RULES
OF
TENNESSEE CLAIMS COMMISSION

CHAPTER 0310-01-01
RULES OF PROCEDURE

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0310-01-01-.01 APPLICABILITY OF TENNESSEE RULES OF CIVIL PROCEDURE AND CORRELATION WITH T.C.A. § 9-8-403(a)(1). Proceedings before the Tennessee Claims Commission shall be conducted pursuant to the Tennessee Rules of Civil Procedure (TRCP) and subsequent amendments and interpretations where applicable except where specifically modified by these rules. Modifications are:

(1) TRCP Rule 1 is not followed. The following language is substituted in its place:

(a) These rules shall govern the procedure in the Tennessee Claims Commission. These rules shall be construed to secure the just, speedy and inexpensive determination of every action. Where “judge” appears in TRCP or Rules of Evidence it shall include the Commissioners of the Claims Commission. Where “court” appears in TRCP or the Rules of Evidence, it shall include the Claims Commission.

(2) TRCP Rule 3 is not followed. The following language is substituted in its place:

Commencing a Claim and Procedure

Claims before the Commission are commenced in the manner described in T.C.A. §§ 9-8-301 et seq. and 401 et seq. especially 402.

(a) Tax Claims – Commenced

Claims for taxes paid under protest are commenced by filing an original complaint and two copies with the Clerk of the Tennessee Claims Commission.

(b) All Other Claims – Commenced

All other actions are commenced by filing a written notice of claim (see T.C.A. § 9-8-402 for requirements) with the Division of Claims and Risk Management.

(c) From the Division of Claims and Risk Management to the Claims Commission:

A claim proceeds from the Division of Claims and Risk Management to the Claims Commission after the time periods set out in T.C.A. § 9-8-402(c) by either transfer from the Division of Claims and Risk Management (no action required by claimant) or by filing with the Claims Commission (claimant is required to act) within the time limit set out in T.C.A. § 9-8-402(c).

(d) Procedure Before the Claims Commission:

(Rule 0310-01-01-.01, continued)

1. Small Claims Proceedings on Affidavit:

   All claimants on the small claims docket proceeding on affidavit must file a "Notice Of Appeal" under oath and notarized accompanied by any and all witness statements under oath and notarized which the claimant wishes considered by the Claims Commission. The Clerk of the Claims Commission will notify all parties or their counsel and the Attorney General's office which Commissioner is assigned to hear the action. The state will file a dispositive motion or countervailing affidavits within sixty (60) days of the date of notification by the Clerk of the assignment of a Commissioner. The claimant then has fifteen (15) days from receipt of the state's response to file any response. The state then has fifteen (15) days to file any reply.

2. CICA, Pro Se Small Docket and Pro Se Worker's Compensation

   Criminal Injury Compensation Claims, pro se Worker's Compensation claims and pro se small docket claims shall proceed on the "Notice of Appeal" as set out in (d)1. and/or the original claim form filed with the Division of Claims and Risk Management.

3. All Other Claims:

   When the Division of Claims and Risk Management has transferred a claim to the Claims Commission or when a plaintiff files with the Claims Commission an appeal from a denied claim, then the clerk will notify all parties or their counsel and the Attorney General's office which Commissioner is assigned to hear the action. Within thirty (30) days of the receipt of the notification of assignment of a Commissioner, the claimant shall file a complaint (which complies with TRCP 8 and 10). If such a complaint has already been filed with the Division of Claims and Risk Management, then this requirement is satisfied.

   Committee Comment

   Excepting claims transferred by the Division of Claims and Risk Management when moving from the Division of Claims and Risk Management to the Tennessee Claims Commission per (c), the Division of Claims and Risk Management provides "Notice of Appeal" forms which may be used. These forms are not required, but are especially helpful for small claims (d)1. An easy procedure for a claim where a complaint complying with TRCP 8 and 10 was filed with the Division of Claims and Risk Management, is to use a "Notice of Appeal" form and attach a copy of the original complaint to it.

(3) TRCP Rule 4 – Committee Comment: The rule on summons is retained for use by the state when bringing in third parties, and the like. The summons is not used by original claimants.

(4) TRCP Rule 5.01 is followed in its entirety and the following language is also added:

Every pleading subsequent to the original complaint, every amendment, every written motion other than one which may be heard ex parte, every appearance, offer of judgment, designation of record on appeal and brief shall have a copy also served upon the Commission before whom the action is pending. Interrogatories, depositions, admissions and other documents involving discovery do not need to be served upon the Commissioner or filed with the Clerk of the Commission until it is necessary for the Commissioner to weigh it as evidence or make a ruling regarding a disputed matter of discovery.

(5) TRCP Rule 7.02 is followed in its entirety and the following language is also added:

(Rule 0310-01-01-.01, continued)

(a) All written motions shall be decided by the Commission without oral argument unless otherwise ordered. If any attorney feels that oral argument is particularly desirable on a given motion, he may accompany the motion with a request for oral argument. If the motion is made orally when both attorneys are before the Commission in person or by phone and the issue is not resolved at that time then the motion shall be reduced to writing as soon as practicable (this does not apply to motions made when a court reporter is present).

(b) Every motion that may require the resolution of an issue of law shall be accompanied by a memorandum of law citing supporting authorities and, where allegations of fact are relied upon, affidavits in support.

(c) Each party opposing a motion shall serve and file a response no later than fifteen (15) days after service of the motion, except that in case of motions for summary judgment the time shall be thirty (30) days after service of the motion. Failure to file a response shall indicate that there is no opposition to the motion. Provided, however, the Commission may act on the motion prior to the times set forth. In such event, the affected party may file a motion to reconsider within fourteen (14) days, or thirty (30) days in a case of a motion for summary judgment after service of the order reflecting the action of the Commission. A previously prevailing party on a motion shall not respond to a motion to reconsider unless the Commission orders a response.

(6) TRCP Rule 10.01 is followed, but is modified by deleting the reference to county and instead indicating the grand division where the claim is pending. If a pleading is filed before the claim is assigned to a Commissioner, then the grand division in which the plaintiff resides may be used.

(7) TRCP Rule 33 is followed in its entirety and the following language is also added:

(a) When to File: Do not file the original written questions with the Clerk of the Tennessee Claims Commission until (a) after the answers have been secured, and/or (b) at least ten days prior to the hearing of a motion, pre-trial conference or trial wherein the questions and/or answers will be needed as evidence, a basis for a motion to compel, or the like.

(b) Number and Format of Interrogatories:

1. No party shall serve on any other party more than thirty single question interrogatories, including subparts, without leave of the Commission. Any motion seeking permission to serve more than thirty interrogatories shall set out the additional interrogatories the party wishes to serve. The motion shall be accompanied by a memorandum giving reasons establishing good cause for the service of additional interrogatories. If a party is served with more than thirty interrogatories without an order of the Commission, he or she shall respond only to the first thirty in the manner provided by the Tennessee Rules of Civil Procedure. The parties may agree otherwise without the Commissioner's permission.

2. After each separate question and subquestion, a blank space shall be provided reasonably calculated to enable the answering party to have his or her answer typed in. The answering party shall verify the answers immediately following his or her answer to the last interrogatory.

(8) TRCP Rule 36 is followed in its entirety and the following language is also added:

(Rule 0310-01-01-.01, continued)

(a) Number, Format and Filing of Requests for Admissions:

Requests for admissions are subject to the same limitations and requirements as are set out for interrogatories in Rule 0310-01-01-.01(7)(b) above.

(9) TRCP Rule 40 is not followed. The following language is substituted in its place:

When either party has completed discovery and has completed arrangements for the presentation of medical evidence (such as stipulations with opposing party for the presentation of certain records or completed depositions, etc.) then that party may ask for a trial date from the office of the Commissioner before whom the claim is pending. This may be done by motion or by letter which will be treated as a motion.

(10) TRCP Rule 41 is followed in its entirety and the following Committee Comment is added:

Brown v. State, 787 S.W. 2nd 567, holds that the saving statute, T.C.A. § 28-1-105, does not apply to the Claims Commission.

(11) TRCP Rule 43 is followed in its entirety and the following language is also added:

(a) Rules of Evidence

1. Unless any other rule of procedure before the Commission or statute is to the contrary, the Rules of Evidence applicable to the Courts of the State of Tennessee shall be applicable to actions before the Commission.

2. Notwithstanding (a), statements of doctors, all medical records and estimates of repair or damages by a person who does car repair (engine or body) work for a living or who works at a business which engages in engine or body repair are admissible without being sworn to so long as a copy of said document is sent to the opposing party and the Commissioner before whom the claim is pending at least fifteen (15) days prior to the hearing. This time limit may be waived or a continuance granted by the presiding Commissioner if justice requires. This subsection applies to the small claims docket, to Criminal Injury Compensation claims and all pro se claims only.

(12) TRCP Rule 45.05 is followed in its entirety and the following language is also added:

(a) If a personal attendance subpoena is not requested at least fifteen (15) days prior to the hearing, no continuance for failure to appear will be granted, unless justice requires otherwise.

(13) TRCP Rule 52.01 is followed, but is modified by the deletion of its first sentence and the following substituted in its place:

Pursuant to T.C.A. § 9-8-403(j), the Commissioners shall provide findings of facts and conclusions of law on the disposition of all claims on the regular docket and on the disposition of all claims for Criminal Injuries Compensation.

(14) TRCP Rule 59 is followed in its entirety and the following is also added:

(a) Motion for En Banc Hearing by Tennessee Claims Commission: A motion by any party for an En Banc Hearing before the Tennessee Claims Commission is regarded as a motion for new trial and shall have the same effect as a motion for new trial in this rule and all other rules of procedure.

(Rule 0310-01-01-.01, continued)
Authority: *T.C.A. §§ 9-8-306, 9-8-401, 9-8-402, 9-8-403(j), and Rules 33, 43, and 59 of the Tennessee Rules of Civil Procedure.* ***Administrative History:*** *Original rule filed April 9, 1986; effective May 9, 1986. Repeal and new rule filed May 29, 1992; effective August 29, 1992. Amendments filed May 10, 2019; effective August 8, 2019.*

0310-01-01-.02 TRANSFER TO CHANCERY OR CIRCUIT COURT.

An application for transfer to Circuit or Chancery Court with venue pursuant to T.C.A. § 9-8-404 shall be by motion.

Authority: *T.C.A. § 9-8-306.* ***Administrative History:*** *Original rule filed April 9, 1986; effective May 9, 1986. Repeal and new rule filed May 29, 1992; effective August 29, 1992.*

0310-01-01-.03 EN BANC HEARINGS.

(1) The Commission, upon motion by either party or upon its own, may decide to hear or otherwise consider any matter En Banc either before or after a decision has been rendered or a hearing conducted by an individual Commissioner. When this motion is made by a party after an Order resolving the claim has been entered by an individual Commissioner, the motion for En Banc Hearing has the same effect as a motion for new trial.

(2) The motion shall set out the reasons why an En Banc Hearing is requested.

(3) Opposing party shall file any desired response within thirty (30) days or within a different time set by the Commissioner to whom the claim is assigned.

(4) The full Commission will consider the motion and the opposing party's response. Oral argument may be requested by the Commission. Upon a determination to grant a hearing En Banc after a decision by an individual Commissioner, the Commission will further advise all parties whether the review will be limited to (a) argument of legal issues, (b) argument in general, (c) whether additional evidence may be introduced, or (d) whether there will be complete re-trial of all issues.

(5) The standard of review used by the Commission is de novo with no presumption of correctness of the decision of the individual Commissioner.

Authority: *T.C.A. § 9-8-306.* ***Administrative History:*** *Original rule filed April 9, 1986; effective May 9, 1986. Repeal and new rule filed May 29, 1992; effective August 29, 1992.*

0310-01-01-.04 APPICABILITY OF SUPREME COURT RULES.

The Claims Commission and those who practice law before it is subject to the Tennessee Supreme Court Rules in the same manner as courts, where applicable.

Authority: *T.C.A. § 9-8-306.* ***Administrative History:*** *Original rule filed April 9, 1986; effective May 9, 1986. Repeal and new rule filed May 29, 1992; effective August 29, 1992.*

0310-01-01-.05 SEVERABILITY CLAUSE.

If any provision of these rules or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to that end the provisions of these rules are declared to be severable.

Authority: *T.C.A. § 9-8-306.* ***Administrative History:*** *Original rule filed April 9, 1986; effective May 9, 1986. Repeal and new rule filed May 29, 1992; effective August 29, 1992.*

0310-01-01-.06 THROUGH 0310-01-01-.72 REPEALED.

Authority: *T.C.A. § 9-8-306.* ***Administrative History:*** *Original rule filed April 9, 1986; effective May 9, 1986. Repeal and new rule filed May 29, 1992; effective August 29, 1992. Repeal filed May 29, 1992; effective August 29, 1992.*

0310-01-01-.73 PRIVACY.

(1) Those filing documents of any kind with the Claims Commission shall refrain from including, or shall redact as follows where inclusion is necessary, the following personal identifiers from all documents filed publicly with the Clerk, including exhibits thereto, unless required by statute or otherwise ordered by the Claims Commission:

(a) If a social security number must be included in a document, only the last four (4) digits of that number shall be used.

(b) If an individual's date of birth must be included in a document, only the year shall be used.

(c) If a financial account number is relevant, only the last four (4) digits of the number shall be used.

(2) In addition, E-filers should exercise caution when filing documents that contain the following:

(a) Personal identifying numbers, such as driver's license numbers;

(b) Medical records;

(c) Employment history;

(d) Individual financial information; and

(e) Proprietary or trade secret information.

(3) It is the sole responsibility of the filing party that all documents comply with this Rule requiring redaction of personal identifiers. The Clerk will not review each document for redaction.

Authority: *T.C.A. § 9-8-306.* ***Administrative History:*** *Original rule filed May 10, 2019; effective August 8, 2019.*