

## **WORKERS' COMPENSATION JUDGES' MEDIATION PROCEDURES**

**NAME:** Marc Harrison

**OFFICE:** Philadelphia, Arch Street Office

**DISTRICT:** Southeastern

**1. Please list the offices at which you will mediate a claim.**

Philadelphia (Arch Street) and Dresher (Fridays only).

**2. Are you willing to mediate claims that are assigned to you for hearing and decision?**

I will mediate my own cases, so long as the parties agree that what transpires at the mediation will not constitute a basis for a later recusal motion. I especially encourage the parties to mediate limited claim and modification petitions.

**3. Are you willing to mediate claims in which one or both parties are not represented by counsel?**

I will mediate most cases, except for a pro se claimant in a Claim or Reinstatement Petition.

**4. Do you require the parties to execute an agreement to mediate? If so, please describe briefly the matters addressed by the agreement.**

With respect to mediating my own cases, I will require the parties to execute a stipulation or state on the record that the mediation efforts will not constitute a basis for recusal. I do not have a similar requirement for cases assigned to other judges.

**5. How much time do you typically allow for a mediation session?**

Ninety (90) minutes.

**6. Do you require the parties to submit a pre-mediation memorandum? If so:**

- What information must be contained in the memorandum?

A brief summary of the claim/litigation, a brief summary of the negotiations to date (if any), and an assessment of where prior negotiations have broken down. In order to promote candor, I do not require that the parties copy each other with these statements.

- What documents, if any, must accompany the memorandum?

When possible, I like to see copies of the Bureau Documents (NCP, Statement of Wages, Supplemental Agreements). I do not want the parties to submit copies of their briefs.

- How far in advance of the mediation must the parties submit the memorandum and accompanying documents?

I prefer three (3) days in advance, although I try to remain flexible by allowing electronic submissions.

**7. Do you conduct a pre-mediation conference? If so, please describe what takes place at that conference.**

No.

**8. Do you require all participants (claimant, adjustor/employer representative, counsel) to attend the mediation personally? Under what circumstances do you permit a participant to attend by telephone?**

Personal participation by all parties is a major advantage of the mediation process. If the employer's counsel can pre-arrange to have the adjuster on stand-by, I will permit an out of state adjuster to participate by phone.

**9. Once you receive a mediation request, what is the usual amount of time elapsed until the mediation takes place?**

I usually schedule 4 to 6 weeks in advance.

**10. Describe generally how you conduct a mediation session.**

- Describe each step of the process.
  1. The Mediator's Opening Statement: I introduce myself and set forth the process.
  2. Parties' Opening Statement: Clarification of mediation statements and status of the negotiations.
  3. Caucus with respective parties.
- Indicate whether you use a facilitative (i.e., helping the parties to communicate and generate their own solutions), evaluative (i.e., discussing the strengths and weaknesses of each party's case and/or offering an opinion as to the settlement value), or mixed approach.

The benefit of mediation is that the parties arrive at their own solution, with guidance from me. If I am meeting with lawyers only on a pure legal issue (notice), I will use more of an evaluative approach.

**11. Are you willing to conduct more than one session per claim?**

Absolutely—I will do whatever it takes to get the parties together.

**12. Is there anything else the parties should know or do in advance of the mediation?**

The mediation process is designed to arrive at a solution with which each side can live. Unqualified victory for one side is neither the intent nor the purpose of mediation. When the parties come with the spirit of compromise, the mediation process is well worth the investment of time and effort.