

WORKERS' COMPENSATION JUDGES' MEDIATION PROCEDURES

NAME: David A. Cicola

OFFICE: Johnstown

DISTRICT: Western

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

Altoona, Brookville, Clearfield, Greensburg, Johnstown, or Pittsburgh.

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

My preference is to have another judge mediate cases assigned to me. I will consider mediating such cases if the parties insist.

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

No.

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

I require the parties to abide by certain ground rules established in my [standard scheduling letter](#).

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

Two to four hours, depending on the complexity of the case.

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

No.

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?

I require all participants to appear personally if this is feasible. Participants who cannot do so for good reason (e.g., health problems or travel distance) may participate by phone.

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

Usually within several weeks, depending on the schedules of the parties and counsel.

10. Describe generally how you conduct a mediation session.

- Describe each step of the process.

I introduce myself and explain the process. We then discuss whether there have been prior negotiations, and the status of those negotiations. Each party summarizes their respective positions. The parties then negotiate. We caucus as necessary or advisable.

- 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 much prefer a facilitative approach. I will not evaluate cases assigned to me. In cases not assigned to me, I will discuss strengths and weaknesses of the parties' respective positions in as facilitative a fashion as is possible.

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

If necessary, yes.

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

Mediation is an effort to find common ground on which to build a settlement. It is not an adversarial proceeding.

The authority of the available claims representative should be consistent with the potential settlement range of the case.

The parties should be in the room from the outset, except for caucus sessions with the other party.