

# SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION COMMISSIONERS' PREFERENCES

## STANDARD PREFERENCES

The following preferences apply if the commissioner does not express another preference.

### 1. ACCEPTED WORD PROCESSING FORM

Unless otherwise indicated, documents submitted directly to the Commissioners' offices (i.e., by Email) must be in Word format.

### 2. TIMELINESS

Please be early for the hearing. Unless extra time is requested prior to the hearing either in the pre-hearing brief, Form 50, Form 51, Form 52, Form 21, or by contacting the Administrative Assistant, each hearing is allotted thirty (30) minutes. Nearly all hearings in denied claims take longer than thirty (30) minutes. Cases requiring interpreters always take longer than thirty (30) minutes.

### 3. SETTLEMENT

If a settlement has been reached in a case set for a hearing, the moving party is responsible to notify the Commission of the settlement in a timely manner. Failure to do so can result in a fine for failure to appear at a hearing.

### 4. DATES

If you are asking for temporary total benefits, temporary partial benefits, or if the Claimant has reached maximum medical improvement, please have the appropriate dates ready, during the pre-hearing conference.

### 5. ATTACHMENTS (Including Exhibits)

APA submissions should have the index on top. APAs must be paginated. Please give opposing counsel a set identical to that which you submit to the Commissioner. Please do not submit duplicate records. The non-moving party should remove duplicates from the APA submissions in response to APAs submitted by the moving party.

### 6. CREDIBILITY

Do not make any comments in the proposed order concerning **CREDIBILITY or CREDIBLE EVIDENCE**, unless instructed to do so in the hearing notes or request for a proposed order.

### 7. PROPOSED ORDERS

Please prepare proposed orders promptly, within the timeframe as listed on the hearing notes or per the Commissioners' preference. Please provide an original and three (3) copies of the proposed order along with a self-addressed, stamped envelope, **unless a Commissioner is already using electronic transmission for proposed orders.** If the electronic system is already in place, see Standard Preference #1 above, or that Commissioners' specific preference below.

## **8. WITHDRAWALS OF REQUESTS**

Unless absolutely necessary, if you are going to withdraw your Form 50 or Form 21, do not wait until the day of the hearing or before the hearing to do so. If you withdraw your Form 21 and a Form 50 is in the file, the commissioner reserves the right to hold a hearing on the Form 50, and vice-versa.

## **9. MATTERS TO INCLUDE IN THE ORDER**

1. APA Submissions
2. Stipulations
3. Statement of the Case (contentions of the parties, stated concisely)
4. Evidence of the Case (synopsis of the evidence, including testimony and medical reports)
5. Findings of Fact – numbered (Do NOT delete any of the above findings, however, the prevailing party may add findings to support the decision, except regarding credibility, unless instructed to do so)
6. Conclusions of Law (cite applicable statutory sections and case law)
7. Award

## **10. SECOND OPINIONS**

Though they are not always ordered, second opinions, in most cases, will be granted. However, this does not restrict a party from challenging the issue at a hearing. The individual Commissioner will decide this on a case-by-case basis.

## **COMMISSIONER-SPECIFIC PREFERENCES**

### **Interim Chairman T. Scott Beck**

Email address for Proposed Orders: [abracy@wcc.sc.gov](mailto:abracy@wcc.sc.gov)

Mailing address: P.O. BOX 1715, Columbia, SC 29202-1715

**Standard Preferences** apply unless otherwise indicated below.

1. Medical records submitted under APA should be organized in chronological order, with the **newest** records on top.
2. All APAs are to be bound (i.e., binder clip, notebook, etc.).
3. For hearings involving specific legal issues (laches, notice, jurisdiction, statute of limitations, etc), please provide a brief summary of the case law and pertinent facts supporting your client's position. This brief should be no longer than three (3) pages in length, unless the case involves novel issues or a complex set of facts and legal issues. You will be allowed to present this brief, pertaining solely to the legal issues at the hearing.
4. I will allow duly subpoenaed and listed expert witnesses to testify at the hearing.
5. Prior to the date of the clincher conference, please send the AA a copy of the treating doctor's last several office notes, as well as any operative notes. Also, please have available at the hearing the rating equivalent of the amount the Claimant is being offered.
6. Please have a conversion of the specific body part, if necessary (i.e.- upper extremity to shoulder).
7. Absent a detailed estimate and analysis of additional medical treatment and costs for removal of retained hardware, I will not approve clincher settlements that do not include lifetime maintenance for hardware.
8. For fee petitions, in the event an attorney fee is \$50,000 or greater, please complete and submit a Form 61A.
9. Unless otherwise specified, please submit the proposed order within forty-five (45) days.
10. Please forward a copy of the proposed order to opposing counsel one (1) week before forwarding to my office. Please note in your cover letter whether opposing counsel agrees that the order accurately reflects my ruling, does not agree the order accurately reflects my ruling, or failed to respond regarding the order.
11. Please notify my administrative assistant via [email](#) of any settlements (i.e., clinchers, 16s, consent orders, withdraw 50, withdraw 21, etc.).

## Chairman Andrea C. Roche

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Mailing address: P.O. BOX 1715, Columbia, SC 29202-1715

**Standard Preferences** apply unless otherwise indicated below.

1. Please be on time, or preferably early, for the hearing. If the parties expect the hearing to last more than three (3) hours, please notify Commissioner Roche's AA by e-mail at the time the Form 58 is due.
2. Medical records submitted under APA should be organized in chronological order, with the **oldest** records on top.
3. For hearings involving specific legal issues (laches, notice, jurisdiction, statute of limitations, etc), please provide a brief summary of the case law and pertinent facts supporting your client's position. This brief should be no longer than three (3) pages in length, unless the case involves novel issues or a complex set of facts and legal issues. You will be allowed to present this brief, pertaining solely to the legal issues at the hearing.
4. Depending on the circumstances, I may allow duly subpoenaed and listed expert witnesses to testify at the hearing.
5. Please do not highlight the APAs.
6. Prior to the date of the clincher conference, please send the AA a copy of the treating doctor's last several office notes, as well as any operative notes. Also, please have available at the hearing the rating equivalent of the amount the Claimant is being offered.
7. Unless otherwise specified, please submit the proposed order within thirty (30) days.
8. Please forward a copy of the proposed order to opposing counsel one (1) week before forwarding to my office. Please note in your cover letter whether opposing counsel agrees that the order accurately reflects my ruling, does not agree the order accurately reflects my ruling, or failed to respond regarding the order.

## **Commissioner Avery B. Wilkerson, Jr.**

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Mailing address: P.O. BOX 1715, Columbia, SC 29202-1715

**Standard Preferences** apply unless otherwise indicated below.

1. Medical records submitted under APA should be organized in chronological order, with the **oldest** records on top.
2. For hearings involving specific legal issues (laches, notice, jurisdiction, statute of limitations, etc), please provide a brief summary of the case law and pertinent facts supporting your client's position. This brief should be no longer than three (3) pages in length, unless the case involves novel issues or a complex set of facts and legal issues. You will be allowed to present this brief, pertaining solely to the legal issues at the hearing.
3. I will allow duly subpoenaed and listed expert witnesses to testify at the hearing.
4. Prior to the date of the clincher conference, please send the AA a copy of the treating doctor's last several office notes, as well as any operative notes. Also, please have available at the hearing the rating equivalent of the amount the Claimant is being offered.
5. Please have a conversion of the specific body part, if necessary (i.e.- upper extremity to shoulder).
6. Absent a detailed estimate and analysis of additional medical treatment and costs for removal of retained hardware, I will not approve clincher settlements that do not include lifetime maintenance for hardware.
7. Unless otherwise specified, please submit the proposed order within thirty (30) days.

## Commissioner Susan S. Barden

Email address for Proposed Orders: [klove@wcc.sc.gov](mailto:klove@wcc.sc.gov)

Mailing address: P.O. BOX 1715, Columbia, SC 29202-1715

**Standard Preferences** apply unless otherwise indicated below.

1. Medical records submitted under APA should be organized in chronological order, with the **oldest** records on top.
2. For hearings involving specific legal issues (laches, notice, jurisdiction, statute of limitations, etc), please provide a brief summary of the case law and pertinent facts supporting your client's position. This brief should be no longer than three (3) pages in length, unless the case involves novel issues or a complex set of facts and legal issues. You will be allowed to present this brief, pertaining solely to the legal issues at the hearing.
3. I will allow duly subpoenaed and listed expert witnesses to testify at the hearing.
4. Prior to the date of the clincher conference, please send the AA a copy of the treating doctor's last several office notes, as well as any operative notes. Also, please have available at the hearing the rating equivalent of the amount the Claimant is being offered.
5. Absent a detailed estimate and analysis of additional medical treatment and costs for removal of retained hardware, I will not approve clincher settlements that do not include lifetime maintenance for hardware.
6. Unless otherwise specified, please submit the proposed order within thirty-five (35) days. Please forward a copy of the proposed order to opposing counsel five (5) before forwarding to my office. Please note in your cover letter whether opposing counsel agrees that the order accurately reflects my ruling, does not agree the order accurately reflects my ruling, or failed to respond regarding the order.

## Commissioner G. Bryan Lyndon

Email address for Proposed Orders: [tmorris@wcc.sc.gov](mailto:tmorris@wcc.sc.gov)

Mailing address: P.O. BOX 1715, Columbia, SC 29202-1715

**Standard Preferences** apply unless otherwise indicated below.

1. Requests for additional time should be submitted at least six (6) weeks prior to the hearing date.
2. Testimony of family members and close friends is expected to be cumulative and corroborative and should be avoided. Attorneys are encouraged to stipulate as to the above.
3. Clincher conferences are scheduled for five (5) to ten (10) minutes. Please negotiate and discuss settlement with the Claimant prior to the scheduled conference. It is helpful to have a copy of the clincher agreement submitted to the Commissioner's office at least a week prior to the conference.
4. Medical and Vocational Experts will not be allowed to testify at hearings. Prior to the hearing, all parties should exchange reports.
5. Video surveillance tapes should be reviewed and exchanged by the parties prior to the hearing. Tapes will not be reviewed at the hearing.
6. Depositions should be taken in advance of the hearing. Any exceptions to this practice will be handled on a case-by-case basis. If Commissioner Lyndon approves that the record will be left open at the hearing, the parties have thirty (30) days to submit the required documents. Written documentation of this request needs to be submitted to our office at least four (4) weeks prior to the hearing date. Also, when filing the Form 50, attorneys are encouraged to begin initiating depositions at that time to avoid the necessity of leaving the record open.
7. If parties are in agreement to postponement of a hearing and agree to enter into a Consent order, the Consent Order must be submitted to our office within fifteen (15) days after agreement between attorneys.
8. If a hearing is delayed, APAs are due according to the date for which the hearing was originally scheduled.
9. Stop pay hearings are set for twenty (20) minutes; other hearings are set for thirty (30) minutes. If your case has been denied and you have numerous witnesses, you need to request additional time for the hearing at the initial denial of the claim. If you have occupational exposure cases or denied death claims, you should request additional time.
10. The moving party has the responsibility to notify our office when the case is settled, or the withdrawal of the Form 50.
11. See Regulation 67-611-612 for submission of pre-hearing briefs and deadlines. No reports shall be filed with the Commission prior to the hearing.
12. Telephone conference requests for Commissioner Lyndon should be submitted in a written letter regarding your request and the reasons for a telephone conference.

## Commissioner David W. Huffstetler

Email address for Proposed Orders: [klindler@wcc.sc.gov](mailto:klindler@wcc.sc.gov)

Mailing address: P.O. BOX 1715, Columbia, SC 29202-1715

**Standard Preferences** apply unless otherwise indicated below.

1. Medical records submitted under APA should be organized in chronological order, with the **newest** records on top.
2. I will allow duly subpoenaed and listed expert witnesses to testify at the hearing. However, I prefer that reports of depositions of the experts be submitted over testimony at the hearing.
3. Please have available at the hearing the rating equivalent of the amount the Claimant is being offered.
4. Please have a conversion of the specific body part, if necessary (i.e.- upper extremity to shoulder).
5. Absent a detailed estimate and analysis of additional medical treatment and costs for removal of retained hardware, I will not approve clincher settlements that do not include lifetime maintenance for hardware.
6. When scheduling a clincher conference, be sure a fair offer has been made. I do not negotiate.
7. Please submit the proposed order in Word format electronically via e-mail.
8. Unless otherwise specified, please submit the proposed order within thirty (30) days. 9. If you need a transcript from the court reporter, you will find the information enclosed with my order instructions.



## Commissioner Derrick L. Williams

Email address for Proposed Orders: [rgsmith@wcc.sc.gov](mailto:rgsmith@wcc.sc.gov)

Mailing address: P.O. BOX 1715, Columbia, SC 29202-1715

**Standard Preferences** apply unless otherwise indicated below.

1. Medical records submitted under APA should be organized in chronological order, with the **oldest** records on top.
2. For hearings involving specific legal issues (laches, notice, jurisdiction, statute of limitations, etc), please provide a brief summary of the case law and pertinent facts supporting your client's position. This brief should be no longer than three (3) pages in length, unless the case involves novel issues or a complex set of facts and legal issues. You will be allowed to present this brief, pertaining solely to the legal issues at the hearing.
3. I will allow duly subpoenaed and listed expert witnesses to testify at the hearing, although I prefer the deposition or submission of the reports.
4. Prior to the date of the clincher conference, please send the AA a copy of the treating doctor's last several office notes, as well as any operative notes.
5. Absent a detailed estimate and analysis of additional medical treatment and costs for removal of retained hardware, I will not approve clincher settlements that do not include lifetime maintenance for hardware.
6. Please submit the proposed order in Word format electronically via e-mail.
7. Unless otherwise specified, please submit the proposed order within thirty (30) days.
8. If you need a transcript from the court reporter, you will find the information with my order instructions, or you can also obtain a "Request for a Transcript" form at the hearing.
9. I will hold a telephone conference to discuss unusual aspects or potential delays in cases. Contact my AA to schedule such a telephone conference.
10. Decisions on whether the record will be left open will be made on a case-by-case basis, and will be determined at the pre-hearing conference or after the hearing. It is helpful to have potential dates already scheduled (i.e. – depositions, doctor's evaluations, etc.) when requesting that the record be left open. However, the scheduling of any dates does not guarantee that the record will be left open.
11. Please forward a copy of the proposed order to opposing counsel before forwarding it to my office. Please confirm in your cover letter that the proposed order has been sent to opposing counsel.