

Proposed Rule 105

Changes are being made to Board Rule 105 to correspond with legislative changes made to O.C.G.A. § 34-9-105 that become effective July 1, 2023. The current Rule 105 is stricken in its entirety and replaced with the following new Rule 105 to be effective July 1, 2023.

Rule 105. Appeals to the Courts.

(See O.C.G.A. §34-9-105 for additional details and instructions)

(a) Any party appealing from an award or order of the members of the Board shall file a petition for review with the proper Superior Court within 20 days of the date on the award or order. A copy of the petition for review shall simultaneously be filed electronically through ICMS, which satisfies the requirement that a copy of the petition be served on the clerk of the Board. The appealing party shall pay the reasonable copying and transmittal costs of the Board. Upon good cause shown, the Board may waive the copying and transmittal costs. The Board shall transmit certified copies of all documents and papers in its file together with a transcript of the testimony taken and its findings of fact and decision to the clerk of the Superior Court where the petition for review is filed. The Board will transmit the aforementioned documents within 30 days of receipt of the copy of the petition for review.

(b) In the event of an outage preventing an electronic filing of the copy of the petition for review in ICMS, a copy of the petition for review may be filed in paper or by facsimile with any Board office. Any filing by facsimile transmission must be clearly labeled with the name of the claimant, claim number, and Board division or employee to whom the facsimile transmission is directed.

(c) The party dismissing an appeal shall file a copy of the dismissal with the Board.

(d) In the event of a settlement during the pendency of an appeal, it shall be the joint obligation of the parties to supply the Board with copies of all documents necessary to restore jurisdiction to the Board to consider the settlement.

(e) The prevailing party shall supply the Board with copies of the following documents:

- (1) Order of Superior Court disposing of an appeal;
- (2) Denial by the Court of Appeals or Supreme Court of an application for discretionary review;
- (3) Notice of appeal from Superior Court to Court of Appeals or Supreme Court where discretionary appeal is granted;
- (4) Denial of certiorari by the Supreme Court from a decision of the Court of Appeals;
- (5) Court of Appeals remittitur to Superior Court;

(6) Judgment on remittitur from Superior Court when the Court of Appeals does anything other than affirm the judgment of the Superior Court.

(f) The non-prevailing party shall supply the Board with copies of the following documents:

(1) Application to the Court of Appeals or Supreme Court for discretionary review of a judgment of the Superior Court;

(2) Application to the Supreme Court for certiorari to review a decision of the Court of Appeals;

(3) Notice from the Supreme Court of granting of certiorari from a decision of the Court of Appeals.

(g) Copies of the documents listed above shall be submitted to the Board electronically through ICMS or by regular mail within five days of filing in the appropriate court.