

(Suggested language for consent order for a virtual hearing-specific terms to be determined by the parties and the judge)

[INSERT CAPTION OF CLAIM]

CONSENT ORDER FOR REMOTE EVIDENTIARY HEARING

In keeping with the directives of the Governor of Georgia and the President of the United States to practice social distancing and protect the health of citizens during the COVID-19 pandemic, the State Board of Workers' Compensation is making remote hearings temporarily available by consent of all parties.

NOTICE OF DATE AND TIME OF REMOTE HEARING

The above-captioned matter will come before the presiding administrative law judge for an evidentiary hearing on [redacted] day, [redacted], [redacted], 2020, at [redacted] AM/PM. There will be no separate notice of hearing. This consent order supersedes any previously issued hearing notice. Call-in/login information will be distributed by the presiding administrative law judge's administrative assistant to attorneys for the parties no later than the day before the hearing. Videoconferences may be held for technology checks and pre-trial conferences at the discretion of the presiding administrative law judge. Attorneys are responsible for distributing the call-in/login information to their clients and witnesses.

PRELIMINARY STIPULATIONS

The parties stipulate to the following: The State Board of Workers' Compensation has jurisdiction over this matter. The place of the alleged accident is in [redacted] County, Georgia. The parties have all consented to hold the hearing via telephone and/or videoconference in lieu of the provisions in OCGA § 34-9-102(b) regarding the place of hearing.

DOCUMENTARY EVIDENCE

At least two business days before the hearing, the parties **shall** identify each document that may be tendered as an exhibit at the hearing, exchange copies of such documents with one another, and provide copies to the presiding administrative law judge via a OneDrive link provided by the judge. Exhibits shall be marked in compliance with Board Rule 102(F)(4). In unusual circumstances, at the discretion of the presiding administrative law judge, exhibits may be submitted by U.S. Mail only if the exhibits can be received by the opposing parties and the judge at least 2 business days before the hearing.

Parties wishing to tender audio or video evidence shall contact the presiding administrative law judge via conference call at least 2 business days before the hearing to discuss submission. Audio and video evidence should not be uploaded to OneDrive.

WITNESSES

Each party is responsible for arranging for its witnesses to be available to participate in the hearing by calling in or logging in at the time set for the hearing or by being on a line with a party representative. Witnesses must

be presented by video unless prior arrangements are made by agreement of the parties with consent of the presiding administrative law judge. Nothing in this order shall prevent the presentation of witnesses by deposition testimony as otherwise permitted by law.

COURT REPORTER

All parties agree that a certified court reporter shall be present telephonically or via videoconferencing; and further agree that his/her presence and reporting through such means shall be as effective as if the court reporter appeared in person before each witness, attorney, and the administrative law judge. The parties therefore agree that the court reporter's appearance by phone/video complies with all legal requirements for court reporters and the parties waive all other formalities and legal requirements.

OATH AND AFFIRMATION

All parties agree that the oath and affirmation will be administered telephonically or through videoconferencing by the presiding administrative law judge and will have the full force and effect of OCGA § 34-9-102(c) as if presented in person.

RIGHT TO REPRIMAND OR EXCLUDE

All parties agree that the presiding administrative law judge shall have the right to reprimand or exclude from the remote hearing any person for any indecorous or improper conduct committed in the presence of the administrative law judge as allowed by OCGA § 34-9-102(c) as if the administrative law judge observed such conduct personally.

SUBPOENAS

The usage and enforcement of subpoenas shall continue to be governed by OCGA § 24-13-1 et seq. pursuant to Board Rule 102(E) but the witness shall be deemed to have complied with the subpoena so long as he/she appears by phone or video as outlined in the subpoena at the scheduled date/time.

RECORDING OF HEARINGS

Board Rule 102(A)(6) governs remote hearings, and no party shall make any audio, video, photographic, electronic recording or court transcription of a Board proceeding unless expressly permitted by the Board after full compliance with this Rule and express permission from the presiding administrative law judge. No video recording of the hearing will be captured by the Board.

BEST PRACTICES

The parties will read the attached list of best practices.

Agreed upon on behalf of ourselves and our clients, this ____ day of _____, 2020:

ATTORNEY FOR EMPLOYEE

Attorney's name:

Primary contact phone number:

Secondary contact phone number:

Email address:

ATTORNEY FOR EMPLOYER/INSURER

Attorney's name:

Primary contact phone number:

Secondary contact phone number:

Email address:

SO ORDERED this ____ day of _____, 2020:

ADMINISTRATIVE LAW JUDGE

Presiding ALJ's name:

Primary contact phone number:

Secondary contact phone number:

Email address:

BEST PRACTICES

1. The State Board of Workers' Compensation will use Zoom as the videoconferencing platform for Remote Hearings.
2. These are trying times and all parties should exercise the utmost professionalism in their dealings with others. Normal courtroom decorum is expected, including appropriate attire.
3. Please secure good internet connectivity for all attorneys and witnesses prior to commencement of the hearing. Each attorney is responsible for the technology necessary to effectively present his/her client's case, including presentation of witnesses and evidence by electronic means. Often a hard wire internet connection is the most reliable where available. Silence all other devices and ensure that your environment is free from background noise.
4. You will receive links from the judge's office for uploading your exhibits. If you do not, contact the judge's office. You should be able to upload your exhibits and any joint exhibits. You should be able to view the opposing party's exhibits. You should upload each exhibit separately, with each file named accordingly (for example, C-1, C-2, or D-1, D-2, etc.). The parties are reminded that submitting this evidence, whether by OneDrive or by mail, is not a judicial determination of admission into evidence. That decision will be made by the presiding judge during the course of the hearing, as it normally would be.
5. Not all documents used in court will be tendered as evidence. Our platform, Zoom, has the ability to share documents on the screen through "Screen Share." Please make sure all documents you want to display to the court and/or a witness during the hearing are uploaded onto your computer for display via screen sharing during the hearing. Before the hearing, please familiarize yourself with the Zoom tutorial on screen sharing. This is the feature you would use for displaying an impeachment document to a witness, such as a deposition. You should have the deposition or other document downloaded onto your computer and available on your screen before the hearing. During the hearing, you will ask the judge to allow you to "share your screen" when you are ready to use it for impeachment.
6. Parties desiring to present audio or video during a hearing should view the online tutorial on the Zoom website for accomplishing this.
7. Please make sure you have all contact information including alternatives for all of your witnesses so that you can reach them during the hearing and in the event of technical difficulty.
8. The administrative law judge will have the ability to sequester witnesses through Zoom upon motion. The judge will also have the ability to put you and your client or you and opposing counsel in a private "breakout room" for consultation if needed; just ask.
9. If an interpreter is needed, the party presenting testimony through an interpreter will be responsible for securing the logistics of those services and informing the court and opposing counsel in advance of the hearing.
10. Each party should email a list of witnesses it may call and an index to its exhibits to the ALJ's administrative assistant the day before the hearing. The administrative assistant will send these to the court reporter for her use during the hearing.