

WORKERS' COMPENSATION JUDGES' MEDIATION PROCEDURES

NAME: Audrey Formica

OFFICE: Allentown

DISTRICT: Eastern

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

Allentown.

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

Yes.

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

Yes.

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

No.

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

Three (3) hours.

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

Yes.

- What information must be contained in the memorandum?

A brief summary of relevant issues, procedural posture, strengths and weaknesses of each party's case.

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

No documents are required, however the parties may attach whatever documents they believe may impact the mediation process.

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

Two days.

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

No, there is no need.

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?

I require the claimant and counsel to be present. The claims adjustor is certainly welcome, however if he/she does not attend he/she must be available by telephone during the entire mediation.

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

Approximately one month.

10. Describe generally how you conduct a mediation session.

- Describe each step of the process.

I begin with an introduction of the parties, I provide an overview of what the process is and what the objectives are. If it is a case assigned to me, I obtain assurances from counsel that if the matter is not resolved that they will not request a recusal. I procure brief summaries from each counsel to update the memoranda they (should have) submitted. Thereafter I excuse either defense counsel or claimant's counsel (depending on the dynamics of the case) and speak in confidence to him or her. These one-to-one conferences are kept in confidence. I then excuse that party and have a one-to-one conference with the opposition. These confidential conferences are intended to inspire full disclosure so I can identify all potential obstacles to a successful resolution of the case. The process continues in this manner until settlement or surrender.

- 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.

I use both approaches depending upon the personalities of the parties and the dynamics of the relationship between the parties.

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

Yes, absolutely.

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

Do not request or schedule a mediation unless authority actually exists to settle the case.