



Oregon

Kate Brown, Governor

Workers' Compensation Board

2601 25th St SE, Ste 150

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September 29, 2021

Dear Colleagues:

As Board Chair Wold indicated, I am writing to you regarding the processes that will be instituted to allow for a slow and measured reintegration of in-person events. Please know that we have been, and remain, committed to maintaining a safe environment and reducing the likelihood of transmission of COVID-19 among stakeholders, parties, and staff, while ensuring continuous access to the litigation process. Thank you to all the folks who responded to the survey and who have connected with me directly. It is greatly appreciated.

The following process has been outlined with consideration of the best practices of other court systems, guidance from the Oregon Health Authority (OHA) and the Center for Disease Control (CDC), and acknowledges the real toll COVID-19 has had on all of our lives. As with any system-wide process, there are a lot of moving parts. Please bear with me as this email will cover a lot of ground.

Hearings Division Processes

Extending through December 31, 2021, all WCB hearings and mediations will continue to be conducted either as telephonic or video proceedings. However, beginning October 1, 2021, parties will be able to submit a joint motion requesting that a hearing be conducted in person. Requests for such proceedings will be centralized with PALJ Dougherty. If granted, the matter will be special set for a date certain. Because resources are limited, priority will be given to hearings, expedited hearings, cases with the oldest WCB numbers, and interpreter cases.

Hearing Locations

Currently, we will be able to accommodate requests for our staffed locations (Portland, Salem, Eugene, Medford) and unstaffed locations (Pendleton, Bend, and Coos Bay), but not locations where we have only a lease agreement (The Dalles, Ontario, Roseburg, Klamath Falls). Continued availability in any location

will be partly determined by factors including, but not limited to, availability of personal protective equipment (PPE), air filtration devices, staff, and the ability to maintain a supply of necessary cleaning items.

Motions for In-Person Hearing-Related Matters

After a request for hearing is filed and a notice of hearing is received, the parties should confer on the manner in which they wish to proceed. If the parties agree that the matter is best conducted in-person, the parties must notify the assigned ALJ's office that they will be submitting a joint motion for an in-person proceeding to the PALJ. While the motion is pending determination, the currently scheduled hearing date and time will remain on the docket.

For OSHA cases, where hearing notices may or may not be issued, after the parties agree the case is ready to proceed to hearing, and if the parties agree that the matter is best conducted in person, the parties must notify the assigned ALJ's office that they will be submitting a joint motion for an in-person proceeding to the PALJ.

The parties must then submit the joint motion to PALJ Dougherty at the address listed below, including the following information:

1. An agreement that counsel, parties, and witnesses who need to appear agree to appear in-person.
2. The basis for the request.
3. A fair estimation of time needed and how many witnesses will be called to testify.

Requests Relative to Mediations

Due to limited resources, priority will be given to in-person hearings at this time. If there is an urgent need for a party to attend a mediation from a Hearings Division office, please contact PALJ Dougherty at the address listed below.

Address

Please send these motions/requests to:

PALJ Dougherty

Workers' Compensation Board

2601 25th Street SE, Suite 150

Salem, OR 97302

These requests may also be submitted via email to Kerry Anderson, assistant to PALJ Dougherty and APALJ Monte Marshall. Please note, the request must be attached as a separate document and not be contained in the body of the email. The email address is: Kerry.Anderson@oregon.gov

Acknowledgement

PALJ Dougherty will acknowledge the motion and either PALJ Dougherty or APALJ Marshall will conduct a conference call to hear from the parties and assess compliance with COVID-19 precautions including, but not limited to, the following:

- a. Hearing participants will not enter the building if they are displaying any COVID-19 symptoms (see this [link](#) for symptoms).
- b. Participants will comply with current masking requirements.
- c. If the attorney becomes aware that a witness or party is ill in advance of the proceedings, they will contact the Hearings Division as soon as possible.
- d. Parties will arrive spaced apart by approximately 5 minutes, and will stay at their assigned table until dismissed by the ALJ.
- e. Witnesses will wait in their car until called in on the phone by the attorneys to come in to testify.
- f. Attorneys will minimize getting up from tables and walking around, to the greatest extent practical.
- g. Social distancing is to be observed at all times, including in the hallway and lobby areas. Parties will be dismissed by the ALJ separately, to ensure social distancing.
- h. Interpreters will utilize a hand-held remote audio system to ensure social distancing while providing interpretation services.

- i. If during any proceeding a participant exhibits signs of illness, the proceedings will be suspended and continued at a later time.
- j. All parties and witnesses should utilize the sanitizing wipes at their table and sanitize their tables before leaving.

NOTE: To the greatest extent practical, parties should resolve matters such as the issues to be litigated and exhibits before convening in person. Also, depending on the length of the proceedings, the parties should be prepared to leave the facility and conduct closing arguments from a remote location at a time agreed to by the parties and the assigned ALJ.

Determination

The PALJ/APALJ will notify the parties in writing whether the motion is granted or denied. If granted, the case will be special set at a time and place agreed upon by the parties and approved by the PALJ/APALJ. As noted above, availability of suitable facilities, the number of in-person events scheduled, PPE levels, and staffing levels will all be considerations. If denied, and it has not already passed, the parties may keep their already-scheduled hearing date and time.

Finally, although there is no specific timetable by which the motion needs to be filed in advance of a proceeding, remember that resources are limited, and the date and time of the hearing may need to be adjusted given those limitations. So, parties will want to submit their request as soon as they have reached an agreement and have the necessary information.

We at WCB will continue to evaluate these processes as we move forward. As always, please feel free to reach out to myself at joy.m.dougherty@oregon.gov, or Board Chair Wold at connie.l.wold@oregon.gov, with any questions or concerns. We appreciate your patience as we slowly and cautiously move through this next phase.

All my best,

Joy Dougherty

Joy Dougherty, Presiding Administrative Law Judge
Workers' Compensation Board
2601 25th Street SE, Suite 150, Salem, OR 97302-1280 | P: 503.378.3308