

2721

Judges' Rules
Comments

Crum, Elizabeth

From: Marc S. Jacobs [mjacobs@galfandberger.com]
Sent: Wednesday, September 17, 2008 5:01 PM
To: Miller, Amanda (L&I/BWC); Cicola, David; Crum, Elizabeth; Desimone, Francis; Donald Smith; Fergus, Harold; Hakun, Joseph; Harry Thomas; James Strader; John Gordner; John McTiernan; Kuzma, Thomas J. (GC-LI); Mcdermott, Susan; Peter Weber; Rapkin, Wayne; Robert Belfanti; Torrey, David; Vincent Quatrini
Cc: jprim@ducaandprim.com
Subject: Comments on Proposed Rules

To Rules Committee---I have enclosed for the committee's review some real thought provoking comments from Joe Prim originally sent to Executive Council of the Phila Bar Ass. Workers Compensation Section--Marc S Jacobs

I have some problems with the proposed rules which are detailed below.

131.41 . . . If a supersedeas has been granted or denied in whole or in part, the judge may, upon request or on the judge's own motion, and after hearing, review and modify the grant or denial as warranted.

This allows the WCJ to change a supersedeas decision on the Judge's own motion. The litigation is an adversarial process and the WCJ should not interpose himself in such matters. The Act only allows for a supersedeas upon request and after hearing.

131.53 [(f) Dates of the medical examinations, if not scheduled prior to the first hearing actually held, shall be scheduled within 45 days after the first hearing actually held.]

This section should not be eliminated. It is important that the DME take place before the claimant's deposition of its expert which is required to take place within 90 days of the first hearing.

131.53b (a) The judge may, upon request or upon the judge's own motion, consider bifurcation of issues to promote the expeditious resolution of cases.

This should be clarified so that bifurcated cases do not result in final orders, when there are other issues to address, so that the ultimate decision is not delayed. An interlocutory order should be issued, when the result of the bifurcation leaves other issues to be determined.

131.60 (a) A resolution hearing must be requested in writing.

This is contrary to current practice and will result in delay, which defeats the purpose of resolution court.

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 REVIEW COMMISSION

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-----Original Message-----

From: Miller, Amanda (L&I/BWC) [mailto:amamiller@state.pa.us]
Sent: Monday, September 08, 2008 2:44 PM
To: Cicola, David; Crum, Elizabeth; Desimone, Francis; Donald Smith;
Fergus, Harold; Hakun, Joseph; Harry Thomas; James Strader; John
Gordner; John McTiernan; Kuzma, Thomas J. (GC-LI); Marc S. Jacobs;
Mcdermott, Susan; Peter Weber; Rapkin, Wayne; Robert Belfanti; Torrey,
David; Vincent Quatrini
Cc: Lengler, Richard C. (GC-LI)
Subject: FWCicola, David: Memo and Revised Committee Listing

Please note, there was an error on the Rules Committee member list. Attached you find the revised and correct version. Thank you, and I'm sorry for any confusion.

Mandy Miller-Supervisor
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1171 S. Cameron Street, Room 324
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-----Original Message-----

From: Miller, Amanda (L&I/BWC)
Sent: Monday, September 08, 2008 2:37 PM
To: Cicola, David; Crum, Elizabeth; Desimone, Francis; Donald Smith; Fergus, Harold;
Hakun, Joseph; Harry Thomas; James Strader; John Gordner; John McTiernan; Kuzma, Thomas J.
(GC-LI); Marc Jacobs; Mcdermott, Susan; Peter Weber; Rapkin, Wayne; Robert Belfanti;
Torrey, David; Vincent Quatrini
Cc: Lengler, Richard C. (GC-LI)
Subject: Memo and Revised Committee Listing

Good afternoon!

This email is being sent on behalf of Stanley Siegel. Below you will find two attachments. The first is a memo from Stanley, and the second is the revised listing of the Rules Committee members. Please note that John McTiernan's address has changed.

Thank you, and please feel free to contact me if you have any questions or concerns.

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