

876—4.9(17A) Appearance and responses, pleadings, motions and settlements. Appearances and responses to pleadings and motions shall be made in WCES. Registration with the division of workers' compensation's WCES is required. Registration is accepted at www.iowaworkcomp.gov/efile. After a matter has been commenced and the respondent has been served with an original notice and filed an answer or appearance, subsequent filings or submissions in WCES do not require proof of service to parties of record who are registered with WCES. If a party has been granted a waiver of the mandatory use of WCES, the party shall include a proof of service for all parties of record. Attorneys will need to use the AT pin or pro hac vice pin assigned by the Iowa Supreme Court to be associated with a case in WCES. When an attorney is not representing a party, the employer or insurance carrier or the employer's or insurance carrier's agent or claimant shall register in WCES to file the settlement or medical data pursuant to 876—subrule 3.1(2). The filer will receive a status update for the information the filer submits based upon the status the filer selects when registering in WCES.

4.9(1) Respondent—appearance. A respondent shall appear by filing an answer or a motion within 20 days after the service of the original notice and petition upon the respondent in WCES, or if a party has been granted a waiver of the mandatory use of WCES, the respondent shall file an answer or motion within 20 days after service of the original notice and petition upon the respondent with the division of workers' compensation.

4.9(2) Motions. Motions attacking a pleading must be served before responding to a pleading or, if no responsive pleading is required, upon motion made by a party within 20 days after the service of the pleading on such party.

4.9(3) Pleading. Rescinded IAB 11/23/05, effective 1/1/06.

4.9(4) Time after motions attacking pleadings and special appearances. If a motion attacking a pleading is so disposed of as to require further pleading, such further pleading shall be served within ten days after notice of the action of the workers' compensation commissioner or deputy workers' compensation commissioner. If the further pleading requires a response, the response shall be filed within ten days after service of the further pleading.

4.9(5) Amendments to pleadings. A party may amend a pleading as a matter of course at any time before the party's discovery is closed, or if no order is entered closing the party's discovery, at any time before the case is assigned for hearing. Otherwise, a party may amend a pleading only by leave of the workers' compensation commissioner or deputy workers' compensation commissioner or by written consent of the adverse party. Leave to amend, including leave to amend to conform to proof, shall be freely given when justice so requires.

4.9(6) Form, submission and ruling on motions. All motions, including pre-answer motions and motions for summary judgment, shall have appended to them a concise memorandum brief and argument. All motions except motions for summary judgment shall be deemed submitted without hearing on the record presented on the tenth day following filing. Motions for summary judgment shall be deemed submitted as provided in Iowa Rule of Civil Procedure 1.981. Resistances to motions shall have appended to them a concise memorandum brief and argument and shall be filed on or before the date of submission. Briefs and arguments are waived unless appended to the motion or resistance.

An order may be entered consolidating any motion for ruling with the hearing of the contested case. Any party desiring a ruling on a motion prior to the hearing may concisely set forth the necessity of prior ruling in the motion, application or resistance. If a pre-answer motion alleging lack of jurisdiction is overruled or consolidated with hearing of the contested case, the party shall plead to the merits and proceed to hearing of the contested case without submitting to the jurisdiction of the workers' compensation commissioner. If a motion attacking a pleading is consolidated with hearing of the contested case, the party shall respond to the pleading in the same manner as if the motion had been overruled.

4.9(7) Consolidation. All petitions involving the same claimant and employer will automatically be consolidated. Any party may file a motion to consolidate common questions of fact and law surrounding an injury or a series of injuries. The motion to consolidate shall be deemed approved without an order if no resistance to the motion is filed with the workers' compensation commissioner within ten days of the filing of the motion.

4.9(8) *Withdrawal of counsel.* Counsel may withdraw if another counsel has appeared or if the client's written consent accompanies the withdrawal.

Under all other circumstances, counsel may withdraw only upon the order of the workers' compensation commissioner after making written application. Counsel shall give the client written notice that the client has the right to object to the withdrawal by filing written objections and a request for a hearing to the Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309, within ten days following the date the notice was mailed or personally delivered to the client. The client's response does not need to be filed in WCES but may be mailed or delivered to the division. Counsel's application shall be accompanied by proof that a copy of the application and notice was sent by certified mail addressed to the client's last-known address or was delivered to the client personally. If no objections are timely filed, the withdrawal will become effective when approved by the workers' compensation commissioner. If objections are timely filed, a hearing on the application will be held. No withdrawal under this subrule will be effective without the approval of the workers' compensation commissioner. The filing of an application to withdraw stays all pending matters until a ruling is made on the application.

4.9(9) *Requests for default.* Requests or motions for default shall be as provided in Iowa Rules of Civil Procedure 1.971 to 1.977 except that entry of default shall be by order of the workers' compensation commissioner or a deputy workers' compensation commissioner.

4.9(10) *Pro hac vice.* An out-of-state attorney desiring to appear pro hac vice in an Iowa division of workers' compensation case is required to access the office of professional regulation (OPR)/supreme court commissions (SCC) website, submit certain personal information to complete pertinent fields in the lawyer database, and pay a fee that will be deposited in the client security trust fund. The registration and fee payment allow the attorney to apply to appear pro hac vice in Iowa division of workers' compensation cases, subject to the limits and requirements of Iowa Court Rule 31.14, for a period of up to five years from the date of registration. Attorneys who register and pay the fee appear in the OPR/SCC database with the status of "pro hac vice." The Iowa division of workers' compensation will request from the Iowa courts that a pro hac vice number be issued and will provide that number to the out-of-state attorney for registration with WCES. The affiliated in-state attorney shall file in WCES the application to appear pro hac vice completed by the out-of-state attorney using a pleading that is substantially similar to Iowa Court Rule 31.25—Form 1.

This rule is intended to implement the provisions of Iowa Code section 17A.12.

[ARC 3528C, IAB 12/20/17, effective 1/24/18; ARC 4568C, IAB 7/31/19, effective 7/10/19; ARC 5042C, IAB 5/20/20, effective 6/24/20; ARC 6841C, IAB 2/8/23, effective 3/15/23]