain computer code, including viruses that might be harmful to EAMS or to other users of EAMS. Any electronically submitted document that is determined to contain a virus or other potentially harmful computer code may not be processed and may be deleted.

(7) A filing party shall verify the readability of scanned documents before submitting them to EAMS.

(d) The following documents reside in EAMS as electronic forms (e-forms):

1. Applications for Adjudication of Claim
2. Answer to Application for Adjudication of Claim
3. Declarations of Readiness to Proceed
4. Compromise and Release
5. Stipulations with Request for Award
6. Notice of Request for Allowance of Lien
7. Application for Subsequent Injuries Benefits Trust Fund benefits
8. Change of Address
9. E-Form for unstructured documents
10. Petition to Terminate Liability for Temporary Disability Indemnity

(e) Each and every attorney, representative of any insurance company, self-insured employer, third party administrator or lien claimant shall file the documents listed in subdivision (d) as electronic forms. Any documents that are required to be filed with any of the electronic form documents listed in subdivision (d) shall be attached to the electronic form.

Authority cited: Sections 133, 5500.3 and 5307 (c), Labor Code.

Reference: Sections 126 and 5500.3 and 5502 Labor Code.

§10233. Physicians' Reports.

(a) Whenever any medical report is electronically filed in accordance with these rules, the medical report shall be filed utilizing the e-form for unstructured documents that resides within EAMS.

(b) Duplicate medical reports shall not be filed. With the exception of unrepresented employees, dependents and uninsured employers, no party, lien claimant, or representative of a party or lien claimant shall file any medical report without first making a diligent search of the EAMS case file to determine whether the report has previously been filed.

(c) Whenever any permanent and stationary medical report or medical-legal report is electronically filed, the filing party shall indicate in EAMS, using the appropriate menu, that it is a permanent and stationary report.

(d) After the filing of an Application for Adjudication, the parties and lien claimants shall have a continuing duty to file and serve all medical reports in their possession or control within six days of receipt. Service shall be on all other parties and lien claimants. The continuing duty to file all medical reports shall be suspended upon the issuance of an award or order that resolves all pending issues, however, the continuing duty to serve is not then suspended.

(e) The continuing duty to file shall recommence upon the filing of any declaration of readiness to proceed, any petition to terminate liability for temporary disability indemnity or medical treatment, or any petition to reopen. Together with the filing of any of these pleadings, the filing party shall file all previously unfiled medical reports in its possession or under its control. Within six days after the filing of any of these pleadings, all other parties and lien claimants shall file all medical reports in their possession or under their control that have not been filed by any other party or lien claimant. Thereafter, the parties and lien claimants shall have a continuing duty to file and serve all medical reports in their possession or control within six days of receipt.

(f) The parties' continuing duty to file and serve medical reports shall be extinguished upon the issuance of a final award or order that resolves all issues in the case (e.g., an order of dismissal with prejudice or an order approving a compromise and release agreement that resolves further medical treatment and fully resolves all outstanding liens). A lien claimant's continuing duty to file and serve medical reports shall be extinguished upon the issuance of a final order that fully resolves the lien.

(g) All physicians' reports that have not been previously filed and served shall be filed and served upon the filing of a compromise and release or stipulations with request for award.

(h) X-rays, MRIs and similar medical imagings shall not be transmitted to the Division of Workers' Compensation or the Workers' Compensation Appeals Board except under a specific order directing their production.

Authority cited: Sections 133, 5500.3 and 5307 (c), Labor Code.
Reference: Sections 126, 5500.3 and 5502 Labor Code.

§10235. Improper Filing of Documents.

(a) The following documents shall not be filed with the Division of Workers' Compensation or the Workers' Compensation Appeals Board, electronically or otherwise, except upon order of a workers' compensation judge or the Appeals Board:

- (1) Letters to opposing parties or counsel;
- (2) Subpoenas;
- (3) Notices of taking deposition;

(4) Medical appointment letters;

(5) Proofs of service ordered pursuant to Rule 10500;

(6) Medical reports, except as required by Rule 10233;

(7) Copies of any decision of any federal or state court (including any unpublished opinion and any summary of a case in which a petition for writ of review was denied), although a citation to any such decision may be included in a petition, brief, or other document;

(8) Copies of any decision of the Appeals Board or a workers' compensation judge, although a citation to any such decision may be included in a petition, brief, or other document (including a conventional citation to a case reporter and/or a citation to the employee's name, the case number(s), and the date of the decision); and

(9) Any other document which is not required to be filed by the Rules of Practice and Procedure of the Workers' Compensation Appeals Board, the Administrative Director, or the Court Administrator, or which does not request action by the Workers' Compensation Appeals Board.

(b) This rule shall not prevent admission into evidence of any document relevant to an issue pending before the Division of Workers' Compensation or the Workers' Compensation Appeals Board.

(c) Documents improperly submitted pursuant to this section shall not be accepted for filing or deemed filed shall not be acknowledged and may be discarded.

Authority cited: Sections 127, 133, 5500.3 and 5307 (c), Labor Code.

Reference: Sections 126, 5500.3 and 5502, Labor Code.

NOTE: See current Rule 10395.

§10236. Filing of Copies of Documents.

(a) Except as provided by section 10603(a): (1) no "original" business, medical, or other documents shall be filed; (2) only copies shall be filed; and (3) all paper documents shall be destroyed after they are scanned into EAMS and shall not be returned to the person who filed the documents.

(b) Any electronically filed document, or any paper filed document that is a photocopy or other reproduction of an original document, is presumed to be an accurate representation of the original document. If a party or lien claimant alleges that an electronically filed document or a paper filed document that is a photocopy or other reproduction is inaccurate or unreliable, the party filing the document has the burden of proving by a preponderance of the evidence; that

the document is an accurate representation of the original document. A party or lien claimant that elects to retain the original of an exhibit or proposed exhibit need not retain the original after either (1) the exhibit has been authenticated at trial or (2) a settlement that resolves all pending issues has been approved and all appeals have been exhausted or the time for seeking appellate review has expired.

Authority cited: Sections 133, 5500.3 and 5307 (c), Labor Code.

Reference: Sections 126, and 5500.3, Labor Code.

§10238. Hospital and Physicians' Records.

(a) Subject to Labor Code section 3762, all parties, their attorneys, agents and physicians shall be entitled to examine and make copies of all or any part of physician, hospital, or dispensary records that are relevant to the claims made and the issues pending in a proceeding before the Division of Workers' Compensation or the Workers' Compensation Appeals Board.

(b) A party shall file excerpted portions of physician, hospital or dispensary records by: (1) designating each excerpted portion by title of the record or document, by the date or dates of treatment or other service(s) covered by the record or document, by the author or authors of the record or document, and by any available page number(s); and (2) attaching a separate document stating specifically why each particular excerpt is relevant to the pending issues. Only the relevant excerpts of medical records shall be admitted into the evidentiary record.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Sections 4600, 5502(b) and 55029(c), Labor Code.

§10239. Listing of Exhibits For Trial.

(a) On the day of trial, each party (with the exception of any unrepresented injured employee, dependent or uninsured employer) shall submit directly to the workers' compensation judge, and shall personally serve on each opposing party, a list of the exhibits that the party proposes to offer in evidence. The list shall separately identify:

- (1) the exhibits that the party listed at the time of the mandatory settlement conference; and
- (2) the exhibits that the party did not list at the time of the mandatory settlement conference.

(b) For each exhibit listed (unless the exhibit is being filed for the first time at the time of trial), the party also shall specify the EAMS document number for the document, which the party shall have obtained from within EAMS.

(c) Nothing in this section shall prevent a workers' compensation judge from referring an unrepresented injured employee, dependent or uninsured employer to the Information and

Assistance Office to prepare an exhibit list in accordance with the provisions of subdivisions (a) and (b).

Authority cited: Sections 133 and 5307, Labor Code.
Reference: Section 126, Labor Code.

§10240. Return of Exhibits.

(a) Unless otherwise ordered by a workers' compensation judge or the Appeals Board, Sixty (60) days after decision is final in any proceeding, or after a case has been ordered off calendar, all exhibits listed in section 10603 and all laboratory, clinical and hospital records and charts shall be returned to the party that offered the exhibit(s) in evidence.

(b) Upon expiration of five (5) years after the filing of the initial application or other case opening document, there being no proceedings pending, with or without notice, an order disposing of exhibits described in subdivision (a), as deemed proper may issue. Where proper written requests covering disposition of the exhibits are on file, they will be returned or disposed of in accordance therewith.

Authority cited: Sections 133 and 5307, Labor Code.
Reference: Section 126, Labor Code.

Article 4. Appearances, the Form of Minutes of Hearings and Minute Orders

§10242. Pre-Hearing Filing of Previously Unfiled Documents.

(a) Notwithstanding any other provision(s) of these rules, by no later than 9 p.m. of the court day prior to any scheduled hearing, the persons and entities listed in section 10229(c) shall electronically file any medical report, medical record, or other document in their possession or control that has not been previously filed (with the exception of the documents listed in section 10603(a)) and that is relevant or is reasonably likely to be relevant to the issue(s) on which the hearing was set. These documents shall be filed as attachments to the e-form for unstructured documents that resides within EAMS.

(b) If the scheduled hearing is a trial, a failure to comply with this rule may result in evidentiary sanctions.

Authority cited: Sections 127.5, 133, 5500.3 and 5307(c), Labor Code.
Reference: Sections 5502 and 5700, Labor Code.

Article 5. Declarations of Readiness to Proceed and Objections and Hearing Calendars

§10255. Declaration of Readiness for Emergency Status Conference.

(a) A declaration of readiness to proceed to an emergency status conference shall be submitted as a walk-through document directly to the presiding workers' compensation judge at the district office having venue, or his or her designee. The declaration of readiness shall set forth under penalty of perjury:

(1) the issue(s) on which an emergency status conference is being requested, including but not limited to an award of emergency medical treatment or the granting of emergency injunctive relief to preserve the status quo (e.g., to prevent either the imminent destruction of material evidence or the imminent discovery of privileged evidence); and

(2) the nature of the emergency relief that will be sought at the emergency status conference.

(b) Absent a showing of exceptional circumstances that either justify a shorter time for notice or that justify no notice (e.g., a substantial risk that, if notice is given, material evidence may be destroyed), the party requesting an emergency status conference shall, not less than one full business day (i.e., 24 hours) before the date and time that the declaration of readiness to proceed will be submitted, make a good faith effort to notify the attorney(s) for each other party (or the party directly, if it is not represented or if its attorney is not known) of:

(1) the issue(s) on which an emergency status conference is being requested;

(2) the nature of the emergency relief that will be sought at the emergency status conference; and

(3) the date, time, and place that declaration of readiness to proceed to an emergency status conference will be submitted.

(c) The good faith effort to notify the attorney(s) for each other party (or the party directly, if it is not represented or if its attorney is not known) shall at a minimum consist of:

(1) at least one telephone call to the attorney(s) for each other party (or the party directly, if it is not represented or if its attorney is not known); and

(2) if the telephone call does not result in a direct conversation with the attorney(s) (or with the agent(s) of the party who is responsible for handling the claim), at least one attempt to e-mail, e-fax, or fax each other party (or the party directly, if it is not represented or if its attorney is not known) the information set forth in subdivision (b).

(d) Where, in accordance with subdivision (c), the party requesting an emergency status conference has had a direct telephonic conversation with the attorney(s) for each other party

(or the party directly, if it is not represented or if its attorney is not known), the requesting party shall ascertain:

(1) whether the attorney(s) or party(ies) oppose(s) the request and, if so, the basis for the opposition; and

(2) whether the attorney(s) or party(ies) intend(s) to appear to oppose the request.

(e) When the declaration of readiness to proceed to an emergency status conference is submitted directly to the presiding workers' compensation judge at the district office having venue, or his or her designee, the requesting party also shall submit a separate written declaration, under penalty of perjury, setting forth specifically and in full detail:

(1) the facts establishing that there is a bona fide emergency presenting a clear and substantial risk of imminent and irreparable harm to the party submitting the declaration of readiness to proceed;

(2) the facts establishing why the filing of either a declaration of readiness to proceed under section 10250 or a declaration of readiness to proceed to expedited hearing under section 10250 will not constitute an adequate remedy; and

(3) the following additional facts:

(A) where the requesting party had a direct telephone conversation with the other attorney(s) or party(ies), a statement setting forth: (i) the date(s) and time(s) of the direct telephone conversation(s); (ii) that the other attorney(s) or party(ies) were notified of the issue(s) on which an emergency status conference is being requested; (iii) that the other attorney(s) or party(ies) were notified of the nature of the emergency relief that will be sought at the emergency status conference; (iv) that the other attorney(s) or party(ies) were notified of the date, time, and place that declaration of readiness to proceed to an emergency status conference will be submitted; and (v) whether the other attorney(s) or party(ies) oppose the request and, if so, a summary of the basis for the opposition. In addition, if the date(s) and time(s) set forth in (i) were less than one full business day (i.e., 24 business hours) before the date and time that the declaration of readiness to proceed will be submitted, the requesting party shall set forth the exceptional reasons that justified shorter notice;

(B) where the requesting party did not have a direct telephone conversation with the other attorney(s) or party(ies), a statement setting forth: (i) the specific efforts that were made to contact the other attorney(s) or party(ies) (including the telephone number(s) called and the date(s) and time(s) of the call(s)); and the date(s) and time(s) of any e-mail(s), e-fax(es), or fax(es) and the e-mail address(es), e-fax number(s), or fax number(s) used); and (ii) if the date(s) and time(s) set forth in (i) were less than one full business day (i.e., 24 business hours) before the date and time that the declaration of readiness to proceed will

be submitted, a statement setting forth the exceptional reasons that justified shorter notice; or

(C) where the requesting party did not make any effort to contact the other attorney(s) or party(ies), a statement setting forth the exceptional reasons that justified no notice.

(f) Upon receipt of the declaration of readiness to proceed to an emergency status conference, the presiding workers' compensation judge, or his or her designee, shall determine at the walk-through hearing whether to grant the request for an emergency status conference. A request for an emergency status conference shall not be granted unless the presiding workers' compensation judge, or his or her designee, determines that all of the following conditions exist:

(1) there is a bona fide emergency presenting a clear and substantial risk of imminent and irreparable harm to the party requesting the emergency status conference;

(2) setting the matter either for a mandatory settlement conference or for an expedited hearing will not constitute an adequate remedy; and

(3) the date, time, and nature of the notice given by the requesting party was adequate under the circumstances presented.

(g) Notwithstanding the provisions of section 10544, if the request for an emergency status conference is granted at the walk-through hearing, the presiding workers' compensation judge, or his or her designee, shall set the emergency status conference within three to ten calendar days, depending on the nature of the emergency.

(h) Whether or not the other party(ies) appear(s) at the walk-through hearing, the presiding workers' compensation judge, or his or her designee, may issue an order temporarily restraining the other party(ies) from taking the action(s) at issue. Any such order shall remain in effect only until the time of the emergency status conference, although the order may be reissued at that time.

Authority cited: Sections 127.5, 133 and 5307 (c), Labor Code.

Reference: Sections 5307(c) and 5502, Labor Code.

Article 7. Access to Records and Retention of Records

§10271. Inspection of Files.

(a) The following provisions apply to the inspection of paper case files:

(1) Except as provided in Section 10272 or as otherwise prohibited by law, any person may inspect the contents of any paper case file at the district office where the file is located during regular office hours.

(2) The paper case file and the records and documents contained therein may not be removed from the district office for copying or for any other purpose.

(3) Copying operators must operate their equipment in the room assigned to them and any person copying a paper case file must put papers back in the file in their original order and any person viewing or copying a file must return the file in the same order and condition in which it was received.

(4) A paper case file will not be sent from one office to another for inspection except for good cause by order of a workers' compensation judge or the Appeals Board and upon the payment of a fee required by the Administrative Director. At the request of a party to the case, or his or her attorney, a paper case file that has been transferred to a record storage center for storage will be made available for inspection through the office from which the file was transferred. Paper case files that have been transferred to a record storage center will be made available for inspection by any other person upon payment of the fee required by the Administrative Director.

(b) Except as provided in Section 10272 or as otherwise prohibited by law, any person may inspect the contents of any electronic case file at any district office, whether or not the district office has venue over the case, or at the Appeals Board.

(c) The following documents shall not be made available for inspection by any person:

(1) Decisions, reports, opinions, orders, recommendations and other documents that are in the process of preparation, or, although fully prepared, have not yet been signed and filed.

(2) Ratings that have not yet been served.

(3) The working papers, personal notes, deliberation records, and other private notations made by a workers' compensation judge, commissioner, deputy commissioner or Appeals Board attorney or legal assistant in the course of hearing or deliberation relating to the case.

(4) Any legal memorandum or analysis prepared by a workers' compensation judge, commissioner, deputy commissioner, Appeals Board attorney or legal assistant to assist a workers' compensation judge, deputy commissioner or commissioner in his or her deliberations concerning a case.

Authority cited: Sections 133, 5307 (c) and 5500.3, Labor Code, Section 6250 et. seq. Government Code.

Reference: Sections 126, 127 and 138.7, Labor Code.

NOTE: See current Rule 10753.

§10272. Sealing Documents.

(a) The Appeals Board or a workers' compensation judge may issue an order sealing medical reports, medical records or other documents filed in a case containing references to or discussions of mental or emotional health of any person, sexual habits or practice, use of or addiction to alcohol or other drugs, or other matters of similar character. In a case involving an unrepresented injured worker, the Appeals Board or a workers' compensation judge – on its, his, or her own motion – may seal a document or documents with the approval of the injured worker and after compliance with subdivision (d).

(b)(1) A party requesting that a document or documents be sealed shall file a petition for an order sealing the requested records. The petition must be accompanied by a memorandum of points and authorities and a declaration containing facts sufficient to justify the sealing.

(2) The party requesting that a record or records be filed under seal must lodge it with the district office under (d) when the petition is filed, unless good cause exists for not lodging it. Pending the determination of the petition, the lodged records will be conditionally under seal.

(3) If necessary to prevent disclosure, the petition, any opposition, and any supporting documents must be filed in a public redacted version and lodged in a complete version conditionally under seal.

(4) If the Appeals Board or workers' compensation judge denies the petition to seal, the clerk must return the lodged record to the submitting party and must not place it in the case file.

(5) A record filed publicly in the district office must not disclose material contained in a record that is sealed, conditionally under seal, or subject to a pending petition to seal.

(c)(1) The party requesting that a record be filed under seal must put it in a manila envelope or other appropriate container, seal the envelope or container, and lodge it with the district office.

(2) The envelope or container lodged with the court must be labeled "CONDITIONALLY UNDER SEAL."

(3) The party submitting the lodged record must affix to the envelope or container a cover sheet that:

(i) Contain the Workers' Compensation Appeals Board case number and

(ii) States that the enclosed record is subject to a petition to file the record under seal.

(4) Upon receipt of a record lodged under this rule, the clerk must endorse the affixed cover sheet with the date of its receipt and must retain but not file the record unless the court orders it filed.

(d) The Appeals Board or a workers' compensation judge may order that a document be filed under seal or sealed only if it, he or she expressly finds facts that establish:

- (1) There exists an overriding interest that overcomes the right of public access to the record;
- (2) The overriding interests supports sealing the record;
- (3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;
- (4) The proposed sealing is narrowly tailored; and
- (5) No less restrictive means exists to achieve the overriding interest.

(e)(1) If an order is made that a document or documents be sealed, the order shall be filed in the record of the proceedings. A sealed document or documents shall be placed in a sealed envelope, which shall be removed from the file before the file is made available for public inspection. If the sealed document is maintained in an electronic case file, the sealed document shall not be available for public inspection.

(2) The order shall set forth the facts that support the findings and direct the sealing of only those documents and pages, or if practicable, portions of those documents and pages, that contain the material that needs to be placed under seal. All other portions of each document of page must be included in the public file.

(f) Sealed documents shall be made available for inspection by any party to the case or by his representative, subject to any reasonable conditions and limitations as the Appeals Board or workers' compensation judge may impose.

(g) Sealed documents shall not otherwise be made available for public inspection except by order of the Appeals Board or a workers' compensation judge which shall be made only on a showing that good cause exists to permit the inspection.

Authority cited: Sections 127, 133 and 5307, Labor Code.

Reference: Section 5307(c), Labor Code.

NOTE: See current Rule 10754.

§10273. Retention of Records.

(a) The Division of Workers' Compensation shall retain for at least fifty years after the filing of a case opening document (i.e., the initial application for adjudication of claim or, where an application has not previously been filed, either a stipulations with request for award or a compromise and release) the following records in a case file, in either electronic or paper form:

- (1) the application for adjudication of claim and any amended application(s);
- (2) all settlement documents;
- (3) all orders, decisions, or awards;

(4) all non-duplicate medical-legal reports;

(5) all non-duplicate permanent and stationary medical reports of treating physicians;

(6) all rating instructions;

(7) all formal ratings, summary rating determinations, and consultative ratings; and

(8) any other documents as determined by the Workers' Compensation Appeals Board, the Administrative Director, the Court Administrator or their designees.

(b) After five years from the date of filing of the case opening document, the Division of Workers' Compensation may eliminate from the case file and destroy, without reproduction, paper or electronic correspondence and other miscellaneous material or records, including non-permanent and stationary medical reports of treating physicians, not listed in subdivision (a), above.

(c) At any time, the Division of Workers' Compensation may eliminate from the case file and destroy, without reproduction, any of the following paper or electronic documents:

(1) extra copies of pleadings, notices, findings, orders, decisions, awards and other documents; and

(2) any documents filed in violation of section 10235.

(d) The approval of the Department of Finance, as required by the provisions of Labor Code section 135 and Government Code Section 14755, will be obtained before action under this section.

Authority cited: Sections 133 and 5307, Labor Code.

Reference: Section 135, Labor Code; Section 14755, Government Code.

NOTE: See current Rule 10755.

§10274. Destruction of Case Files.

(a) Following a period of fifty (50) years after the filing of the Application or other case opening document, the Division of Workers' Compensation may destroy, without reproduction, the electronic and/or paper file in each case.

(b) The Division of Workers' Compensation, at any time, may convert a paper file to an electronic file. If a paper case file has been converted to electronic form, the paper case file may be destroyed.

(c) The approval of the Department of Finance, as required by the provisions of Labor Code Section 135 and Government Code Section 14755, will be obtained before action under this rule.

Authority cited: Sections 127.5, 133, 5500.3 and 5307(c), Labor Code.
Reference: Sections 126 and 5307 (c), Labor Code.

NOTE: See current Rule 10758.

§10275. Media Access to Trial Level Proceedings and Recordation of Trial Level Proceedings.

(a) For the purposes of this rule:

(1) "Media coverage" means any photographing, recording, or broadcasting of court proceedings by the media using television, radio, photographic, or recording equipment; and

(2) "Media" or "media agency" means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, in-house publication, professional journal, or other news-reporting or news-gathering agency.

(b) Except as provided in this rule, trial level proceedings shall not be photographed, recorded, or broadcast. This rule does not prohibit the Division of Workers' Compensation from photographing or videotaping sessions for judicial education or publications and is not intended to apply to closed-circuit television broadcasts solely within the Division of Workers' Compensation or between Division of Workers' Compensation facilities if the broadcasts are controlled by the Division of Workers' Compensation and Division of Workers' Compensation personnel.

(c) Media coverage shall be permitted only on written order of the workers' compensation judge assigned to the case as provided in this subdivision. The workers' compensation judge in his or her discretion may permit, refuse, limit, or terminate media coverage. This rule does not otherwise limit or restrict the right of the media to cover and report trial level proceedings.

(1) The media may request an order permitting media coverage on a form approved by the court administrator, or his or her designee. The form shall be filed at least five business days before the portion of the proceeding to be covered commences unless good cause is shown. A completed, proposed order on a form approved by the Court Administrator, or his or her designee, shall be filed with the request. The workers' compensation judge assigned to the proceeding shall rule upon the request. If no workers' compensation judge has been assigned, the request shall be submitted to the presiding workers' compensation judge, and thereafter be ruled upon by the workers' compensation judge assigned to the proceeding. The clerk shall promptly notify the parties that a request has been filed.

(2) The workers' compensation judge may hold a hearing on the request or rule on the request without a hearing.

(3) In ruling on the request, the workers' compensation judge shall consider the following factors:

- (i) Importance of maintaining public trust and confidence in the workers' compensation system;
- (ii) Importance of promoting public access to the workers' compensation system;
- (iii) Parties' support of or opposition to the request;
- (iv) Nature of the case;
- (v) Privacy rights of all participants in the proceeding, including witnesses;
- (vi) Effect on any minor who is a party, prospective witness, or other participant in the proceeding;
- (vii) Effect on any ongoing law enforcement activity in the case;
- (viii) Effect on any subsequent proceedings in the case;
- (ix) Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness;
- (x) Effect on excluded witnesses who would have access to the televised testimony of prior witnesses;
- (xi) Security and dignity of the trial level proceeding;
- (xii) Undue administrative or financial burden to the Division of Workers' Compensation or participants;
- (xiii) Interference with neighboring hearing rooms;
- (xiv) Maintaining orderly conduct of the proceeding;
- (xv) Any other factor the workers' compensation judge deems relevant.

(4) The workers' compensation judge ruling on the request to permit media coverage is not required to make findings or a statement of decision. The order may incorporate any local rule or order of the presiding or supervising workers' compensation judge regulating media activity outside of the hearing room. The workers' compensation judge may condition the order permitting media coverage on the media agency's agreement to pay any increased costs incurred by the Division of Workers' Compensation resulting from the permitted media coverage (for example, for additional security or utility service). Each media agency shall be responsible for ensuring that all its media personnel who cover the trial level proceeding know and follow the provisions of the order and this rule.

(5) The order permitting media coverage may be modified or terminated on the workers' compensation judge's own motion or upon application to the workers' compensation judge without the necessity of a prior hearing or written findings. Notice of the application and any modification or termination ordered pursuant to the

application shall be given to the parties and each media agency permitted by the previous order to cover the proceeding.

(6) The workers' compensation judge shall not permit media coverage of the following:

- (i) Proceedings held in chambers;
- (ii) Proceedings closed to the public; and
- (iii) Conferences between an attorney and a client, witness, or aide, between attorneys, or between counsel and the workers' compensation judge at the bench.

(7) The workers' compensation judge may require media agencies to demonstrate that proposed personnel and equipment comply with this rule. The workers' compensation judge may specify the placement of media personnel and equipment to permit reasonable media coverage without disruption of the proceedings. Unless the workers' compensation judge in his or her discretion and for good cause orders otherwise, the following rules shall apply:

- (i) One television camera and one still photographer shall be permitted.
- (ii) The equipment used shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible.
- (iii) An order permitting or requiring modification of existing sound or lighting systems is deemed to require that the modifications be installed, maintained, and removed without public expense or disruption of proceedings. Microphones and wiring shall be unobtrusively located in places approved by the workers' compensation judge and shall be operated by one person.
- (iv) Operators shall not move equipment or enter or leave the courtroom while the court is in session, or otherwise cause a distraction.
- (v) Equipment or clothing shall not bear the insignia or marking of a media agency.

(8) If two or more media agencies of the same type request media coverage of a proceeding, they shall file a statement of agreed arrangements. If they are unable to agree, the workers' compensation judge may deny media coverage by that type of media agency.

(d) Any violation of this rule or an order made under this rule is an unlawful interference with the proceedings of the court and may be the basis for an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions as provided by law.

Authority cited: Sections 127, 5500.3 and 5307 (c), Labor Code.

Reference: Section 5307(c), Labor Code.

§10276. Retention of Reporters' Notes.

(a) Stenographic or electronic reporters' notes or electronic sound recordings of testimony shall

be retained for a period of six (6) years after the taking of them and thereafter may be destroyed or otherwise disposed of.

(b) The approval of the Department of Finance, as required by the provisions of Government Code Section 14755, will be obtained before action under this rule.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Section 14755, Government Code; and Section 5708, Labor Code.

NOTE: See current Rule 10762.

Article 8. Procedures for Requesting Immediate Action by a Judge

§10280. Walk-Through Documents.

(a) A “walk-through” document is a document that is presented to a workers’ compensation judge for immediate action.

(b) The following documents may be submitted on a walk-through basis:

(1) Compromise and releases;

(2) Stipulations with request for award;

(3) Petitions for attorney’s fees for representation of the applicant in vocational rehabilitation;

(4) Petitions for attorney’s fees for representation of the applicant at a deposition; and

(5) Petitions to compel attendance at a medical examination or deposition.

(c) Prior to 5 p.m. of the court day before any action on the walk-through document, the party presenting the walk-through document shall submit it using the appropriate e-form and shall designate it in EAMS as a “walk-through” document and shall attach all relevant documents not previously filed, including any relevant medical reports. Permanent and stationary medical reports shall be indicated as such in accordance with section 10223(c). In addition:

(1) Each walk-through settlement document (a compromise and release or stipulations with request for award) shall be accompanied by a proof of service showing that the document was served on all lien claimants whose liens have not been resolved and any other defendant who may be liable for payment of additional compensation.

(2) Each petition for attorney’s fees for representation of the applicant in vocational rehabilitation shall be accompanied by a proof of service showing that the petition was served on the injured worker and the defendant alleged to be liable for paying the fees.

(3) Each petition for attorney's fees for representation of the applicant at a deposition shall be accompanied by a proof of service showing that the petition was served upon the defendant alleged to be liable for paying the fees.

(4) Each petition to compel attendance at a medical examination or deposition shall be accompanied by a proof of service showing that the petition was served upon the injured worker, the injured worker's attorney, and any other defendant who may be liable for payment of additional compensation.

(d) On the first court day following the filing of the walk-through document and all previously unfiled relevant supporting documentation, the party filing the walk-through document shall appear before the person designated by the presiding workers' compensation judge to assign the walk-through document to a workers' compensation judge. The filing party shall then appear before the assigned judge. If the assigned judge is unavailable for any reason, the filing party shall then proceed to the presiding workers' compensation judge for possible reassignment to another judge.

(e) If the party filing a walk-through document does not appear the next court day in accordance with subdivision (d), above, the walk-through document shall be assigned to a workers' compensation judge for action on a non-walk-through basis.

(f) A workers' compensation judge who is presented with a walk-through settlement document shall approve it, disapprove it, suspend action on it, or accept it for later review and action. If a workers' compensation judge is presented with so many walk-through settlement documents that review of them will interfere with cases scheduled, the judge may refer the walk-through settlement to the presiding judge for possible reassignment to another judge.

(g) A walk-through document may be acted on only by a workers' compensation judge at the district office that has venue. If an injured worker has existing cases at two or more district offices that have venue, a walk-through document may be acted on by a judge at any office having venue over an existing case that is a subject of the walk-through document. An existing case is a case that has been filed and assigned a case number prior to the filing of the walk-through document.

(h) A walk-through document may be acted on by any workers' compensation judge except as follows:

(1) If a judge has taken testimony, any walk-through document in that case must be acted on by the judge who took testimony if that judge works at the district office to which the case is assigned, unless the presiding judge allows it to be acted on by another judge.

(2) If a judge has reviewed a document and declined to approve it, a walk-through document in that case must be acted on by the same judge, if that judge works at the district office to which the case is assigned, unless the presiding judge allows it to be acted on by another judge.

(i) Each district office will have a designee of the presiding workers' compensation judge available to assign walk-through cases from 8:00 a.m. to 11:00 a.m. and 1:00 p.m. to 4:00 p.m. on court days.

Authority cited: Sections 127.5, 133 and 5307 (c), Labor Code.

Reference: Sections 4053, 4054, 5001, 5002, 5702 and 5710, Labor Code.

NOTE: See current Rule 10890.

Article 9. Review of Administrative Orders issued by the Administrative Director

§10290. Appeal from Order Granting or Denying Petition for Order Requiring Employee to Select Employer-Designated Physician.

(a) Where either party petitions the Workers' Compensation Appeals Board within twenty (20) days pursuant to Section 9787 as the result of a grant or denial pursuant to Section 9786(e) (2) or Section 9786(e)(3) of the Rules of the Administrative Director, the matter shall be referred to a workers' compensation judge for hearing and determination of the issues raised. The petition shall be accompanied by a copy of the Administrative Director's order, a Declaration of Readiness, an Application for Adjudication if one has not been previously filed, and any other documents deemed relevant that have not been previously filed. A party aggrieved by the determination of the workers' compensation judge may seek relief therefrom within the same time and in the same manner specified for petitions for reconsideration.

(b) Any party aggrieved by an order issued pursuant to Section 9786(e)(4) of the rules of the Administrative Director may petition the Appeals Board for relief therefrom within twenty (20) days from the date of the issuance of the order in the same manner specified for petitions for reconsideration.

Authority cited: Sections 127.5, 133 and 5307(c), Labor Code.

Reference: Sections 4603 and 4604, Labor Code.

NOTE: See current Rule 10950.

§10291. Appeal of a Notice of Compensation Due.

(a) A notice of compensation due, issued pursuant to Labor Code Section 129, may be appealed by the filing of an Appeal of Notice of Compensation Due within fifteen (15) days of receipt of the notice of compensation due.

(b) The Appeal of Notice of Compensation Due shall be served on the injured worker or dependent and on the audit unit, concurrently with its filing.

(c) Exhaustion of the remedies provided in section 10110 of title 8 of the California Code of Regulations is required before the filing of an Appeal of Notice of Compensation Due. Failure to timely file an objection to notice of intention to issue notice of compensation due may result

in dismissal of the Appeal of Notice of Compensation Due.

(d) The Appeal of Notice of Compensation Due shall specify the factual and legal basis for the appeal and shall include the audit unit's file number. The Appeal of Notice of Compensation Due shall be accompanied by a copy of the notice of compensation due, a Declaration of Readiness, an Application for Adjudication if one has not been previously filed, and any other documents deemed relevant. The Appeal of Notice of Compensation Due shall be filed within EAMS as an attachment to the e-form for unstructured documents.

(e) If an Application for Adjudication has not been previously filed, venue shall be designated and determined in accordance with Labor Code section 5501.1 and Rules 10409 et seq. If an Application for Adjudication has been previously filed, the case number assigned to the Application for Adjudication shall be assigned to the Appeal of Notice of Compensation Due.

(f) An Appeal of Notice of Compensation Due shall be set for a hearing before a workers' compensation judge within forty-five (45) days of filing unless the employee's claim is already before a workers' compensation judge on other substantive issues in which case the appeal may be considered with these other issues. The audit unit, insurer, self-insured employer or third party administrator and the injured worker shall receive notice of the date and time of hearing as well as copies of any other notices or orders issued by the Workers' Compensation Appeals Board. Following the hearing, the workers' compensation judge shall issue findings of fact and an order affirming, modifying or rescinding the notice of compensation due, which complies with Labor Code section 5313.

(g) The copy of the appeal of Notice of Compensation Due sent to the injured worker shall inform the injured worker of the right to consult an attorney. If the injured worker is represented by an attorney, the workers' compensation judge may determine the amount of attorney fees reasonably incurred in resisting the Appeal of Notice of Compensation Due and may assess reasonable attorney fees as a cost upon the employer filing the Appeal of Notice of Compensation Due in accordance with Labor Code section 129(c).

Authority cited: Sections 127.5, 133 and 5307 (c), Labor Code.

Reference: Sections 129, 5300 and 5301, Labor Code.

NOTE: See current Rule 10952.

§ 10292. Appeal of an Audit Penalty Assessment - Labor Code Section 129.5(g).

(a) An insurer, self-insured employer, or third-party administrator may file a paper petition appealing from a civil penalty assessment issued pursuant to subdivision (e) of Labor Code section 129.5, together with a paper Declaration of Readiness requesting a pre-trial conference, at the district office closest to petitioner within seven days after receipt of the notice. If petitioner is domiciled out of state, the petition shall be filed at the San Francisco District Office of the Division of Workers' Compensation.

(b) Petitioner shall attach a copy of the notice of penalty assessment and any other evidence it wishes to submit. Petitioner shall serve upon the Administrative Director copies of all documents filed. Upon stipulation of petitioner and the Administrative Director, the matter may be submitted for decision at the mandatory settlement conference. Otherwise, it shall be set for trial.

Authority cited: Sections 127.5, 133 and 5307 (c), Labor Code.
Reference: Section 129.5(g), Labor Code.

NOTE: See current Rule 10953.

§10293. Appeal of an order of the Rehabilitation Unit.

(a) Appeals from decisions of the Division of Workers' Compensation Rehabilitation Unit shall be commenced as follows:

- (1) if an Application for Adjudication is already on file, by filing and serving a Declaration of Readiness and a petition setting forth the reason for the appeal;
- (2) if no Application for Adjudication is on file, by filing and serving an Application for Adjudication, a Declaration of Readiness, and a petition setting forth the reason for the appeal.

(b) The party appealing the Rehabilitation Unit decision and the party opposing the appeal shall file and serve any documents that the parties deems relevant that have not already been filed in the Rehabilitation Unit case file or the EAMS case file.

Authority cited: Sections 127, 133 and 5307(c), Labor Code.
Reference: Sections 139.5, 4603, 4604, 4645 and 5500, Labor Code.

NOTE: See current Rule 10955.

Article 10. Arbitration

§10295. Mandatory Arbitration.

(a) This rule applies to injuries occurring on or after January 1, 1990.

(b) Any Application for Adjudication that lists one or more disputes involving an issue set forth in Labor Code section 5275, subdivision (a), shall be accompanied by an arbitration submittal form prescribed and approved by the Appeals Board. The arbitration submittal form shall indicate that either:

- (1) an arbitrator has been selected pursuant to Labor Code section 5271, subdivision (a), or

(2) an unsuccessful attempt has been made to select an arbitrator and the presiding workers' compensation judge is requested pursuant to Labor Code section 5271, subdivision (b), to assign a panel of five arbitrators.

(c) If the parties have agreed to an arbitrator pursuant to Labor Code section 5271, subdivision (c), the presiding workers' compensation judge shall, within six (6) days of receipt of the arbitration submittal form, order the issue or issues in dispute submitted for arbitration pursuant to Labor Code sections 5272, 5273, 5276 and 5277.

(d) If the arbitration submittal form requests a panel pursuant to Labor Code section 5271, subdivision (b), the presiding workers' compensation judge shall, within six (6) days of receipt of the arbitration submittal form, serve on each of the parties an identical list of five arbitrators selected at random pursuant to Labor Code 5271(b). For each party in excess of one party in the capacity of employer and one party in the capacity of injured employee or lien claimant, the presiding workers' compensation judge shall randomly select two additional arbitrators to add to the panel in accordance with the selection process set forth in Labor Code section 5271, subdivision (c). Each of the parties shall strike two arbitrators from the list and return it to the presiding workers' compensation judge within six (6) days after service. Failure to timely return the list shall constitute a waiver of a party's right to participate in the selection process. If one arbitrator remains, the presiding workers' compensation judge shall, within six (6) days of return of the lists from the parties, order the issue or issues submitted for arbitration before the selected arbitrator pursuant to Labor Code sections 5272, 5273, 5276 and 5277. If more than one arbitrator remains on the panel, the presiding workers' compensation judge shall randomly select an arbitrator from the remaining panelists.

(e) If the parties to the dispute have stricken all the arbitrators from the panel, the presiding workers' compensation judge shall, within six (6) days of receipt of the last of the returned lists, serve on each of the parties to the dispute a new list of five arbitrators and any additional arbitrators required by Labor Code section 5271 subdivision (c) selected at random but excluding the names of the arbitrators on the prior list. Each of the parties to the dispute shall again strike two arbitrators from the list and return it to the presiding workers' compensation judge within six (6) days after service. This procedure shall continue until one or more arbitrators remain on the lists returned to the presiding workers' compensation judge.

(f) The parties shall provide all necessary materials to the arbitrator. Any legacy file shall remain in the custody of the district office.

(g) Any final decision, order or award from the arbitrator, together with the record developed as set forth in Labor Code sections 5276 and 5277, shall be filed with the presiding workers' compensation judge of the district office having venue. The district office shall scan the decision, order or award and the record into the EAMS case file and, after scanning, shall return the paper record to the arbitrator.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Sections 5270 through 5277, Labor Code.

NOTE: See current Rule 10995.

§10296. Voluntary Arbitration.

(a) At any time, the parties may agree to submit any issue for arbitration pursuant to Labor Code section 5275, subdivision (b), by submitting an arbitration submittal form prescribed and approved by the Appeals Board that indicates that the parties have selected an arbitrator pursuant to Labor Code section 5271, subdivision (a), and by filing an Application for Adjudication if one has not been previously filed.

(b) Within six (6) days of receipt of the arbitration submittal form, the presiding workers' compensation judge shall order the issues in dispute submitted for arbitration pursuant to Labor Code sections 5272, 5273, 5276 and 5277.

(c) If the parties are unable to agree to an arbitrator under Labor Code section 5271, subdivision (a), the parties may agree to follow the procedures for selecting an arbitrator under Labor Code section 5271, subdivision (b) and (c), as set forth in rule 10995.

(d) The parties shall provide all necessary materials to the arbitrator. Any legacy file shall remain in the custody of the district office.

(e) Any final decision, order or award from the arbitrator, together with the record developed as set forth in Labor Code sections 5276 and 5277, shall be filed with the presiding workers' compensation judge of the district office having venue. The district office shall scan the decision, order or award and the record into the EAMS case file and, after scanning, shall return the paper record to the arbitrator.

Authority cited: Sections 133 and 5307(c), Labor Code.

Reference: Sections 5270 through 5277, Labor Code.

NOTE: See current Rule 10996.