

ADMINISTRATIVE BULLETIN #13

To: All Parties
From: Omar Hernández, Senior Judge
Re: Dispute Resolution Process
Date: September 23, 2022

It has come to my attention that there continues to be confusion as to my expectations regarding the efficient movement of cases through the dispute resolution process. Instead of simply referring counsel to [Administrative Bulletin 10](#) and [Administrative Bulletin 11](#), which were published some time ago, I will clearly state herein the essential rules I expect Administrative Judges from all regions to enforce.

Counsel shall electronically file an unlocked DIA Form 140 no later than two business days prior to the Section 10A conference. The Form 140 must be complete in all aspects and signed by counsel. The same is true for medical records, non-medical exhibits and hypothetical questions – two business days prior to the Conference. If the parties have motions, they should be marked up, heard and ruled on prior to the Conference so that a continuance is not necessary. I have instructed my staff to continue the Conference if the above is not accomplished absent a showing of exigent circumstances.

Counsel shall request a date for a Pre-Hearing Conference upon receipt of the Section 11A report. This must be done in writing and, if necessary, followed-up on by phone call to the appropriate judicial support staff. Please be advised, however, that once this request has been made and a date assigned, it is expected that counsel are prepared to identify all claims, defenses, and stipulations. Moreover, counsel must be prepared to specifically name all witnesses (and their anticipated testimony). It is expected that by the time of the Pre-Hearing Conference, motions pertaining to additional claims, defenses, parties, the 11A report, etc. will have been filed, marked up and ruled on.

With respect to motions, counsel are directed to our regulations which set forth how much time is afforded opposing counsel to respond. Please factor this in when engaging in motion practice.

The Pre-Hearing Memorandum must be fully completed, signed by counsel and filed with the Administrative Judge five business days prior to the Pre-Hearing Conference. There will be no exceptions to this requirement (absent a showing of exigent circumstances) and all judicial support staff have been directed to cancel the Pre-Hearing Conference if this timeline is not followed. The Pre-Hearing Conference must occur no later than ten business days prior to the Hearing. Again, there will be no exceptions to this requirement absent a showing of exigent circumstances. I have directed the judicial support staff to convert the Hearing into a mandatory Pre-Hearing Conference if counsel fails to abide by the aforementioned timeline.

Counsel shall file their respective Hearing forms and additional medical evidence no later than five business days prior to the Hearing. If this is not done, all judicial support staff have been instructed to place the case back into the assigned Judge's Hearing queue.

Counsel shall file a completed and signed lump sum agreement with the Administrative Judge's office forty-eight hours prior to the lump sum settlement conference. If counsel does not have an employer consent form (and a lien release, if necessary), they must request a new date from the appropriate judicial support staff.

Mediation memoranda must be filed with the Administrative Judge's office forty-eight hours prior to the mediation. It is expected that by the time of the mediation a demand has been made and authority has been secured. The claims adjuster must be virtually present for the mediation.

This memorandum is not intended to list all of the rules and regulations counsel must follow when practicing before the Department of Industrial Accidents. Rather, the memorandum is intended to make clear how I feel about several issues that continue to impede what is necessary to achieve a more efficient dispute resolution process.

I have once again instructed all administrative judges and their support staff that the rules set forth in Bulletin 10 and Bulletin 11 (as well as M.G.L. Ch. 152 Title 452 of the Code of Massachusetts Regulations) must be followed without exceptions. If you have any questions or concerns, please do not hesitate to contact this office.