

WAC 263-12-118 Motions. (1) **Definition.** A party's written or oral request for the board to take action on a pending appeal is a "motion." Motions must be in writing unless made during a hearing before an industrial appeals judge. The board recognizes that there are two basic categories of motions:

(a) **Nondispositive motions.** Nondispositive motions include procedural motions, such as motions for a continuance, an extension of time, or to reopen the record; and discovery motions, such as motions *in limine* or motions to compel or request sanctions.

(b) **Dispositive motions.** Dispositive motions ask for a decision on one or more of the issues in an appeal or to dismiss the appeal. Examples of dispositive motions are motions to dismiss or motions for summary judgment. See WAC 263-12-11801.

(2) **Motions made to the chief legal officer.** The procedural rules in subsections (3) through (6) of this section do not apply to motions made to the chief legal officer for consideration by the three-member board:

(a) Motions for stay of the order on appeal under RCW 51.52.050 (2)(b). (See WAC 263-12-11802.)

(b) Motions to reconsider or vacate final board orders. (See WAC 263-12-156.)

(c) Motions to set reasonable attorneys' fees under RCW 51.52.120. (See WAC 263-12-165.)

(d) Requests for a stay of abatement pending appeal under RCW 49.17.140 (4)(a) in appeals filed under the Washington Industrial Safety and Health Act. (See WAC 263-12-059.)

(3) **Written motions.** A written motion must identify the action requested on the first page in bold print. See WAC 263-12-01501 for other information about communication and filing.

(4) **Oral motions.** Any party may bring an oral motion during a hearing, unless prohibited from doing so at the industrial appeals judge's discretion. The industrial appeals judge may provide an opportunity for other parties to respond to any oral motion. The industrial appeals judge may require that an oral motion also be submitted in writing and may provide an opportunity for written response.

(5) **Responses to nondispositive motions.** Any party who opposes a written nondispositive motion may file a written response within five business days after the motion is served, or may make an oral or written response at such other time as the industrial appeals judge may set.

(6) **Argument.**

(a) **Nondispositive motions.** All nondispositive motions will be ruled on without oral argument, unless it is requested by the parties and approved by the industrial appeals judge, or at the discretion of the industrial appeals judge. Any party may request oral argument by placing "ORAL ARGUMENT REQUESTED" prominently on the first page of the motion or responsive pleading. The time and date for oral argument shall be scheduled in advance by contacting the judicial assistant for the assigned industrial appeals judge. Written notice shall be mailed not less than seven calendar days prior to the date set for oral argument, unless waived by the parties.

(b) **Dispositive motions.** See WAC 263-12-11801.

[Statutory Authority: RCW 51.52.020. WSR 21-15-042, § 263-12-118, filed 7/14/21, effective 8/14/21; WSR 16-24-054, § 263-12-118, filed 12/2/16, effective 1/2/17; WSR 14-24-105, § 263-12-118, filed 12/2/14, effective 1/2/15.]