

# JOINT PRE-HEARING MEMORANDUM

Board #: .

The Employee is:

The Employer is:

The Insurer/Self-Insurer is:

Commonwealth of Massachusetts/HRD-WCS

The Employee is represented by Attorney:

The Insurer/Self-Insurer is represented by Attorney:

Will there be an interpreter? No.

Has there been any prior litigation?

* Prior Hearing Decision?
* Reviewing Board Decision?

Employee's Statement of the Case:

Insurer’s/Self-Insurer’s Statement of the Case:

# PROCEDURAL HISTORY

Employee’s claim: Insurer’s/Self-Insurer’s complaint: The resulting Conference Order, dated**:**

Denied Employee’s claim

Ordered **Sec. 34** (Temporary Total Incapacity) benefits at the weekly rate of $ based upon an AWW of $ from to

Ordered **Sec. 35** (Temporary Partial Incapacity) benefits at the weekly rate of $ based upon an AWW of $ [*E/C of* $ *,*] from to

Ordered **Sec. 34A** (Permanent Total Incapacity) benefits at the weekly rate of $ based upon an AWW of $ from to

Denied Insurer’s/Self-Insurer’s Complaint to Terminate EE’s benefits.

Denied Insurer’s/Self-Insurer’s Complaint to Modify EE’s benefits.

Allowed Insurer’s/Self-Insurer’s Complaint to modify Sec.(34/35/34A) benefits to the weekly

rate of $ beginning on and (continuing / ending on ) Which parties appeal that conference order?

# CLAIMS, DEFENSES & ISSUES:

## The Employee makes the following claims:

Section 34, temporary total incapacity benefits from to .

Section 34A, permanent and total disability benefits from to .

Section 35, partial incapacity benefits from to at a weekly benefit rate of , and from to at a weekly benefit rate of ;

Section 35A, dependency benefits.

Section 13 and 30, medical care benefits.

Section 36, permanent injury benefits (Reserved).

Section 50, appropriate interest.

Section 51, natural increase in wage benefits.

Section 28, serious and willful misconduct.

Other:

## The Insurer/Self-Insurer raises the following defenses and issues:

Denies liability, the occurrence of an industrial injury.

Denies disability and extent of incapacity.

Denies causal relationship between industrial injury and disability.

Denies entitlement to Sec. 13 & 30, medical benefits.

Denies entitlement to Sec. 36 benefits.

Seeks the application of Sec. 1(7A), a *pre-existing condition*, i.e.: and makes an

**Offer of Proof** pursuant to 452 CMR 1.11(f).

Denies entitlement to Section 51, natural increase in wage benefits.

Denies entitlement to Section 28, serious and willful misconduct.

Other

# STIPULATIONS:

The parties have entered the following stipulations:

The Insurer/Self-Insurer has accepted liability for the work injury that occurred on .

Employee/Employer relationship existed at all times material to these proceedings.

Periods of indemnity benefits received to date: .

Employee’s average weekly wage on the date of the injury was $ .

Employee has dependent(s).

Insurer/Self-Insurer has paid Sec. benefits from to and Sec. benefits from to

Insurer’s/Self-Insurer’s Complaint to Modify, Discontinue or Recoup benefits was filed on

.

Accepted injuries are:

Unaccepted alleged injuries are:

Other

# MEDICAL EVIDENCE*:*

## Section 11A Impartial Medical Report

The Employee was examined by , an dated Do the parties have any motions relative to the Impartial report of Dr. ?

Employee’s motion:

Insurer’s/Self-Insurer’s motion:

## Adequacy of the Impartial Medical Report:

The report of Dr. is **adequate**. No evidence from another medical provider will be admitted contradicting this report.

## Or:

The report of Dr. is **inadequate** because

## Or:

The medical issues are **complex** because of the diagnosis: Section 1(7A) requiring findings on pre-existing condition, combination, and ‘major’ cause opinions. Other:

## Section 1(7A):

With respect to the offer of proof on 1(7A), Insurer/Self-Insurer counsel shall refer to specific medical opinions and data that support the defense.

Please list the supporting medical opinion:

Employee’s counsel shall provide a written response with reference to medical records/reports etc. as to why the 1(7A) defense is either faulty/inappropriate or rebutted, i.e. major cause opinion.

Please list written response with supporting medical opinion:

# DEPOSITIONS:

## Parties shall schedule the deposition of any opinion witness prior to commencement of the hearing.

1.

2.

3.

# ADDITIONAL MEDICAL RECORDS:

If the medical record is open, the parties shall electronically provide an annotated index with the additional medicals so the Court knows what medicals apply to the various issues in the case, i.e. dates of disability, causation, 1(7A), loss of function with reference to the subsection of 36. The medical documents must be properly bookmarked.

# EXHIBITS:

The following Exhibits are admitted into evidence:

Ex. 1 The Statutory Exhibit, the Sec. 11A report dated submitted by Dr. Ex. 2 EE’s Hearing Memorandum

Ex. 3 EE’s Bio Data Sheet, which I mark and admit as if he/she had so testified. Ex. 4 INS’s Hearing Memorandum

**EMPLOYEE’S EXHIBITS**

|  |  |
| --- | --- |
| Ex. 1 |  |
| Ex. 2 |  |
| Ex. 3 |  |
| Ex. 4 |  |
| Ex. 5 |  |
| Ex. 6 |  |

**INSURER/SELF-INSURER EXHIBITS**

|  |  |
| --- | --- |
| Ex. 1 |  |
| Ex. 2 |  |
| Ex. 3 |  |
| Ex. 4 |  |
| Ex. 5 |  |
| Ex. 6 |  |

**WITNESS LIST**

Witness #1: Anticipated Testimony:

Witness #2: Anticipated Testimony:

Witness #3: Anticipated Testimony:

Witness #4: Anticipated Testimony:

Witness #5: Anticipated Testimony:

Have the attorneys made an effort to resolve the case?

Briefly describe what effort has been taken?

Have the attorneys tried to resolve this matter via mediation?

THE PARTIES AGREE THAT THIS THESE ARE THE ISSUES, STIPULATIONS, WITNESSES AND EVIDENCE TO BE PRESENTED:

Atty for the Employee

Atty for the Insurer/Self-Insurer