



## APPLICATION FOR CERTIFICATION TO COURT SUBMISSION GUIDE

### PRACTICE AND PROCEDURE FOR COMPLETION OF SUBMISSIONS

The usual procedure in a certification to court application is for the party starting the application to be asked to provide the first submissions, setting out the determinations requested and the evidence and argument relevant to these determinations. WCAT then asks other parties to make submissions (and to identify any additional issues on which determinations are requested), and the applicant is given a final opportunity for rebuttal.

WCAT may identify persons who are not parties but who could be directly affected by the certification to court. WCAT may invite interested persons to participate in the WCAT proceeding. It is also WCAT's practice to invite submissions directly from the possible employers of parties to the action.

WCAT expects counsel to provide all the factual information necessary for WCAT's consideration. While WCAT has the jurisdiction to engage in further inquiry as it considers necessary, decisions are normally based on the evidence and argument provided by counsel.

### REQUIREMENT TO COPY PARTIES ON CORRESPONDENCE

Except for examination for discovery transcripts (see below), parties must give copies of their submissions and correspondence to each other, and when requested by WCAT, to any participating interested person. WCAT will inform the parties when interested persons are participating in the proceeding. Parties should indicate on all correspondence with WCAT who received copies and how the copies were sent.

### REFERENCE SOURCES

Information on certifications to court can be found on our website ([www.wcat.bc.ca](http://www.wcat.bc.ca)) under **Section 257 Application**. Resources include Chapter 18, "Certification to Court – Section 257 Applications," of WCAT's *Manual of Rules of Practice and Procedure* and the *Legal Action Guide*, which answers questions about WCAT's role in a legal action that involves a disability caused by occupational disease, a personal injury, or death of a worker.

Legal argument should include reference to the relevant policies of the board of directors of the Workers' Compensation Board (Board), operating as WorkSafeBC, at the time the cause of action arose. These include the *Rehabilitation Services and Claims Manual* and the *Assessment Manual*. Archived versions of the Board's policies are available on their website ([www.worksafebc.com](http://www.worksafebc.com)) under the Law and Policy tab.

Revised policies on compensation for personal injury in Chapter 3 of the *Rehabilitation Services and Claims Manual, Volume II* (RSCM II) apply to all accidents or injuries that occurred on or after July 1, 2010. The previous Chapter 3 policies apply to accidents or injuries that occurred before July 1, 2010.

WCAT panels may refer to past decisions of WCAT and the former Appeal Division without first disclosing them to the parties and inviting further submissions, as long as the decisions are accessible on the internet. WCAT decisions are available on the internet at <http://www.wcat.bc.ca>. Decisions of the former Appeal Division dating from January 1, 2000 are available on the Board's website with the exception of certifications to court which are available from November 1992.

# APPLICATION FOR CERTIFICATION TO COURT SUBMISSION GUIDE

---

## TRANSCRIPTS OF EXAMINATIONS FOR DISCOVERY

WCAT requires the parties to the legal action to submit a complete copy of any transcript of any examination for discovery which they conducted in the legal action. Counsel do not need to provide a copy of the transcript to any other party to the legal action as the parties to the legal action are responsible for obtaining their own copy of the transcript.

In consideration of privacy we ask counsel **not** to provide a copy of the transcript to any interested person unless requested to do so by WCAT.

WCAT will notify the person examined (or their authorized representative) before disclosing the transcript to any participating interested person. The person examined or their counsel may request that WCAT sever specific material from the transcript on the basis that it is irrelevant to the determinations requested and involves a significant privacy concern.

## WORKSAFE BC CLAIM DISCLOSURE

To obtain a complete copy of a party's claim for the purposes of the legal action, send a request in writing to the **WorkSafeBC Legal Disclosures Clerk**. This request must be accompanied by a Court Order, under Rule 26(11) of the British Columbia Rules of Court, or by a written consent of the "claimant." Please reference the assigned WCAT number and indicate the request is for a certification to court application with WCAT.

## RELATED LEGAL ACTIONS

Counsel must inform WCAT of any related actions, including a Part 7 action or Section 103 Notice, and to provide a copy of the pleadings, if available, or identify the action and counsel for the parties. This is particularly important as WCAT determinations are final.

Should a certificate be requested in a related action after determinations are made, the parties in the related action would not have had the opportunity to make submissions on the status of the parties for whom determinations were made.

WCAT will invite the parties to the related action to participate in the WCAT proceeding or apply for a separate determination. If an application is received WCAT will normally process the applications jointly.

## TRIAL DATES

If a trial date has been set, or is set during the WCAT proceeding, please notify us immediately and provide a copy of the filed Notice of Trial. Bear in mind that WCAT requires a minimum of 180 days for submissions by the parties and the panel's determinations.

## WITHDRAWAL OF APPLICATION

An applicant may withdraw a certification to court application any time. This does not affect the right of the applicant, or any other party to the legal action, to reapply for a certification to court in the future. The applicant must notify WCAT of the withdrawal in writing.

## WCAT CONTACT INFORMATION

Mailing Address:

Workers' Compensation Appeal Tribunal  
150 - 4600 Jacombs Road  
Richmond, BC V6V 3B1

Telephone: 604-664-7800

Email: [appeals@wcat.bc.ca](mailto:appeals@wcat.bc.ca)

Fax: 604-664-7898

Toll Free within BC: 1 800 663-2782

Website: [www.wcat.bc.ca](http://www.wcat.bc.ca)

If you have a smart phone, scan this code to access our website.

