

2.32. INSURANCE COVERAGE DISPUTES. -- (A) In any case filed pursuant to the provisions of G.L. 1956 § 28-30-13, involving a dispute regarding coverage under the provisions of a workers' compensation insurance contract, the party seeking review of the insurance contract shall file with the court a petition for determination of an insurance controversy which shall contain: (1) a statement of the claim stating the basis for which the petitioner is entitled to relief, and (2) a prayer setting forth the relief sought by the petitioner. Relief in the alternative or in several different types may be demanded. The petition shall set forth the name, address, email address if known, and agent for service of each respondent.

(B)(1) Upon the filing of the petition, the court shall issue a notice to the petitioner, or his/her attorney of record, stating the name of the judge assigned to hear the matter and the date and time the parties shall appear before the judge for an initial hearing. The petitioner shall effect service of the petition and notice upon each respondent in accordance with W.C.C. – R.P. 1.5.

(2) At the initial hearing, the parties shall be prepared to consider:

- (a) the determination of the issues;
- (b) any amendments to the pleadings;
- (c) the need to add or join additional parties to the action;
- (d) any admissions of fact and documents which will be entered by stipulation of the parties;
- (e) the names of any expert witnesses; and
- (f) such other matters which may aid in the efficient disposition of the action.

At the close of the initial hearing, the trial judge shall establish dates for the closing of discovery, the submission of all pretrial memoranda designated by the trial judge, and the date(s) for the trial.

(C) Following the trial on the merits, the trial judge shall render a decision which responds to the petitioner's prayer for relief and prepare an appropriate decree pursuant to W.C.C. – R.P. 2.20 of these rules.

Reporter's Notes. In 2000, the General Assembly expanded the jurisdiction of the court to provide for the adjudication of disputes between an employer and an insurance carrier regarding a policy of workers' compensation insurance. This was a revolutionary change for several reasons. For the first time, the court exercised jurisdiction in cases not arising from a dispute between an employer and an employee regarding the employee's right to a workers' compensation benefit. Prior to this time, the statutory and decisional law was clear that disputes between an employer and an insurer relating to insurance coverage

were not within the court's jurisdiction. While the adjudication of cases of this nature may well seem to be a logical evolution of the court's authority, it was nevertheless a major expansion of the court's authority.

The second aspect of this statutory change which was noteworthy involved the pretrial conference. Cases of this nature are not heard at pretrial conference pursuant to .G.L. 1956 § 28-35-20 as are most other cases filed with the court. Since these cases do not involve a claim for a weekly compensation benefit and are not intended to address an issue regarding wage replacement, it was felt that the need to enter a binding pretrial order was not significant and the more traditional approach was adopted.

This rule was extensively revised in 2014 to mirror the general practice and procedures of the Workers' Compensation Court, with the exception of the pretrial conference, rather than the procedures of the Superior Court, which served as the model for the previous version of the rule.