

## EMERGENCY ADMINISTRATIVE BULLETIN #5

**To:** All Parties

**From:** Omar Hernández, Senior Judge

**Re:** Dispute Resolution Update under the COVID19 crisis

**Date:** June 23, 2020

I truly appreciate everyone's cooperation in overcoming the many challenges we have faced during this health crisis. I know that all of you are anxious to return to practicing in person at the DIA and have many questions as to the future for Dispute Resolution events. I hope this memo will provide you with answers to those questions.

We continue to make great progress with the Video Connect application that will streamline all the WebEx meetings that are currently in effect for Conciliations and Conferences. Testing will begin next week and if everything goes as plan, I anticipate a roll out date in July. This application will eliminate our staff's current practice of manually scheduling WebEx meetings with the parties. I recently spoke with Madeline Pantzer, Chief of Adjudication for New York State Workers' Compensation Board regarding their implementation of the Video Connect application in their courtrooms. Ms. Pantzer spoke very highly of the application, specifically noting that it was user-friendly and efficient.

We will continue to virtually conduct Conciliations and Conferences through the WebEx platform and if necessary, via telephone conference calls, until at least to the end of this calendar year. I strongly encouraged you all to utilize the WebEx platform and become more familiar with its functions and move away from conference telephone calls. I understand that some of you may be hesitant to embrace new technological tools, but I am confident that it will be a seamless transition just like our shift to the paperless document system.

### **Conciliations:**

We will continue to maintain our current practice and virtually conduct all Conciliations through WebEx meetings or telephone conference calls until the end of the calendar year.

Please note that effective July 1, 2020, the DIA will no longer accept Forms 105 and 113 via US Mail. All Forms 105 and must therefore be emailed to: [DIA-Form105conciliation@mass.gov](mailto:DIA-Form105conciliation@mass.gov) and all Forms 113 must therefore be emailed to: [DIA-Form113conciliation@mass.gov](mailto:DIA-Form113conciliation@mass.gov) Please include the DIA board number in the upper right corner of Forms.

### **Conferences:**

We will continue to maintain our current practice and virtually conduct all Conferences through WebEx meeting or telephone conference calls until the end of the calendar year.

### **Hearings:**

We have suspended the scheduling of Hearings. We will not schedule Hearings until the DIA offices are permitted to re-open. Once the DIA offices can re-open to the public, we will begin to schedule Hearings while adhering to courtroom capacity restrictions.

I strongly encourage all parties to review their cases awaiting Hearing and determine those cases that are ripe for settlement or mediation. Once the parties have made that determination, I urge the parties to contact the judge's office to schedule a Status Conference to begin mediation or settlement discussions.

I have been asked whether the DIA will consider conducting Hearings through WebEx meetings. I have explored this issue with many members of the bar and our judges. I appreciate the fact that many of you, including myself, have expressed skepticism about the use of remote hearings, largely in part from evidentiary concerns or the ability to fully assess the witness. Virtual meetings can make it harder to process non-verbal cues like facial expressions, the tone and pitch of the voice, and body language. I believe that there are too many challenges to properly conduct virtual Hearings at this time.

### **Lump Sum Settlement Agreements:**

We will continue to maintain our current practice of handling Lump Sum Settlement agreements by email until the end of the calendar year. If necessary, a WebEx meeting will be available if either party is working with a difficult client and the parties require a judge's assistance.

The parties shall continue to insert a line in the lump sum agreement as well as in the employee's affidavit that states that "the parties have discussed the use of e-signatures and agree that they will have the same weight and effect as an original signature".

The Lump Sum Settlement agreement affidavits do not need to be notarized.

### **Section 15 petitions:**

We will continue to maintain our current practice of handling Section 15 petitions by email until the end of the calendar year.

### **ALJ Oral Arguments:**

We will continue to maintain our current practice of conducting all Oral Arguments through WebEx meeting or telephone conference calls until the end of the calendar year.

I continue to work with contractors to ensure that all measures are taken to provide a safe working environment in all the DIA offices for our staff and the public. Again, I thank you all for your dedication and hard work in successfully handling all the cases during the last hundred days of this health crisis.

Please stay safe during these difficult times.