

# DWC 20<sup>th</sup> Annual Conference Top Tips for Trial - Post SB863



By Colleen S. Casey  
Copyright © 2013

2

## **DISCLAIMER**

The following material and any opinions contained herein are solely those of the author and are not the positions of the Division of Workers' Compensation, Department of Industrial Relations, the WCAB or any other entity or individual.



**The materials are intended to be a reference tool only and are not meant to be relied upon as legal advice.**

3

## 1. List of Top Tips - Post SB863

1. Mailbox Rule - What's the Triggering Event?
2. It's All About Service
3. Don't be Dazed by the Days
4. What's a Doctor to do?
5. Beyond Valdez
6. Spotting the UR Issues
7. When is an DWC Form RFA considered "complete"?
8. Making sure the UR decision is valid



4

## 1. Mailbox Rule



Has SB863 annihilated the WCAB en banc decision of *Messele v. Pitco Foods, Inc; California Insurance Company*, (2011) 76 CCC 956?

The "+5 days for mailing" mailbox rule applies when the triggering event is **service** of a document.

5

# 1. Mailbox Rule



**CCP 1013(a)** “+ 5 days for mailing” rule applies to documents served by **mail only**.

Rule is “+2 days” if service is:

- by **fax** CCP 1013(e), and
- by **email** CCP 1010.6(a)(4).

**§ CCR 10507** “+ 5 days for mailing” rule applies to documents served by **mail, fax or email**.

6

# 1. Mailbox Rule

## Issue #1:

### Post SB863 - LC 4062.2(b):

Either party may request a QME panel, “no earlier than the first working date that is at least 10 days > date of **mailing**” of either:

- request for med eval per LC 4060 or
- objection per LC 4061/4062



7

# 1. Mailbox Rule

## Issue #1:

### Post SB863 - LC 4062.2(b):

Does the “+ 5 day for mailing rule” apply to this revised SB863 time period for requesting a QME Panel from the medical unit?



8

# 1. Mailbox Rule

## Issue #2:

### Post SB863 - LC 4062.2(c):

“Within 10 days of **assignment** of the panel... each party may strike one name from the panel.”

Does the “+ 5 days for mailing rule” apply?

**Hint:** What is the action that triggers the time period? (The **assignment** of a QME panel? Or **service** of a document?)



9

See *Alvarado v. WCAB* (2007) 72 CCC 1142.

## 2. It's All About Service

... and speaking of **service**...

### Service of Documents– 10601:

“Where documents are to be offered into evidence, copies shall be served on all adverse parties **no later than the mandatory settlement conference**, unless a satisfactory showing is made that the documents were not available for service by that time.”



\*\*\*\*\***IMPORTANT**\*\*\*\*\*

**Service does NOT = Filing does NOT = Offer into Evidence**

10

## 3. Don't be Dazed by the Days



In general, be mindful of the distinction between **calendar** day, **business** day and **working** day for calculation of mandatory time frames.

**8 CCR 9792.9(c)(5)** states “For purposes of this section “normal **business** day” means a **business** day as defined in Labor Code section 4600.4 and Civil Code section 9.”

11

### 3. Don't be Dazed by the Days



The term **working** day is often used throughout SB863 & the new regs...

See **NEW Post SB863 LC 4062.2(b)** at slide #7.

Is the term **working** day interchangeable with **business** day?

Parties have argued that **working** day is interchangeable with **calendar** day, based on the definition of “**workday**” provided in LC 500(a) as any consecutive 24-hour period commencing at the same time each **calendar** day.

12

### 4. What a doctor to do?

AMEs and Panel QMEs will no longer be used to determine MT issues...

**LC 4062.2.(f):** Parties can agree to an AME at anytime... “except as to issues subject to the IMR” per **LC 4610.5**.



13

## 4. What a doctor to do?

See **Reg 35.5(g)(2)**: “For any evaluation performed on or after 7.1.13, pursuant to **LC 4061**, and regardless of the DOI, an AME or QME shall NOT provide an opinion on any disputed medical treatment issue, but **shall provide an opinion about whether the injured worker will need future medical care** to cure or relieve the effects of an industrial injury.” (Emphasis added.)



14

## 5. Beyond Valdez



The DCA in *Valdez v. WCAB*. (2012) 77 CCC 506 held IWs are entitled to medical reports at their own expense per **LC 4605** and **LC 4064(d)**.

Supreme Court granted review on 10.10.12. BUT final decision has not yet issued.

15

## 5. Beyond Valdez



### Post SB863 - LC 4064(d):

“However, no party is prohibited from obtaining any medical evaluation or consultation at the party’s own expense.”

16

## 5. Beyond Valdez



### Post SB863 - LC 4605:

An IW, at their own expense, may obtain report from “a consulting or any attending physicians whom he or she desires.” Any such report “**shall not be the sole basis of an award of compensation.**” A QME or PTP “shall address any report procured by this section and **shall indicate whether he or she agrees or disagrees** with the findings or opinions stated in the report, and shall identify the bases for this opinion.” (Emphasis added.)

17

## 6. Utilization Review (UR) Overview

**Step 1:** Valid Request: Doctor must submit and sign **“complete”** DWC Form RFA

**Step 2:** Deferral of UR if Claims administrator/ specialist (CS) claims “liability disputed.”

**Step 3:** UR Decision: Make sure it is valid.

**Step 4:** Invalid UR: issue is determined by WCAB

**Step 5:** Valid UR: CS to notify parties of decision and that IW may appeal to IMR



18

## 7. UR Process & “Complete” RFA



**NEW Reg 9792.9.1 (a):** Drs must use DWC Form RFA found in **Reg 9785.5** to request MT, and **not a narrative request.**

Can be found at:

<http://www.dir.ca.gov/dwc/DWCPropRegs/IMR/IMRFormRFAClean.pdf>

19

## 7. UR Process & “Complete” RFA



**NEW Reg 9792.6.1(t)** “Request for Authorization”–  
(RFA) means a written request for a specific course of proposed medical treatment. A RFA must be set forth on a “DWC Form RFA,” completed by a **treating physician**, as contained in **Reg 9785.5**.  
The form must be signed by the physician and may be mailed, faxed or e-mailed.”

20

## 7. UR Process & “Complete” RFA



**NEW Reg 9792.6.1 (t):**  
For purposes of this section, **“completed,”** means that information specific to the request has been provided by the requesting treating physician for **all mandatory fields** indicated on the DWC Form RFA.”

21

## 7. UR Process & “Complete” RFA

**Instructions: The DWC Form RFA must contain all the information needed to substantiate the request for authorization.**

- List the diagnosis, the ICD Code, and the procedure requested (per CPT/HCPCS code).
- As applicable, include the frequency, duration, quantity, facility, etc. Reference to specific guidelines used to support treatment should also be included.
- For surgery requests, attach or include full surgery orders, pre- and post-operative orders (if known).

22

## 7. UR Process & “Complete” RFA

**Instructions: The DWC Form RFA must contain all the information needed to substantiate the request for authorization.**

- If request is to continue a treatment plan or therapy, please attach documentation for functional improvement, if applicable.
- For requested medical treatment that is: (a) inconsistent with the Medical Treatment Utilization Schedule (MTUS) found at California Code of Regulations, title 8, section 9792.20, et seq.; or (b) for a condition or injury not addressed by the MTUS, include scientifically based evidence published in peer-reviewed, nationally recognized journals to recommend specific medical treatment or diagnostic services:

23

## 7. UR Process & “Complete” RFA

**UR time period is not triggered until “complete” RFA received by CS.**

What is CS’s obligation if DWC Form RFA is not complete?

**Reg 9792.9.1(c)(2)** CS may treat the form as complete or return it to Dr. marked “not complete” w/in 5 business days from receipt.



24

## 8. UR Process - Valid Decision



***SCIF v. WCAB (Sandhagen)***, (2009) 74 CCC 835 (3<sup>rd</sup> DCA) (CA S. Ct.)

If UR untimely, report is invalid and inadmissible as evidence.

Expedited Hearing appropriate venue to determine validity of UR decision.

See ***Corona v. Los Aptos***, ADJ380850 (2011) 2011 CWC PD LEXIS 156 and subsequent decision issued on 9.5.2012.

25

## 8. UR Process - Valid Decision

**In general, non-compliance with regulations may result in determination that UR decision is invalid.**

***Becerra v. Jack's Bindery*, (9/11/12) 2012 Cal Wrk Comp PD LEXIS 451, Violation of Reg 9292.9(b)(4) – CS failed to timely send UR denial to PTP.**



26

## 8. UR Process - Valid Decision



***Academy of Arts College v. WCAB (Zedd)*, (2011) 76 CCC 352**

Defendant must follow all requirements for a proper UR determination or UR decision will not be valid. (Denial signed by nurse, not licensed physician as required by LC 4610(e) & 8 CCR 9792.7(b)(1).)

27

## 8. UR Process - Valid Decision

What if UR decision is invalid?

**Reg 9792.9.1(g)** Mandates that if UR is delayed due to missing information from the doctor, the CS must document the attempts by the CS or the reviewer to obtain the information.

**Is violation of this regulation a basis for determining a UR decision invalid?**



28

## Top 10 Litigation Tips for SB 863

By Jamie Spitzer, Presiding  
Judge Anaheim WCAB District  
Office

### \*\*Disclaimer\*\*

- This material and the opinions expressed are my own and do not represent the position of the DIR, the DWC, the WCAB or any Judge.
- Each case or circumstance is unique and the outcome is dependent on its own set of facts.



*Peanuts*

## General: Tip #1

- Be Prepared at the time of Trial, Expedited Hearing, Mandatory Settlement Conference, Lien Conference, Lien Trial or when walking through documents with a judge.
- Know your burden of proof.
- Labor Code section 5705 – The burden of proof rests on the party or lien claimant holding the affirmative of the issue.

## Tip #2: Preparation for Trial when the issue is Permanent Disability (“PD”)

- If PD is the issue, make sure your physician provides a report that explains why he/she finds Applicant’s disability at a certain level and covers all aspects of the AMA Guides relevant to Applicant’s disability.
- A medical report is not substantial evidence unless it sets for the reasoning behind the physician’s opinion and not merely his or her conclusions. *Granado v. W.C.A.B.* (1968) 69 Cal. 2d 399, 407, 33 Cal. Comp. Cases 647.
- The 2005 PDRS may be rebutted but it is not permissible to go outside of the four corners of the AMA Guides to do so. *Mario Almaraz v. Environmental Recovery Services; Joyce Guzman v. Milpitas Unified School District* (2009) 74 Cal. Comp. Cases 1084 (WCAB *en banc*) modified by *Milpitas Unified School District v. W.C.A.B. (Guzman)* (2010) 187 Cal.App.4<sup>th</sup> 808, 2010 Cal. App. LEXIS 1454.

**Tip #2 continued: TTD is the main issue at Trial**

- If the issue is earnings/TTD rate, have your evidence ready to present at Trial regarding earnings i.e. paycheck stubs etc. . . . Don't rely just on Applicant's testimony.
- Labor Code section 4453 (c) (1) to (4)
- Provide a Trial brief if necessary to support the way you calculate earnings.

**Tip #2 continued: Apportionment is the main issue Trial**

- If the issue is Apportionment, make sure your physician, AME, QME properly addressed apportionment and the basis for apportionment consistent with:
  1. Labor Code section 4663;
  2. Supreme court decision in *Brodie v. WCAB* (2007) 40 Cal. 4<sup>th</sup> 1313, 72 Cal. Comp. Cases 565;
  3. WCAB en banc in *Escobedo* (2005) 70 Cal. Comp. Cases 604;
  4. Court of Appeal decision in *EL Yeager v. WCAB (Gatten)*, (2006) 145 Cal. App. 4<sup>th</sup> 922, 71 Cal. Comp. Cases 1687.
- Consider a Trial Brief on cases with Apportionment issues.

### Tip #3: Trial priorities for the WCJ

- Trial priority specified by Policy and Procedure Manual, 2003 Revision, Section 1.35.
- #1 – Cross examination of Disability Evaluator;
- #2 – Continuing Testimony;
- #3 – Applicant or Witnesses from out of state; Applicant not working and without benefits;
- #4 – Cases previously set for Trial that did not start;
- #5 – Cases with no benefits furnished but Applicant working;
- #6 – All other cases

### Tip #4: Preparation for MSC

- Fill out the Pre-Trial Conference Statement (PTCS) before you get to MSC. Typewritten is preferable since it is easier to read.
- List all evidence you intend to offer at the time of Trial on the Exhibit Sheet and disclose the name of any potential witness(es) you may want to call. *Labor Code* section 5502 (d) (3).
- You do not have to offer everything you list, but it is better to list it than not and potentially have it excluded. *Labor Code* section 5502(d)(3).

### Tip #4 continued: MSC Preparation

- Don't list arguments on your PTCS – only issues.
- i.e. “Applicant’s medical reports are based upon a false and inaccurate history. Applicant did not tell Dr. Crack Me Up that he had an automobile accident after the slip and fall injury to his back.”
- Instead – i.e. Admissibility of Dr. Crack Me Up’s report(s) dated 10-31-2012.

### Tip #5: Preparation for Lien Trial

- Lien Claimant(s) has the same burden as an Applicant in his or her case in chief. (i.e. re: AOE/COE or Parts of Body Injured – Nature and Extent)
- Lien Claimant must prove by a preponderance of the evidence all elements necessary to establish the validity of their lien before the burden shifts to defendant. *Torres v. AJC Sandblasting* (2012) 77 CCC \_\_\_ (WCAB en banc) & *Guitron v. Santa Fe Extruders* (2011) 76 CCC 228 (WCAB en banc) re: interpreters burden of proof.

### Tip #5 continued: Lien Trial preparation

- Admitted injuries/body parts - Independent Bill Review (IBR) is applicable. Labor Code section 4603.6 (a) – If dispute is only amount of payment and second review did not resolve dispute, then provider may request an independent bill review within 30 days.
- Reasonable value is no longer an issue listed on the Pre-Trial Conference Statement when setting case for Lien Trial.

### Tip #5 continued: Lien Trial preparation

- If the part of body or the injury is disputed, must try that issue first before IBR becomes applicable but this only delays IBR until after resolution of this issue except as provided in section 4622. Labor Code section 4603.6 (a)

### Tip #6: Preparation for Lien Conference

- Electronic filing of medical treatment liens or claims of costs liens plus pay the filing fee unless exempted. Labor Code section 4903.05 (b) and 4903.05(c)(7)
- Must pay activation fee no later than 1-1-14 or Lien is dismissed by operation of law.

### Tip #6 continued: Lien Conference

- Pay Lien Activation fee before Lien Conference for liens filed prior to 1-1-13. Labor Code section 4903.06(a)(1).
- Attach proof of payment with DOR if you file the DOR or at time of Lien Conference if you did not file the DOR and your lien remains unresolved. LC section 4903.06 (2) (4).

### Tip #6 continued: Lien Conference

- Access payment system and filing system online through DWC – [www.dir.ca.gov/dwc/Liens.htm](http://www.dir.ca.gov/dwc/Liens.htm)  
- click on hyperlink to either file a lien electronically or pay an lien activation or filing fee.
- Questions/Issue:  
Should Defendant require payment of Lien Activation fee before resolution of Lien?

### Tip # 7: Organize your Exhibits

- WCAB Rule 10629 (d) – Clearly identify exhibits by Author, date of exhibit, document title and document type.
- **Document Title** – AME Report
- **Author** – Marc Jacobs, M.D.
- **Date of report/document** – 12/27/2012 – (actual date shown on report)
- **Document Type** – Medical Docs

Tip #7 continued: Are your exhibits properly labeled/organized?

- **Don't say "All Medical Reports" – if it is a QME/AME/Treating Doctor.**
- **Use the correct document title - "AME" report or "QME report", etc.**
- **Do not put the author as your Law Firm or Insurance Company name. The "author" is the person who wrote the report or document.**

Tip #7 continued: Designation of Subpoenaed records:

WCAB Rule 10629 (d) (1) & (2) Excerpted portions of physician, hospital, wage, personnel records, etc.

i.e. "Designated portions of Kaiser Permanent Subpoenaed Records"

1. Chart notes dated 1-25-2003, 1-27-2008.
2. Inpatient Pharmacy Prescription dated 12-19-2001, etc.

## Tip #8: Petitions for Removal/Reconsideration

- Grounds for Recon – Aggrieved by decision and one of the following:
  1. Order/Decision exceeded WCJ or Appeals Board powers;
  2. Procured by Fraud;
  3. Evidence does not justify finding;
  4. Discovery of new evidence;
  5. Finding of fact does not support order/award.

**Labor Code section 5903**

## Tip #8 continued: Recons/Removals

- Grounds for Removal – Order/Decision results in:
  1. Significant prejudice; or
  2. Irreparable harm; and

Reconsideration is not a adequate remedy.

**Title 8, California Code of Regs. section 10843.** *Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal.App.4<sup>th</sup> 596, 600, fn. 5, 71 Cal.Comp.Cases 155, 157, fn. 5; *Kleeman v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4<sup>th</sup> 274, 281, fn. 2, 70.

### Tip #8 continued: Removals/Recons

- General Requirements for both:

1. No greater than 25 pages;
2. Verification required;
3. Cannot send by fax or e-mail to WCAB office unless ordered by Appeals Board.

**Title 8, California Code of Regs. section 10845.**

### Tip #8 continued: Recons/Removals should be EAMS compliant

- EAMS compliant – You must have document cover and separator sheets;
- The correct size paper;
- Typed not hand written except Pro Per Injured Workers/Unrepresented Employers or Unrepresented Dependents.
- **Title 8, California Code of Regs. sections 10228, 10232**

### Tip #9: Preparation for Expedited Hearings

- Treatment with MPN required? Resolved via Expedited Hearing before other issues may be heard. LC section 5502 (b). –**SB 863 addition.**
- Medical treatment not subject to 4610 or 4610.5 (UR/IMR) – **SB 863 change.**
- Window period between 1-1-13 and 7-1-13 when IMR is applicable to all treatment requests. LC section 4610.5(a)(2)

### Tip #9 continued: MPN issue at Expedited Hearing

- Be prepared with your evidence for MPN issue. If Defendant raises issue of treatment within the MPN, it is Defendant's burden of proof.
- Testimony regarding notification of MPN may be necessary;
- Look at Labor Code section 4616.2 and 4616.3; Title 8 California Code of Regs section 9767.6; 9767.9; 9767.10 and 9767.12 to determine what type of evidence to present to meet burden of proof.

### Tip #10: Walk through procedures

- **Title 8 California Code of Regs. section 10280 (a) – (h)**
  - Walk through hours 8 a.m. to 11 a.m. and 1:00 p.m. to 4:00 p.m. on court days.
- Documents eligible for walk through:
1. Compromise & Release;
  2. Stipulation with Request for Award;
  3. Petitions for attorney's fees re: vocational rehabilitation;
  4. 5710 fee requests;
  5. Petitions to Compel Attendance at Deposition or Medical Evaluation.
- WCJ may approve, suspend action or accept for review at a later time.
- Once assigned to a judge then stays with that judge unless unavailable and then to PJ for possible reassignment.

### Tip #10 continued: Walk through settlements for Pro Per Injured Workers:

- Pro Per Settlements need:
  - 1. All Medical reports filed in chronological order (treater and QME);
  - 2. Ratings of all P&S reports (treating dr. and QME);
  - 3. Wage statement if benefits paid at less than maximum.;
  - 4. Benefit notice advising of QME process and right to seek QME;
  - 5. Print out of benefits paid if benefits were paid;
  - 6. All notices sent to Applicant re: settlement;
  - 7. Brief explanation of settlement (this can be in the settlement document itself).
- Policy Procedure Manual, Rev. 10/2003, Section 1.91(A).**

### Tip #10 continued: Walk Through settlements for Represented Injured Workers

- Evaluate adequacy in represented cases WCJ needs:
    1. Medical report(s) settlement based upon;
    2. Explanation in C&R re: basis of settlement – especially if AOE/COE; Employment; Statute of Limitations; or Jurisdiction is at issue.
- Policy Procedure Manual, Rev. 10/2003, Section 1.91(A).**
- WCJ either approves settlement or issues Order Suspending Action advising parties the issue of adequacy with the settlement. Parties have 30 days to address the issue(s). **Policy Procedure Manual, Rev. 10/2003, Section 1.91(C) (1).**
- Policy Procedure Manual, Rev. 10/2003, Section 1.110 and see WCAB Rule 10888.**

### Tip #10 continued: Additional walk through tips

- E-filer upload as a walk through must verify transmission into EAMS/File Net before come to walk through. E-filer may submit documents via paper but cannot do both.
- General Requirements:
  1. Service of document on opposing party before walk through;
  2. Attach necessary documents i.e. Petition to Compel QME should have Panel QME Assignment from Medical Unit; Strikes by each party; Notice of Initial exam failed;
  3. 5710 fee request – Demand on Defendant 1<sup>st</sup> and reasonable time passed without payment i.e. 30 days.
- If there is more than 1 case with venue in different District Offices, may submit document at either office that has venue for approval.

# **TOP TEN TIPS FOR TRIAL BY LINDA ATCHERLEY WCJ**

---

LINDA F. ATCHERLEY—WCJ SAN DIEGO DISTRICT OFFICE

DWC EDUCATIONAL CONFERENCE

1. KNOW YOUR CASE
  - A. DO A MATRIX LIST YOUR ISSUES AND THE EVIDENCE THAT SUPPORTS THE ISSUE AN ISSUE WITHOUT EVIDENCE MEANS YOU LOSE
  - B. DRAFT A “PRETEND” RECON TO MAKE SURE THAT THE EVIDENCE YOU WANT TO ARGUE IS ACTUALLY INTRODUCED IN YOUR TRIAL
  - C. IF THE ISSUE IS CHARGES FOR A PROCEDURE MAKE SURE YOU HAVE THE NECESSARY REFERENCE TO FEE SCHEDULE OR DOUCMENTATION/TESTIMONY AS TO WHY FEE SCHEDULE DOES NOT APPLY
  - D. MAKE SURE YOU HAVE WITNESSES IF YOU ARE GOING TO CHALLENGE AN MPN OR INJURY AOE AND YOU ARE A LIEN CLAIMANT POST C&R.
  
2. DO A TRIAL BRIEF
  - A. IF YOUR CASE IS COMPLICATED
  - B. HAS A LOT OF ISSUES
  - C. HAS A LOT OF EXHIBITS
  - D. WHERE YOU WANT THE JUDGE TO RELY ON SPECIFIC CASE LAW
  - E. WHENEVER YOU FEEL THAT THE ISSUE IS A NOVEL ONE FOR THAT JUDGE
  
3. PREPARE YOUR EXHIBITS FOR SUBMISSION BEFORE THE DAY OF TRIAL
  - A. IF YOU AN E FILER, FILE THEM AT LEAST 2-3 DAYS BEFORE TO ENSURE THAT THEY ARE IN FILENET THE DAY OF THE TRIAL
  - B. IF YOU ARE FILING THE DOCUMENTS IN PAPER (E FILER OR NOT)
    1. MAKE SURE DOCUMENT SEPARATOR SHEETS HAVE THE CORRECT NAMES
    2. MAKER SURE THE DOCUMENT SEPARATOR SHEETS HAVE THE CORRECT EXHIBIT UNDERNEATH THEM
    3. MAKE SURE THAT ALL PAGES OF THE EXHIBIT ARE THERE
    4. MAKE SURE THAT THE EXHIBITS ARE READY TO GO WITHOUT MAKING CORRECTIONS OR ADDITIONS

## **TOP TEN TIPS FOR TRIAL BY LINDA ATCHERLEY WCJ**

---

4. GET TO YOUR DEPARTMENT ON TIME AND MAKE SURE YOU MAKE YOUR APPEARANCE BEFORE YOU START YOUR NEGOTIATIONS
5. MAKE SURE ANY NECESSARY WITNESSES ARE UNDER SUBPOENA (NON-PARTY WITNESS) OR A NOTICE TO PRODUCE WITNESS AT TRIAL (IF THE EMPLOYEES OF A PARTY OR A PARTY) THEN IF THE WITNESS DOES NOT SHOW UP, YOU HAVE A BASIS FOR CONTINUANCE
6. TYPE YOUR EXHIBIT LIST AND ISSUES SO IT CAN BE READ
7. MAKE SURE ANY MEDICAL EVIDENCE IS UP TO DATE AS TO THE INJURED WORKERS' CURRENT CONDITION OR AT LEAST AS THE CONDITIONS AT ISSUE ON THE DAY OF TRIAL
8. PREPARE YOUR WITNESS TO TESTIFY ON THE ISSUES PARTICULARLY THE APPLICANT IF THE ISSUE IS INJURY MAKE SURE THEY KNOW WHAT A CUMULATIVE TRAUMA CLAIM IS OR HOW TO TALK ABOUT THE SPECIFIC INJURY
9. BE PREPARED TO ANSWER QUESTIONS ABOUT THE CASE TO THE WCJ
  - A. ABOUT THE ISSUES
  - B. STIPULATING AS TO FACTS
  - C. WHAT THE LAW IS UPON WHICH YOU ARE RELYING
  - D. WHERE IN THE EVIDENCE IS THE SUPPORT FOR YOUR POSITION
10. MAKE SURE THAT ANY ISSUE FOR WHICH YOU ARE RELYING ON ORAL TESTIMONY IS ONE THAT CAN BE TESTIFIED TO BY A LAY WITNESS
  - A. LEVEL OF DISABILITY (PERCENTAGE) OR BASIS FOR A PARTICULAR RATING E.G. WHETHER THERE IS SATISFACTORY USE OF PROSTHESIS WHEN DOCTOR SAYS THERE IS AND YOU SAY THERE IS NOT.
  - B. MEDICAL TREATMENT OR MEDICAL NECESSITY
  - C. MPN ISSUES
  - D. REASONABLENESS OF CHARGES FOR A PROCEDURE