

**Workers' Compensation Rules of Procedure**

**CHAPTER 60Q-6**

**FLORIDA RULES OF PROCEDURE FOR  
WORKERS' COMPENSATION  
ADJUDICATIONS**

**\*Effective 11/10/2014 (Section with/ Changes in text in BOLD)  
Cite to Rules as "Fla. R. Pro. Work. Comp," and specific Rule as  
"Rule 60Q-6.\_\_\_\_, F.A.C."**

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### **60Q-6.101 Scope**

These rules of procedure apply in all workers' compensation proceedings before the judges of compensation claims.

### **60Q-6.102 Definitions**

- (1) "Claim" means each assertion of a legal right or benefit under Chapter 440, F.S.
- (2) "Claimant" means the person asserting a claim.
- (3) "Division" means the Division of Workers' Compensation, Department of Financial Services.
- (4) "Office of the Judges of Compensation Claims" (OJCC) means the office within the Department of Management Services, Division of Administrative Hearings, where the Deputy Chief Judge and judges of compensation claims preside.
- (5) "Electronic filing" means uploaded to the appropriate case docket using the electronic judges of compensation claims' e-filing system (e-JCC) accessed through a link on the OJCC website at [www.jcc.state.fl.us](http://www.jcc.state.fl.us).
- (6) "Electronic signature" means that a graphic version of the e-JCC user's signature or "s/" followed by the e-JCC user's typewritten name is deemed to be the legal equivalent of the e-JCC user's handwritten signature.
- (7) "Filed" means received by the clerk of the OJCC in Tallahassee.
- (8) "Judge" means a judge of compensation claims appointed pursuant to Chapter 440, F.S.
- (9) "Parties" may include the petitioner, claimant, employer, carrier, servicing agent, health care provider, and division.
- (10) "Petition for benefits" means a pleading invoking the jurisdiction of the OJCC and subject to the requirements of Section 440.192(1) through (4), F.S.
- (11) "Pleading" means a petition for benefits or an amended petition, a motion, a response to a petition or a motion, a voluntary dismissal, a voluntary agreement to provide benefits, a pretrial stipulation, a stipulation changing the issues pending in a case, or a notice.

(12) “Personally conferred” means communications in person, by telephone, e-mail, text messaging, or some other communication mechanism that permits an immediate, contemporaneous response.

### **60Q-6.103 Pleadings and Proposed Orders**

(1) Pleadings. All documents filed with the OJCC shall:

(a) Be typewritten or printed on 8 1/2" by 11" white paper, unless electronically filed;

(b) Be unstapled;

(c) Contain the signature, or the electronic signature if filed electronically, of the party in interest or, if represented, the party’s attorney of record;

(d) Contain the style of the proceeding; the case number, if any; the date of accident; the party on whose behalf the document is filed; the subject matter of the document; and the name, mailing address, e-mail address, and telephone number of the party or, if represented, the party’s attorney of record (including the attorney’s Florida Bar number) filing the document;

(e) Contain a certificate of service representing that copies have been served on all parties or, if represented, their attorneys of record. The certificate shall be dated and include the name, address, and method of service used as to each party and/or attorney served; and

(f) Not be accompanied by separate cover letter or correspondence.

(2) Exempt information. Except for the employee’s social security number or equivalent on petitions for benefits and responses thereto, no pleading shall contain information exempt from public records disclosure. Exempt information shall be supplied in connection with a pleading only to the extent it is necessary for the judge’s determination of disputed matters or required by Florida Statutes and shall be appended to a pleading in a separate document conspicuously marked “Exempt Information.”

(3) All pleadings filed in paper form shall contain in the bottom 1 1/2 inches of each page only the following: “OJCC Case #” followed by the case number and “page #” followed by the page number.

(4) Proposed Orders. Except as provided in subsection 60Q-6.115(3), F.A.C., proposed orders shall not be submitted unless requested by the judge. They shall be clearly indexed in the docket as proposed orders and shall be sent to all other parties or, if represented, their attorneys of record prior to being

submitted to the judge. Proposed orders shall be a separate document and not be included as a part of a motion.

#### **60Q-6.104 Representation and Appearance of Counsel**

(1) Appearance of Counsel. An attorney who files a petition or claim on behalf of a party has entered an appearance and shall be deemed the party's attorney of record. All other attorneys appearing for a party in an existing case shall file promptly with the judge a notice of appearance and serve copies on all other parties or, if represented, the parties' attorneys of record. The notice of appearance shall include the style of the proceeding; the case number; the name of the party on whose behalf the attorney is appearing; and the name, mailing address, e-mail address, telephone number, and Florida Bar number of the attorney. Attorneys shall keep their e-JCC profile current by logging into e-JCC and updating their mailing addresses, e-mail addresses, and telephone numbers when such information changes.

(2) Substitution or Withdrawal of Counsel. During the pendency of any issues before the judge, an attorney of record remains the attorney of record until:

(a) A stipulation for substitution has been filed with the judge and served on all other parties or, if represented, their attorneys of record; or

(b) A motion to substitute or to withdraw, which reflects that it has been served on the client and all other parties or, if represented, their attorneys of record, is granted.

### **60Q-6.105 Commencing a Case; Subsequent Petitions**

- (1) An employee or claimant seeking an award of benefits commences a new case by filing a petition for benefits pursuant to Section 440.192, F.S., when there is not an existing case pertaining to the same employee and date of accident.
- (2) When the employee and date of accident are the same as in an existing case, any subsequent petition for benefits or claim relating to that employee and date of accident shall be filed in the existing case.
- (3) For any claim or dispute within the jurisdiction of the OJCC but not subject to a petition for benefits, the claimant or moving party shall file with the clerk of the OJCC a request for assignment of case number.
- (4) An employee or claimant who asserts he or she cannot provide a social security number or who asserts a legal basis for refusing to provide one shall file a verified motion for assignment of substitute identification number along with the initial petition or request for assignment of case number.
- (5) A claim for reimbursement from the Special Disability Trust Fund shall be made under the administrative rules promulgated by the division.
- (6) Where a party is represented, a petition for benefits shall be served on counsel for the party in addition to any service otherwise required by this rule.

### **60Q-6.106 Consolidation and Venue**

- (1) The judge, on the judge's own initiative or on the motion of any party, may consolidate any claims or petitions pending before the judge for the purpose of a hearing or for any other purpose, except for a claim for reimbursement from the Special Disability Trust Fund.
- (2) Any motion to consolidate cases shall be filed in only the lowest-numbered case sought to be consolidated and shall be resolved by the judge to whom that case is assigned. Any consolidation of two or more cases shall thereafter be designated as consolidated under the lowest case number of those consolidated, and shall be assigned to the judge then assigned to that lowest case number.

- (3) A motion to change venue shall be filed with the judge and shall contain the signature of the moving party, or, if represented, the party's attorney of record.
- (4) When a judge assigned to a case determines that the case is proceeding in an incorrect venue, the judge may transfer the case to the proper venue. When transfer of venue occurs, the Deputy Chief Judge shall assign the case.
- (5) For accidents occurring outside of the state, the Deputy Chief Judge's initial determination of venue may be changed by order of the assigned judge.

#### **60Q-6.107 Amendment and Dismissal of Petition for Benefits**

- (1) A petition that does not contain the information required by Section 440.192(2) through (4), F.S., shall be dismissed.
- (2) A petition or request for assignment of case number may only be amended by written stipulation of the parties or by order of the judge, except that changes of addresses, e-mail addresses, or phone numbers of parties or, if represented, their attorneys of record can be accomplished by filing a notice of change.
- (3) Prior to dismissing any petition for failure to prosecute, the judge shall issue an order to show cause and allow 10 days for a response to the order.

#### **60Q-6.108 Filing and Service**

- (1) Filing.
  - (a) All documents filed with the OJCC, except documents filed by parties who are not represented by an attorney, shall be filed by electronic means through the OJCC website. Any document filed in paper form by U.S. mail, facsimile, or delivery shall be filed only with the OJCC clerk in Tallahassee. Documents shall be filed by only one method, e-filing, facsimile, or U.S. mail, and shall not be filed multiple times. Duplicate filings will not be docketed and will be destroyed.



(b) Any pleading or other paper filed in a proceeding shall be served on all other parties or, if represented, their attorneys of record at the time the document is filed. Petitions for benefits shall be served on the parties as provided in Section 440.192(1), F.S., and copies of the petitions shall be served on counsel for the opposing parties, if known, at the time the petition is filed as provided in this rule. Service shall be by electronic mail, facsimile, or U.S. mail. The use of electronic mail by parties or attorneys is approved only when the serving party or attorney uses the opposing party's or attorney's e-mail address registered with the OJCC, as listed in e-JCC. Electronic mail sent by the OJCC on behalf of the serving party through the e-JCC program shall be the only approved alternative to certified U.S. mail for service of petitions for benefits and responses to petitions for benefits. In the event a represented party files a pleading or other paper with the OJCC by electronic means, that party shall be required to serve the other party or parties, or their designated representative, with a copy of that pleading or paper simultaneously by electronic means, if available.

(c) The following documents shall not be filed with the OJCC unless relevant to an issue to be heard and not more than 10 days but at least two days before the scheduled hearing: requests or notices to produce and objections or responses thereto, deposition transcripts, correspondence between counsel or parties, correspondence to the judge or the judge's staff, subpoenas and returns of service.

(d) Except for filing using e-JCC, electronic mail or facsimile of documents to the judge shall be used only when the judge authorizes such use for that document; otherwise, the document will not be considered.

(e) Any document, whether filed by electronic or other means, received by the OJCC after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day.

(f) Any attorney, party, or other person who electronically files any document shall be responsible for any delay, disruption, interruption of the electronic signals, and readability of the document, and accepts the full risk that the document may not be properly filed as a result.

(g) Any document filed electronically shall be uploaded individually, except that exhibits, supporting documents, and proposed orders for any motion may be filed along with the motion. In naming uploaded motions, counsel shall specifically identify the type of motion by naming the relief sought. In naming depositions filed electronically, counsel shall include the deponent's name and the

date of the deposition. If an uploaded document is specifically intended as a hearing exhibit at the time of filing, the name shall also include “proposed hearing exhibit” and the date of the scheduled hearing. All uploaded documents shall include sufficient specificity in naming to allow identification of the document from the docket remark.

(h) If a document is filed in error using e-JCC, the filing party shall file the document in the correct case docket and separately file a notice of the error in the case that contains the erroneously-filed document.

(i) The clerk of the OJCC shall, upon order of the assigned judge, place a document under seal and render it thereby viewable only upon further order of the assigned judge.

(2) Service. Service is effectuated by:

(a) Handing the document to the party or, if represented, the party’s attorney of record;

(b) Leaving the document at the attorney’s office with a clerk or other person in charge or leaving it in a conspicuous place in the office;

(c) If the office is closed or the person to be served has no office, leaving the document at the person’s residence with a member of the person’s family above 15 years of age and informing that person of the contents;

(d) Placing the document in the U.S. mail, except when the original pleading or paper was filed with the OJCC by electronic means, in which case simultaneous electronic service on the other party or parties must be made, as referenced in paragraph (1)(b) above; or

(e) Transmitting the document by facsimile or electronic mail. Service by electronic mail on a party or attorney is only effective if the serving party or attorney uses the opposing party’s or attorney’s e-mail address registered with the OJCC, as listed in e-JCC. Service of a petition for benefits or response to a petition for benefits sent by electronic mail shall be effectuated, and deemed received by the opposing party at the same time that service is effectuated, upon electronic mailing if sent by the OJCC on behalf of the serving party through the e-JCC program to the registered e-mail address of the opposing party as listed in e-JCC.

- (f) All documents served by e-mail must be attached to an e-mail message containing the subject line beginning with the words “SERVICE OF OJCC DOCUMENT” in all capital letters followed by the name of the injured worker, employer, and OJCC number, if any.
- (3) Service by delivery, facsimile, or electronic mail after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday, or legal holiday.
- (4) When service is made by U.S. mail, the copy shall be mailed postage prepaid, to the last known address of the party or, if represented, the party’s attorney of record.
- (5) Service by U.S. mail shall be complete upon mailing.
- (6) When service of any pleading other than a petition is made by U.S. mail, five days shall be added after the period allowed for the performance of any act required to be done, or allowed to be done, within a certain time after service. When service is made by any electronic delivery method or by hand delivery, no additional time shall be added.
- (7) All orders shall be electronically filed with the OJCC in Tallahassee on the same day that the order is transmitted to the parties by electronic mail or U.S. mail.
- (8) All attorneys filing documents in workers’ compensation proceedings before the OJCC shall register to use the e-JCC electronic filing system. Each such attorney shall register an e-mail address and thereby consent to receive documents from other counsel and the OJCC at that address. Each attorney shall be responsible for amending that e-mail address as necessary for it to remain current.
- (9) Only attorneys, mediators, adjusters, and parties are permitted to register with the e-JCC system.
- (10) The OJCC will maintain a list of all e-JCC registrants and their e-mail addresses.
- (11) All employer, self-insurers, third-party administrators, and carriers shall register a single, general delivery, e-mail address with the OJCC for receipt of all electronically served documents, including petitions for benefits. All employers, self-insurers, third-party administrators, and carriers shall register a single, general delivery U.S. Mail address and a single telephone number with the OJCC. The e-JCC system will maintain a list of all registered companies, and their e-mail addresses. Each such self-insurers, third-party administrators, and carrier shall be responsible for amending that e-mail address as necessary for it to remain current.

- (12) Any other party may register an e-mail address with the OJCC.
- (13) The OJCC will maintain a list of all registered parties and counsel and their respective e-mail addresses.

#### **60Q-6.109 Computation of Time**

In computing any period of time prescribed or allowed by these rules, by order, or by applicable statute, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included. If any act required to be done, or allowed to be done, falls on a Saturday, Sunday, or legal holiday, performance of that act shall be required on the next regular working day. When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation. As used in this rule, legal holiday means those days designated in Section 110.117, F.S.

#### **60Q-6.110 Mediation, Generally**

- (1) All petitions and claims pending at the time a mediation conference is held are deemed consolidated and will be mediated at that conference.
- (2) Parties who have agreed to private mediation or to re-schedule private mediation shall file with the judge at least 30 days prior to any scheduled mediation a notice substituting private mediation for state mediation or re-scheduling private mediation. If such notice is filed less than 30 days prior, it shall be treated as a motion, and attendance and participation at the scheduled state mediation shall not be excused, absent an order finding good cause to excuse this time requirement. The notice shall include the name of the private mediator, along with the date and time of the private mediation and shall state that the private mediation meets the statutory deadline, unless the deadline is waived by all parties.
  - (a) The Deputy Chief Judge shall assign a mediation date for each petition filed. Within 40 days after the filing of the earliest petition for benefits awaiting mediation, the parties may agree to coordinate with the assigned judge an alternate state mediation date which meets the 130-day statutory

deadline. Any such change in date shall be considered a re-scheduling and not a continuance of the mediation.

(b) After the state mediation has been noticed on the 40th day following the filing of the earliest petition for benefits awaiting mediation, the state mediation shall not be continued unless first granted by the judge upon agreement of the parties or upon proper motion filed no later than 30 days before the date of the scheduled state mediation, unless the mediation notice is sent to the parties less than 30 days prior to the noticed mediation.

(c) The state mediation conference may not be re-scheduled or continued to occur after the 130-day statutory deadline unless first granted by the judge upon proper motion demonstrating that the basis for the continuance arises from circumstances beyond the movant's control or for other good cause shown. The motion shall be filed no later than 30 days before the date of the scheduled state mediation absent an emergency.

(d) Parties to a workers' compensation claim may jointly request voluntary mediation services from the OJCC. Such requests will be considered as individual state mediator calendars permit. Any voluntary mediation will be conducted only if all parties so stipulate. Any voluntary mediation will be governed by these rules. Failure to appear at a voluntary mediation shall not be a basis for the imposition of sanctions.

(3) The parties and private mediator shall be bound by the rules and statutes applicable to state mediation. If a notice and order regarding state mediation has been entered in the cause, the terms and requirements of the notice and order shall remain in full force and effect as to the substituted private mediation.

(4) If the parties resolve all issues, or all issues except for attorney's fees, prior to the scheduled mediation conference, the attorney or unrepresented claimant who has filed a petition for benefits shall file a pleading in order to cancel the corresponding mediation. The pleading must be filed prior to the scheduled mediation and shall indicate the manner in which each issue was resolved.

(5) The following persons shall attend the mediation conference: the claimant; the claims representative of the carrier/servicing agent, which representative must have full authority to resolve the issues and/or settle the case; the employer, if uninsured; the insured or self-insured employer, if the

employer/servicing agent does not have full authority to settle the issues; and the attorneys for the parties. The appearance of an attorney for a party does not dispense with the required attendance of the party. No party shall appear at the mediation conference by telephone unless such appearance is approved in advance by the mediator. Any party appearing by telephone has stipulated to be bound by that party's attorney of record's signature on the mediation report.

(a) The adjuster, if represented by counsel, may attend the mediation by phone unless an objection is filed with the mediator on the basis of good cause. The mediator shall have discretion to allow any party and/or that party's attorney of record to appear at the mediation conference by telephone upon the party's written request furnished to the mediator and the opposing party or, if represented, the party's attorney of record no fewer than five days prior to the mediation conference. The expense of telephonic attendance shall be borne by the person or party attending by telephone.

(b) Any person attending mediation telephonically shall provide an e-mail address for use in exchanging documents during the mediation unless good cause is shown to the mediator at least five days prior to the mediation. Any mediation attended telephonically is not concluded until the signed report is returned to the mediator. The signed report shall be returned by the end of the business day unless excused by the mediator.

(6) Failure to attend the mediation conference without a showing of good cause, or the failure to appear at the mediation conference with full authority to resolve the issues, shall subject the party or the attorney to sanctions.

(7) Immediately following the conclusion of a mediation conference in an open OJCC case, the mediator, whether state, adjunct, or private, shall prepare a report stating which issues or claims in dispute are resolved and which remain unresolved, and whether the parties completed a pretrial stipulation. The report shall identify by filing date each petition mediated. The claimant shall file with the judge within five business days of the mediation conference the mediator's report and mediation settlement agreement, if any, together with any pretrial stipulation executed by the parties.

## **60Q-6.111 Authority and Duties of Mediator**

- (1) Authority of Mediator.
  - (a) The mediator shall at all times be in control of the mediation and the procedures to be followed, subject to the direction of the judge.
  - (b) The mediator may meet and consult privately with any party or parties or their counsel during the mediation.
  - (c) Upon written request of any mediator, the Deputy Chief Judge may reassign any mediation to accommodate conflict of interest or potential appearance of impropriety. Any party may also seek such reassignment through motion.
- (2) Duties of Mediator. The mediator shall inform the parties at the beginning of the mediation conference:
  - (a) Of the process of mediation;
  - (b) That the mediator is an impartial facilitator and is there to assist the parties in reaching, not to force them to reach, a voluntary settlement;
  - (c) Of the differences between mediation and a final hearing before the presiding judge;
  - (d) If applicable, of the costs of the mediation;
  - (e) That the mediation process is consensual in nature, and the parties retain their right to a final hearing if they do not reach agreement;
  - (f) Of the privileged and confidential nature of communications made during the mediation;
  - (g) That any agreement reached at the mediation conference will be by mutual consent of the parties reduced to writing and may be subject to the approval of the presiding judge; and
  - (h) That the mediator will timely determine when mediation should end.
- (3) Disclosure. The mediator has a duty to be impartial and to advise all parties of any circumstances bearing on possible bias, prejudice, or partiality.
- (4) Matters Beyond Mediator's Competence. A mediator shall decline appointment or withdraw when the mediator decides that a matter is beyond the mediator's competence.

### **60Q-6.112 Disqualification of Mediator**

Any party may, by motion, for good cause shown, request the judge to disqualify a mediator. The request must state with particularity the basis for disqualification. Any order disqualifying a mediator shall name a substitute mediator. Nothing in this rule shall preclude mediators from disqualifying themselves or refusing any assignment.

### **60Q-6.113 Pretrial Procedure**

(1) A judge, on the judge's own initiative or on the motion of any party, may conduct status conferences or pre-hearing conferences.

(2) The parties or, if represented, their attorneys of record shall confer and complete a written pretrial stipulation. The claimant or claimant's counsel shall forward the pretrial stipulation to the employer/carrier or their counsel, if represented, no later than 14 calendar days prior to the pretrial hearing. The employer/carrier or their counsel shall complete their portion and return the pretrial stipulation to the claimant or claimant's counsel, if represented, no later than seven calendar days prior to the pretrial hearing. The judge may excuse any party who has complied with filing their completed and signed portion of the pretrial stipulation from live or telephonic attendance at the pretrial hearing. The judge may cancel the pretrial hearing if the stipulation is timely filed. In pretrial stipulations and at any pretrial hearing, the parties shall:

(a) State the claims, defenses, and the date of filing of each petition for benefits to be adjudicated at the final hearing. Any claims that are ripe, due, and owing, and all available defenses not raised in the pretrial stipulation are waived unless thereafter amended by the judge for good cause shown. Any amendment, supplement, or other filing shall only be accepted if it clarifies the claims and/or defenses pled. Absent an agreement of the parties, in no event shall an amendment or supplement be used to raise a new claim or defense that could or should have been raised when the initial pretrial stipulation was filed, unless permitted by the judge for good cause shown. The failure to diligently seek and obtain discovery, standing alone, does not constitute good cause for failure to timely raise a claim or defense;



- (b) State each party's position regarding the date of accident, jurisdiction over the subject matter and over the parties, the injuries alleged; venue, and timely notice of the pretrial hearing and of the final hearing;
  - (c) Stipulate to such facts and the admissibility of documentary evidence as will avoid unnecessary proof;
  - (d) Identify all exhibits, including impeachment and rebuttal exhibits;
  - (e) Identify the names, addresses, and telephone numbers of all witnesses, including impeachment and rebuttal witnesses, and state whether the witnesses will testify in person, by telephone, or by deposition;
  - (f) Exchange all available written reports of experts to be offered at trial;
  - (g) Consider and determine such other matters as may aid in the disposition of the case, and;
  - (h) Any defense raised pursuant to Sections 440.09(4)(a) and 440.105, F.S., and any affirmative defense, must be raised with specificity, detailing the conduct giving rise to the defense, with leave to amend within 10 days. Failure to plead with specificity shall result in the striking of the defense. Any objections/responses to the affirmative defenses must be pled with specificity.
- (3) If for any reason the written pretrial stipulation is not completed by all parties or their counsel, if represented, as provided in subsection 60Q-6.113(2), each party shall file and serve separate proposed typewritten pretrial statements no later than two business days prior to the pretrial hearing.
- (4) Unless good cause is shown, a party's failure to cooperate in the preparation and filing of their portion of the joint pretrial stipulation shall result in the imposition of appropriate sanctions, including, but not limited to, the striking of claims and/or defenses.
- (5) Where mediation has been waived by the Deputy Chief Judge, the parties shall file a pretrial stipulation that conforms to the requirements of subsection (2) of this rule no later than 30 days following the waiver order.
- (6) Witness lists, exhibit lists, supplements, and amendments served, and exhibits exchanged less than 30 days before the final hearing must be approved by the judge or stipulated to by the parties. Any amendments and supplements to the pretrial stipulation must relate to claims and defenses pled in the initial pretrial stipulation. In no event shall an amendment or supplement be used to raise a new claim

or defense that could or should have been raised when the initial pretrial stipulation was filed, unless permitted by the judge upon motion for good cause shown. The failure to diligently seek and obtain discovery, standing alone, does not constitute good cause for failure to timely raise a claim or defense.

(7) The judge shall record the pretrial hearing by stenographic or electronic means at the request of any party.

(8) No discovery shall be permitted within 10 calendar days of the final hearing absent prior approval by the judge for good cause shown or by agreement of the parties.

### **60Q-6.114 Discovery**

(1) Any party may commence with discovery methods specifically authorized by statute, including depositions, issuance of subpoenas and requests for production, prior to or after invoking the jurisdiction of the judge.

(2) Depositions.

(a) Depositions of witnesses or parties may be taken and used in the same manner and for the same purposes as provided in the Florida Rules of Civil Procedure.

(b) Approval of the judge is not necessary to take a deposition by telephone. If a deposition is taken by telephone, the oath shall be administered in the physical presence of the witness by a notary public or other person authorized by law to administer oaths, unless the parties stipulate to administration of the oath telephonically.

(3) Production and entry on land. Any party may seek production of documents or other tangible things from other parties or non-parties and may seek entry onto land or other property as provided in the Florida Rules of Civil Procedure. Documents shall be delivered in electronic form if so requested unless the judge determines good cause has been shown to produce paper copies.

(4) Responses and objections to depositions, production, or entry shall be made as provided in the Florida Rules of Civil Procedure.

(5) The judge may enter orders to effectuate discovery, including orders compelling discovery, protective orders, and orders imposing sanctions as provided in the Florida Rules of Civil Procedure for

failure to comply with or for using discovery methods not specifically authorized by statute. For good cause shown, the judge may enlarge or shorten applicable timeframes for complying with discovery.

### **60Q-6.115 Motion Practice**

- (1) Any request for an order or for other relief shall be by motion and shall have a title describing the relief requested. The judge may treat any request for relief from an unrepresented party as a motion. All motions shall be in writing unless made on the record during a hearing and shall fully state the relief requested and the grounds relied upon. Any document referenced in any motion shall either have been filed prior to the motion or be attached to the motion.
- (2) Except for motions to dismiss for lack of prosecution, prior to filing any motion, the movant shall personally confer with the opposing party or parties or, if represented, their attorneys of record to attempt to amicably resolve the subject matter of the motion. All motions shall include a statement that the movant has personally conferred or has used good-faith efforts to confer with all other parties or, if represented, their attorneys of record and shall state whether any party has an objection to the motion. Any motion filed without this certification shall be summarily denied.
- (3) A motion which is unopposed shall state why an order is necessary to execute the parties' agreement and shall be accompanied by a proposed order which has a title describing the action to be taken. The motion and proposed order shall specify the relief being requested or ordered in reasonable detail and not merely by reference to any other document.
- (4) If the motion has not been amicably resolved, the movant shall file the motion. When time allows, the other parties may, within 15 days of service of the written motion, file a response in opposition. Written motions may be ruled on by the judge before the expiration of the response period and provide for filing an objection to the order within 10 days of the order, or the judge shall rule after the response is filed or after the response period has expired, based on the motion, together with any supporting or opposing memoranda. The judge shall not hold hearings on motions except in exceptional circumstances and for good cause shown in the motion or response.

- (5) Motions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and shall specifically describe the good cause for the request.
- (6) Motions to expedite discovery or the final hearing shall set forth good cause and shall be served by electronic mail, facsimile, hand delivery, or overnight delivery. Any opposition to the motion must be filed within four days from the date the motion is served.

#### **60Q-6.116 Prosecution of Claims and Petitions for Benefits**

- (1) All parties shall diligently prosecute or defend the claim or petition, including but not limited to timely conducting all necessary discovery. A request for a continuance shall be made by motion, shall specify the reason that the continuance is necessary, and shall demonstrate due diligence by describing the specific actions the moving party has taken to correct the circumstances alleged to be beyond the party's control.
- (2) A claim or petition may be dismissed by the claimant or petitioner without an order by filing, or announcing on the record, a voluntary dismissal at any time before the conclusion of the final hearing. Unless otherwise stated in the notice, the dismissal is without prejudice, except that a second notice of voluntary dismissal shall operate as an adjudication of denial of any claim or petition for benefits previously the subject of a voluntary dismissal.
- (3) The judge may conduct any proceedings by telephone conference. Testimony may be taken by telephone with the written agreement of all parties or approval by the judge. In such event, the oath shall be administered in the physical presence of the witness by a notary public or officer authorized to administer oaths, unless the parties stipulate to administration of the oath telephonically by the judge or the judge determines good cause exists for the judge to administer the oath telephonically.
- (4) The judge may conduct any proceedings using video teleconference equipment approved by the OJCC. In the event that testimony is taken by video teleconference, administration of the oath by the judge during the proceeding is as binding as if the judge and witness were physically present in the same room.

(5) Upon proper motion of any party, the judge may enter an order reflecting the terms of any written stipulation or agreement between the parties.

(6) Any attorney or unrepresented claimant who has filed a petition for benefits must file a pleading with the judge in order to cancel the corresponding final hearing. The pleading must be filed prior to the scheduled final hearing and shall indicate the manner in which each issue was resolved. Upon receipt of such cancellation pleading, the judge shall change the status of the affected petition or petitions in the OJCC database. Cases with no currently pending issues scheduled for mediation or hearing shall be reflected in the OJCC database as “inactive.” Upon changing a case status from active to inactive, the OJCC central clerk shall issue an order documenting such status change.

(7) No more than 10 days but no less than two business days prior to the final hearing, each party is required to file a brief memorandum consisting of a statement of relevant facts and written argument, which shall include filing dates or docket ID for any evidentiary documents which will be relied upon at trial. All depositions and documentary evidence, including known impeachment and rebuttal evidence a party intends to offer into evidence, shall be filed with the memorandum. Any evidence which is not capable of electronic filing, including but not limited to diagnostic films or audio or audiovisual recordings shall be filed contemporaneously with the memorandum and served on all parties by the same method, U.S. mail, delivery, etc., as delivered to the judge’s office. In the event of a re-scheduling or continuance, documents timely filed pursuant to this rule need not be re-filed prior to the re-scheduled or continued hearing. Documentary evidence not timely filed may be excluded from evidence, absent a written stipulation of the parties or an order extending the deadline for filing for good cause shown.

(8) Any party calling a witness in need of translation services shall be responsible to provide therefor. The OJCC will not provide translation services except in exceptional circumstances and upon written request filed with the Deputy Chief Judge at least 10 days prior to the mediation or hearing for which such services are sought and for good cause shown.

(9) Appointment of an expert medical advisor, except during the final hearing, shall be sought by written motion. The motion shall specifically state the conflict in medical opinions, identify the

providers who rendered those opinions, their medical specialties, and attach the documentation that memorializes those opinions.

(10) The order appointing an expert medical advisor shall identify the appointed advisor and the conflict to be resolved.

(11) Unless otherwise ordered by the judge, within 10 days of the order appointing an expert medical advisor, the parties shall jointly submit to the appointed advisor a composite of all documents and records which the parties agree the advisor will review. Any party may move for an order to permit submission of additional or non-stipulated records.

(12) The report of an expert medical advisor is admissible in evidence at the final hearing unless excluded by the judge for good cause shown.

#### **60Q-6.117 Emergency Conferences**

(1) A written request for an emergency conference shall be filed and served by electronic mail or facsimile on all other parties or, if represented, their attorneys of record. It shall set forth in detail the facts giving rise to the request, its legal basis, the factual or medical basis for the claim that there is a bona fide emergency involving the health, safety, or welfare of an employee, and the specific relief sought. Any documents relied upon should be specifically referenced or attached.

(2) After reviewing the merits of the request, the judge may summarily enter an order denying the request for an emergency conference or, after proper notice, conduct an evidentiary hearing to consider the emergency.

### **60Q-6.118 Expedited Hearings**

- (1) Scope. This rule applies in those cases deemed by the judge appropriate for expedited hearing pursuant to statute or by agreement of the parties.
- (2) Discovery. The parties shall have at least 30 days to conduct discovery, which shall be completed 15 days before the hearing. The parties shall respond to requests for production within 10 days.
- (3) No mediation conference and pretrial hearing shall be held unless requested in writing by a party within 10 days of service of the notice of expedited hearing.
- (4) Stipulated Pretrial Outline. The content of the pretrial outline will be as described in subsection 60Q-6.113(2)(a)-(g), F.A.C. The judge may modify the timeframes delineated in Rule 60Q-6.113.
- (5) The trial memoranda process shall be as described in subsection 60Q-6.116(7), F.A.C.

### **60Q-6.119 Abbreviated Final Orders**

Any party may request that an abbreviated final order be vacated and that a final compensation order containing separate findings of fact and conclusions of law be entered. The request shall be made by motion and shall be filed within 10 days of the date of the abbreviated final order sought to be vacated.

### **60Q-6.120 Summary Final Order**

- (1) The judge may enter a summary final order when such an order would be dispositive of the issues raised by the subject petition. Issues that would be dispositive include, but are not limited to, whether there is coverage, whether the statute of limitations has run, whether the accident or occupational disease is compensable, whether the claim is barred by res judicata or a prior settlement, whether the judge has jurisdiction over the subject matter, whether the benefit sought has been paid, and whether the alleged employee is an independent contractor.
- (2) Any party may file a motion for a summary final order when there is no genuine issue as to any material fact and the granting of the motion would be dispositive of the issues raised by the subject

petition. A summary final order shall be rendered if the judge determines from the pleadings and depositions, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is entitled as a matter of law to the entry of a final order. A summary final order may be rendered on the issue of entitlement to a benefit alone, although there is a genuine issue as to the amount of the benefits. No motion for summary final order may be filed less than 45 days prior to a scheduled final hearing.

(3) The opposing party shall file a response to a motion for summary final order together with supporting depositions, affidavits, and/or other documents within 30 days after service of the motion for summary final order. The judge shall grant an extension for good cause shown.

(4) When a motion for summary final order is denied, the judge shall impose sanctions pursuant to subsections 60Q-6.125(5) and (6), F.A.C., if the judge determines that the motion violates subsection 60Q-6.125(2), F.A.C.

(5) The motion is deemed denied if the judge has not ruled upon the motion by the commencement of the final hearing.

### **60Q-6.121 Evidence**

(1) Evidence which has been offered but ruled inadmissible may be proffered but shall be clearly identified as such by the judge.

(2) An objection to the admissibility of evidence not ruled on by the judge is deemed adverse to the party making the objection.

(3) Legible copies may be substituted for original documents.

(4) Voluminous or cumbersome exhibits shall not be received in evidence unless their use is unavoidable.

(5) The judge may consider post-hearing evidence for good cause shown.



### **60Q-6.122 Motion for Re-Hearing and Amending or Vacating Order**

- (1) A motion for re-hearing shall state specifically the grounds on which it is based and should not be used to re-argue issues already determined. A motion for re-hearing shall be filed and served within 10 days from the date of the order sought to be reviewed. The judge shall rule on the motion within 10 days of service. Any response to the motion shall be filed within five days of service of the motion. If the judge has not ruled by the close of business 10 days after service, the motion shall be deemed denied.
- (2) The motion shall be limited to the following reasons:
  - (a) To challenge rulings that were outside the scope of the issues presented; or
  - (b) To seek clarification in matters of law or fact that the judge may have overlooked or misapprehended.
- (3) A motion for re-hearing does not toll the time within which an order becomes final or an appeal may be filed.
- (4) Abbreviated final orders are not subject to a motion for re-hearing.
- (5) A judge, on the judge's own initiative or on the motion of any party, may vacate or amend an order not yet final to correct clerical or technical errors, or where due consideration of a motion for re-hearing cannot be made before the order becomes final.
- (6) Notwithstanding subsection 60Q-6.115(4), F.A.C., if the motion for re-hearing is directed to an appealable order, the moving party may request a hearing on the motion which the judge may schedule if there are exceptional circumstances or good cause shown in the motion.

### **60Q-6.123 Settlements Under Section 440.20(11), Florida Statutes**

(1) Settlements under Section 440.20(11)(a) or (b), F.S., involving unrepresented claimants.

(a) When a joint petition signed by the parties is filed pursuant to Section 440.20(11)(a) or (b), F.S., it shall be accompanied by:

1. The settlement stipulation executed by any attorneys of record and the employee or claimant;
2. A copy of any prior joint petition and order if indemnity benefits were previously settled, or, if unavailable, an affidavit from the claimant that indemnity was previously settled;
3. A summary or payout sheet indicating total indemnity and medical benefits previously paid, including impairment income benefits;
4. The employee's current work status and other sources of income, if not addressed in the joint stipulation;
5. A status statement from the OJCC or such other source as designated by the Deputy Chief Judge regarding any child support arrearage balance according to the Department of Revenue records, and a status statement regarding any child support arrearage balance according to the Florida Clerks of the Circuit and County Courts, as to whether the claimant has or owes any child support arrearage and, if so, the amount thereof;
6. If the claimant is not a Florida resident, or was not a Florida resident on the date of accident, the judge may require the substantial equivalent of the status statements in subparagraph (1)(a)5. from the equivalent authorities in the state or county of residence at either the time of settlement or on the date of accident;
7. A sworn statement by the employee that all existing child support obligations have been disclosed in the joint petition;
8. A letter or statement in the settlement stipulation from counsel stating that the carrier will issue a check in the amount of the arrearage or such other amount to be approved by the judge and that the check will be sent to the Department of Revenue or the Florida Clerks of the Circuit and County Courts, Central Depository;
9. Any other documents in the possession of the parties or their attorneys, including any prior attorney's fee lien, that is material to the disposition of the settlement;

10. For settlements under Section 440.20(11)(a), F.S., the notice(s) of denial; and

11. For settlements under Section 440.20(11)(b), F.S., the required notice to the employer, a maximum medical improvement report establishing the date of overall physical maximum medical improvement and psychiatric maximum medical improvement if the latter applies, permanent impairment rating, information concerning the need for future medical care and an estimate of the cost of future medical care, or an explanation as to why an estimate cannot be reasonably obtained, and other essential medical information.

(b) The date and description of all accidents/injuries included in the settlement must be specified.

(c) Language regarding a general release of all liability or claims shall not be included, and no such general release or separate releases shall be attached.

(d) For settlements under Section 440.20(11)(a), F.S., and when a hearing is deemed necessary by the judge for settlements under Section 440.20(11)(b), F.S., the attorney for the employer/carrier shall contact the judge to schedule a hearing date and shall promptly notify the claimant of the hearing date, time, and location.

(2) Settlements under Section 440.20(11)(c), (d), and (e), F.S.

(a) When a motion for approval of attorney's fees and child support allocation is filed pursuant to Section 440.20(11)(c), (d), or (e), F.S., it shall be signed by the claimant and the claimant's attorney, furnished to all other parties, and contain:

1. A statement that the parties have reached a total settlement of the case;

2. The total monetary amount of the settlement payable by the employer/carrier;

3. The amount of attorney's fees and costs agreed to and payable by the claimant pursuant to the contract of representation and the net settlement proceeds to be disbursed to the claimant;

4. The amount of child support arrearages, if any, owed by the claimant, together with the amount of child support allocation the claimant requests be deducted from the settlement proceeds, after fees and costs, and the attorney responsible to remit the same to the appropriate child support repository;

5. An attorney's fee data sheet setting forth the benefits obtained by claimant's counsel and the value of those benefits, and, depending upon the date of accident and the type of benefit involved, should the

claimant's attorney seek a fee in excess of the statutory percentage, an affidavit specifying the particular statutory criteria forming the basis for the variance;

6. A status statement from the OJCC or such other source as designated by the Deputy Chief Judge regarding any child support arrearage balance according to the Department of Revenue records, and a status statement regarding any child support arrearage balance according to the Florida Clerks of the Circuit and County Courts, as to whether the claimant has an arrearage or owes past due child support and, if so, the amount thereof; a sworn statement by the employee that all existing child support obligations have been disclosed in the joint petition; and a letter from counsel stating that the carrier will issue a check in the amount of the arrearage and/or past due child support or such other amount to be approved by the judge or that claimant's counsel will deposit the settlement proceeds in a trust account and will issue a check in the amount of the arrearage and/or past due child support or such other amount to be approved by the judge and that the check will be sent to the Department of Revenue or the Clerk of the Circuit and County Courts, Central Depository;

7. If the claimant is not a Florida resident, or was not a Florida resident on the date of accident, the judge may require the substantial equivalent of the status statements in subparagraph (2)(a)6. from the equivalent authorities in the state or county of residence at either the time of settlement or on the date of accident; and

8. The OJCC may obtain child support arrearage data from the Florida Department of Revenue and the Clerk of the various Circuit and County Courts. The OJCC shall list the counties for which such information is available to the OJCC on the internet. For those agencies/counties listed, parties may obtain child support arrearage information through written inquiry to the OJCC.

(3) No hearing shall be held except as deemed necessary by the judge.

(4) Settlement approval when more than one current support order exists. When more than one current support order exists, the judge may approve a proposed settlement only if:

- (a) It provides for an equitable share of settlement proceeds; and
- (b) The allocation shall be prorated in accord with Section 61.1301(4)(c), F.S.

(5) The judge shall consider the disclosed costs to the extent necessary to determine they do not include the attorney's overhead or other fees. A claim for cost reimbursement in the amount of \$250 or less shall not be set forth with specificity or detail.

**60Q-6.124 Payment of Attorney's Fees and Costs Other Than Pursuant to Section 440.20(11), Florida Statutes**

(1) Payment of Undisputed Attorney's Fees and Costs by Claimant. The claimant and his or her attorney may jointly move for the judge to approve the payment of an attorney's fee and reimbursement of costs. The motion shall be served on all parties and include a statement that claimant's counsel has not previously secured or received a fee on the benefits for which a fee is now being sought, the claimant's signature, and an attorney's fee data sheet setting forth the benefits secured by claimant's counsel and the value of the benefits.

(2) Payment of Undisputed Attorney's Fees and Costs by Employer/Carrier/Service Agent. The employee and the employer/ carrier/service agent may stipulate to the payment of attorney's fees and costs. The stipulation submitted for the judge's approval shall be accompanied by an attorney's fee data sheet. If claimant's counsel is seeking payment of a fee from the employer/carrier which exceeds the statutory fee, counsel must submit an affidavit establishing the basis for approval of the fee. The claimant must be provided with notice of any stipulation providing for an employer/carrier-paid attorney's fee.

(3) Payment of Disputed Attorney's Fees and Costs.

(a) Any motion for attorney's fees and/or for costs shall be verified and filed, and shall include:

1. A statement of the facts relied on in support of the motion;
2. The statutory and legal basis relied upon;
3. A recitation of all benefits secured for the claimant through the attorney's efforts, including projected future benefits reduced to present value;
4. The statutory fee based on the benefit secured;
5. A detailed chronological listing of all time devoted to the claim, if applicable; and

6. A detailed list of all taxable costs advanced or incurred.

(b) Within 30 days after the motion is served, the opposing party or parties shall file a verified response to the motion, which includes a detailed recitation of all matters which are disputed in the form outlined in subparagraphs (3)(a)1.-6. Failure to file a timely and specific response to a motion for attorney's fees and costs detailing matters that are disputed shall, absent good cause, result in acceptance of the allegations in the motion as true.

(c) If both entitlement and the amount of the fee are contested, the hearing may be bifurcated at the request of a party.

(d) Unless the judge orders otherwise, the parties shall exchange exhibits and written witness lists no later than 10 days before the date of the attorney's fee and/or cost hearing.

(e) The Statewide Uniform Guidelines for Taxation of Costs in Civil Actions shall be considered by the judge in determining the reasonableness of an award of cost reimbursement.

(4) Payment of Disputed Attorney's Fees and Costs – Appellate. Upon issuance of mandate by the appellate court in a matter awarding attorney's fees, the awarded party shall serve and file a verified petition to determine the amount of appellate attorney's fee and costs within 15 days from the date of the order entered by the court.

(5) Upon motion by any party:

(a) The judge shall require the filing of a verified motion for attorney's fees and costs as to any petition for benefits which has no pending claims other than entitlement to attorney's fees and costs.

(b) The judge may require the party or attorney entitled to attorney's fees and costs to file a verified motion for attorney's fees and costs as to amount.

(6) No later than September 1 of each year, all self-insurers, third-party administrators, and carriers shall report by e-JCC to the OJCC the amount of all attorney's fees paid to their defense attorneys in connection with workers' compensation claims during the prior July 1 through June 30 fiscal year.

## **60Q-6.125 Sanctions**

- (1) Generally. Failure to comply with the provisions of these rules or any order of the judge may subject a party or attorney to one or more of the following sanctions: striking of claims, petitions, defenses, or pleadings; imposition of costs or attorney's fees; or such other sanctions as the judge may deem appropriate.
- (2) Representations to the Judge. By filing a pleading or other document or presenting argument before the judge at hearing, an attorney or unrepresented party is certifying to the best of that person's knowledge, information, and belief, formed after inquiry reasonable under the circumstances, that:
  - (a) It is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
  - (b) The claims, defenses, and other legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of a new law;
  - (c) The allegations and other factual contentions are true and have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
  - (d) The denials of factual contentions are true and warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.
- (3) Determination of Violation. If, after notice and a reasonable opportunity to respond, the judge determines that subsection (2) has been violated, the judge may impose an appropriate sanction.
- (4) How Initiated.
  - (a) A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subsection (2). It shall be served but shall not be filed unless the challenged paper, claim, defense, allegation, or denial is not withdrawn or appropriately corrected within 21 days after service of the motion. If warranted, the judge may award to the party prevailing on the motion the cost of the proceeding and attorney's fees incurred in presenting or opposing the motion.

(b) On his or her own initiative, the judge may enter an order describing the specific conduct that appears to violate subsection (2) and directing an attorney or party to show cause why sanctions should not be imposed.

(5) Nature of Sanctions.

(a) A sanction imposed for violation of these rules shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Penalties, fees, and costs awarded under this provision may not be recouped from the party unless the party has committed the violation.

(b) Monetary sanctions may not be awarded against a represented party for a violation of paragraph (2)(b).

(6) Order. Any order imposing sanctions shall describe the conduct determined to constitute a violation of the rule and explain the basis for the sanction imposed.

#### **60Q-6.126 Disqualification or Recusal of Judges**

(1) Any motion for disqualification of a judge shall be made and determined pursuant to Fla. R. Jud. Admin. 2.330.

(2) Upon entry of an order of disqualification or after the recusal of a judge, the Deputy Chief Judge shall re-assign the case to another judge.

#### **60Q-6.127 Procedure For Relief From Appellate Filing Fee And Costs**

The procedure for relief from payment of the appellate filing fee and from the costs of the preparation of the record on appeal for the review of any order of a judge on the ground of indigency shall be in accordance with Fla. R. App. P. 9.180.



### **60Q-6.128 Destruction Of Obsolete Records**

- (1) All case files that have been closed and inactive for a period of two years are declared to be obsolete and may be destroyed. Designated personnel of the OJCC shall be responsible for the destruction of obsolete records and reports in accordance with applicable statutes and administrative rules.
- (2) Recordings of hearings held before a judge shall be destroyed two years subsequent to the date of the close of the hearing.
- (3) Any forms, documents, reports, duplicate-filed pleadings, or other records filed where this rule chapter specifically provides that filing is not required or requested shall be destroyed upon filing.