

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Washington, DC

Issue Date: 05 December 2023

Case No. 2024-MIS-00001

In the Matter of:

**INITIATION OF DISCOVERY IN CASES ARISING UNDER THE LONGSHORE AND
HARBOR WORKERS' COMPENSATION ACT AND ITS EXTENSION ACTS,
INCLUDING THE DEFENSE BASE ACT**

ADMINISTRATIVE ORDER

This Administrative Order addresses the timing of initiating discovery in cases arising under the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. § 901, *et seq.* (the "LHWCA") and its extension acts, including the Defense Base Act, 42 U.S.C. § 1651, *et seq.* This Order only applies to cases arising under the LHWCA and its extension acts and does not apply to any other cases adjudicated by the Office of Administrative Law Judges ("OALJ").

Rule 18.50(a) of the OALJ Rules of Practice and Procedure, 29 C.F.R. § 18.50(a), provides that "[a] party may seek discovery at any time after a judge issues an initial notice or order." When a claim is transferred from the District Director, Office of Workers' Compensation Programs ("OWCP") pursuant to 20 C.F.R. § 702.317, there are generally two reliable indicators that parties can use to ascertain whether the case has been docketed at OALJ.

First, once the District Director electronically sends transmittal documents to OALJ via the U.S. Department of Labor's eFile/eServe System ("EFS"),¹ EFS generates a Notification of Docket Action ("NDA") informing the parties that the case has been docketed at OALJ based on the filing by OWCP.²

Second, when a case is transmitted by OWCP to OALJ, any party can monitor the status of the case via the Case Status Lookup feature on the OALJ website at www.oalj.dol.gov/OALJ_Case_Status.html by entering the OWCP claim number in the search field. Once OALJ receives and docketed the case for hearing, parties can ascertain this and obtain the OALJ case number via the Case Status Lookup feature on the OALJ website.

In order to enable the parties to conduct discovery before the issuance of a Notice of Docketing or other case-specific initial notice or order, the parties should consider receiving an

¹ Available at: efile.dol.gov.

² When an email address for a party or a party's representative is available, an NDA is sent electronically to that address.

NDA generated by EFS and/or the docketing of the case verified via the Case Status Lookup feature on the OALJ website to constitute the initial notice or order for purposes of Rule 18.50(a). Accordingly, the parties should commence formal discovery pursuant to 29 C.F.R. § 18.50 after having received notice that the case has been docketed at OALJ based on an NDA generated by EFS and/or verifying the case has been docketed at OALJ via the Case Status Lookup feature on the OALJ website. Moreover, until further notice the parties should not expect a formal Notice of Docketing to be issued by OALJ in cases arising under the LHWCA and its extension acts. This Order does not affect the application of other provisions of Rule 18.50 governing disclosure and discovery, including Rule 18.50(c)(1)(iv) governing the timing of initial disclosures.

In the event a dispute arises concerning discovery initiated pursuant to this Order during the time period between the docketing of the case at OALJ and the formal assignment of the case to an OALJ District Office or to a presiding administrative law judge and a party believes immediate resolution of that dispute is required, that party shall file a Motion for an Expedited Proceeding pursuant to 29 C.F.R. § 18.42 “demonstrat[ing] the specific harm that would result if the proceeding is not expedited” and explaining why immediate resolution of the discovery dispute is required. Failure to comply with the provisions of 29 C.F.R. § 18.33(c)(3) concerning a Motion for an Expedited Proceeding may result in the requested relief being denied. The party shall also submit a courtesy copy of the Motion for an Expedited Proceeding to the Senior Counsel for Longshore, Yelena Zaslavskaya, at zaslavskaya.yelena@dol.gov.

This order is effective immediately and shall remain in effect until further notice.

SO ORDERED.

STEPHEN R. HENLEY
Chief Administrative Law Judge