



State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
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Acting Commissioner

MEMORANDUM

To: All Judges and Attorneys and Case Parties

From: Peter J. Calderone
Director and Chief Judge

A handwritten signature in black ink, appearing to be "P. Calderone", written over a horizontal line.

Re: Video Conference Testimony

With the assistance of Workers' Compensation Section of the State Bar we have formulated the attached guidelines for Video Conference Testimony. The technology allows for the cost effective use of video conferencing which is particularly viable for the testimony of medical experts who regularly appear in workers' compensation court and treating physicians who are difficult to schedule for court appearances. Video conferencing is, of course, not restricted to medical witnesses and can also be employed for lay witnesses including the testimony of respondent employers and staff, insurance company personnel and others that are needed to complete the trial record.

There is no need for party agreement on the use of video conferencing since pursuant to court rule noted on the attached Guidelines; the Judge of Compensation has the discretion to permit the use of this process. Judges should encourage video conferencing especially on prolonged trials and where it is difficult to schedule witnesses to appear at the vicinage.

Every three months the Division issues to the judges partial trial and medical motion reports. Supervisory judges will be reviewing the reports for delays and actively involved with encouraging the use of video conferencing to expedite the trial or motion resolution.

Please contact me if you have questions on this initiative.

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Guidelines for Video Conferenece Testimony

Over the past several months, a number of parties have inquired about the utilization of video technology for taking testimony. This might be particularly useful in taking testimony from an expert. The Rules of the Division of Workers' Compensation provide that the Judge of Compensation may permit the taking of testimony by video conference:

N.J.A.C. 12:235-3.12(f) All formal hearings or applications shall be conducted in open court, except:

...

4. Testimony of witnesses by video teleconferencing procedures may be permitted for good cause by the Judge of Compensation to whom the case is assigned. When this occurs, a stenographic record shall be made and all costs associated with the use of video teleconferencing shall be borne by the requesting party.

In an effort to assist in the resolution of cases, The Division, in conjunction with representatives of the Workers' Compensation Section of the Bar Association has explored several different video conferencing technologies. Following are guidelines for use by Judges and attorneys who wish to utilize video conferencing for the taking of testimony.

1. Testimony via video conferencing must be approved by the Judge of Compensation in advance. The party wishing to present a witness through video testimony must obtain permission from the Judge after advising the opposing counsel and giving the counsel an opportunity to object.
2. The party proposing the use of video must provide the equipment for the presentation of testimony. A laptop or other portable computer or computers may be utilized if the device(s) can be set up so all parties can see and hear the witness. If a third party vendor is utilized to set up the video conference, the party proffering the video testimony will generally be responsible for the costs and fees associated with the vendor.
3. The Division of Workers' Compensation offices maintain wireless wi-fi networks, which may be utilized for the video conferencing. However, the strength of the connections vary by facility and the distance of the courtroom from the wireless modem. Wireless carrier strength (3g or 4g connections) can also vary by location. The quality of video conferencing software also varies by vendor and sometimes by bandwidth of the connection. Therefore the party should test the software at the location it is to be utilized prior to the time of the taking of testimony. The party offering the video testimony must also ensure that the equipment at the remote location is operational.

4. The Division has procured licenses for video conferencing from Citrix, named Go-To-Meeting. The Division is making this software available for use in video conferencing.
 - A. A party who wishes to utilize the Go-To-Meeting software must contact the Division's coordinator at 609-292-8802 to schedule the conference and obtain instructions for use. Instructions and links to the vendor's instruction site will be provided upon scheduling.
 - B. A Judge may be able to access Go-To-Meeting from his or her computer in chambers. Other software might be blocked by the Garden State Network firewall or the State's security software. The party offering the video testimony is still responsible for providing video access for the parties, setting up the conference and ensuring that the software works appropriately on the computers or other devices used. The Division will assist in participating in a test conference to ensure that all equipment is working effectively.