

**WORKERS' COMPENSATION JUDGES'  
MEDIATION PROCEDURES**

**NAME:** Patrick J. Cummings

**OFFICE:** Scranton

**DISTRICT:** Central

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

I am available in the Scranton office.

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

No, although if requested, a voluntary settlement conference may be conducted.

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

Rarely and only in exceptional circumstances.

**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?**

Initially, the mediation is scheduled for 30 minutes. If progress is being made, the time may be extended as necessary.

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

**• What information must be contained in the memorandum?**

At least 20 days prior to the scheduled mediation, each party must submit a one page settlement memorandum identifying:

- a) What settlement demands/offers have been exchanged; and,
- b) When those exchanges took place; and
- c) Present settlement authority; and
- d) Identification of significant issues not already set forth in the record.

**• What documents, if any, must accompany the memorandum?**

No additional documents are required.

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

The settlement memorandum should be filed at least 20 days prior to the mediation.

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

See number 10.

**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?**

All counsel, the claimant, and in the case of petitions initiated by the defendant/employer, the adjuster or other employer representatives, are required to appear. Participation by telephone (other than counsel) may be allowed if prior approval is requested and received.

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

Mediations are scheduled as quickly as possible following receipt of the request. The variety of factors impacting the scheduling of a mediation makes it impossible to provide a generalized estimate.

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

- **Describe each step of the process.**
- **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.**

Generally, a mixed (facilitative/evaluative) approach is used. The following process ordinarily applies: Initially, all parties/representatives and counsel meet in joint session. The mediation process is outlined (particularly designed to provide information to the parties and put the claimant and non-attorney participants more at ease). The parties are given an opportunity to speak. The mediation then breaks into separated caucuses (separate caucuses may be limited to counsel only or include parties and counsel). As appropriate, separate conferences may be followed by additional joint sessions.

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

Yes, as long as the parties continue to demonstrate good faith and progress is being made.

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

The more honest and open the parties are with me, the greater the likelihood of resolution. Information disclosed remains confidential. The parties and counsel are likewise expected to respect the confidentiality of the mediation process.

Any agreement reached as a result of mediation will be an agreement of the parties, empowering the parties to better address and protect their own concerns.

“Be prepared” is not just a Scout motto. It also applies to the mediation process.