

]JUDGE NAME: Patricia M Bachman DISTRICT: Eastern ASSIGNED OFFICE: Allentown

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JUDGE'S PROCEDURAL RULES AND POLICIES

Workers' Compensation Automation and Integration System (WCAIS) is the official repository for all documents related to a Dispute (matter pending) before a Workers' Compensation Judge. All documents, including evidence and briefs, that would have been submitted to a Workers' Compensation Judge by mail or in person prior to WCAIS should now be uploaded into WCAIS. If Social Security numbers appear on any such document, they should be completely redacted before the document is uploaded, unless otherwise specified below. All communications with the Judge, including but not limited to requests, should be submitted through WCAIS unless otherwise specified by the Judge.

HEARING PROCEDURES

1. What is the first event and what will occur?

A hearing is the first event on all petitions filed, whether by Claimant pro se, Claimant's counsel or an Employer's counsel. The hearing will be held on the TEAMS platform (virtual) on all Lehigh and Northampton County petitions. At the first hearing, the moving party shall provide in detail the allegations and remedy sought and state the evidence in support of same.

a. List any documents required at the first event:

Documents in support of the moving party's case in chief are required at the first hearing. An example of documents that fall under this rule would include the following: supersedeas documents at the first hearing of Employer's Suspension, Modification or Termination Petitions; a contingency fee agreement, and Bureau documents, if any, on the first hearing on a Claim Petition; a UR Determination on Petitions for Review of UR; documentation in support of a penalty request.

b. Should documents be uploaded as Exhibits or Letters to the Judge?

Documents shall be uploaded in the dispute's Exhibits screen, or Supersedeas Exhibits screens prior to the first hearing.

2. Describe the format of your hearings (e.g., serial, one day – one trial).

The litigation normally follows a serial hearing format. A scheduling order will be entered at the first hearing and depending upon the relief requested, the litigation may require two or three virtual hearings.

3. Are you willing to change the hearing format upon request?

Yes

4. What factors will you consider in deciding whether to conduct a hearing in-person?

This Judge will consider whether an in-person hearing is necessary to view a disfigurement claim. Also, if all parties join in the request for an in-person hearing, the Judge will weigh the request against the safety protocols of the pandemic.

5. What factors will you consider in deciding whether to conduct a virtual hearing by audio only or by audio with video?

The Judge considers audio hearings suitable and appropriate in matters not involving testimony. In matters involving testimony, whether the testimony is that of a Claimant or a fact witness, this Judge mandates an audio hearing with video.

6. What procedure do you follow if a party fails to appear at a hearing?

This Judge gives second chances if a party fails to appear at a first hearing, but will consider a motion to grant relief, or a motion to dismiss a petition at the second hearing.

7. Do you have special procedures for psychological injury cases?

This Judge has no special procedure for mental injury disputes.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

See below:

a. Will testimony be heard?

No.

b. Is additional time generally granted to obtain medical evidence?

It is customary to extend two weeks for the Claimant to obtain medical evidence in opposition to the supersedeas request.

c. Under what circumstances will you reconsider a supersedeas order?

The Judge will reconsider a supersedeas ruling when sufficient, competent evidence is offered.

d. Do you generally use written orders for denials?

Yes

e. What is required for employee's counsel to obtain interim fee approval?

An attested statement by Claimant that she/he approves the deduction of counsel fee is sufficient; otherwise, the Judge will require Claimant's testimony before she approves a counsel fee against Claimant's indemnity payable.

f. Describe any other procedures for supersedeas hearings:

A record will be created at the supersedeas hearing to discuss a mandatory mediation, and scheduling same, if warranted, and a scheduling order for evidence.

g. Describe procedures for special supersedeas hearings, if different:

The procedure for special supersedeas hearings is no different than the procedure for supersedeas hearings.

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

The Judge mandates that testimony conducted during a teleconference hearing be conducted by audio and video.

2. Do you require testimony at a virtual hearing, an in-person hearing, or by deposition?

The Judge allows testimony to be done by deposition.

3. Under what circumstances will you change your requirements for presentation of testimony?

This Judge will customarily adhere to the scheduling order.

4. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice? Yes, notice/request for a hearing to present the testimony of a witness shall be placed in WCAIS.

5. If yes, how much notice do you require? 30 to 60 days' notice

6. What is your procedure regarding the order of expert medical testimony when cross petitions are filed?

The scheduling order is determined on a case by case basis.

7. Do the parties need to upload the Bureau and WCOA documents as exhibits or will you admit them electronically as Judge exhibits?

Bureau documents and WCOA documents are offered by the respective parties in their case in chief.

8. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Exhibits to be considered for admission at a hearing shall be uploaded prior to the hearing. If before, how far in advance of the hearing must they be uploaded? No specific time, if the information uploaded is exchanged by counsel in advance of the hearing.

9. When will you rule on objections to exhibits? Objections that are properly preserved will be ruled upon either by interlocutory order or in the final decision.

10. What is your procedure for handling discovery disputes? Disputes over discovery are adequately handled in a conference call.

11. What is the last day to file written preservations of deposition objections?

The last day to file written preservations of deposition objections is the date of the final hearing.

COMPROMISE & RELEASES (C&Rs)

1. Describe your procedures regarding the review of C&R Agreements:

a. Are you willing to allow amendments of existing petitions or do you require the filing of a separate Petition Seeking Approval of a C&R Agreement?

Amendments to existing petitions are preferred; the filing of a separate Petition to Seek Approval of a C and R Agreement is unnecessary.

b. Are parties required to provide a draft of the C&R Agreement before the hearing? If yes, how far in advance of the hearing do you need to receive it?

This Judge does not require a draft copy of the Compromise and Release Agreement.

c. Should the parties upload the signed C&R Agreement, including the fee agreement and any other attachments, before or after the hearing?

The fully executed documents shall be uploaded prior to the hearing.

d. Should child support documents be uploaded as a separate exhibit?

Yes

e. Should Social Security numbers and other confidential information be redacted from the C&R Agreement and Act 109 documents?

Yes

f. Will you sign bench orders?

n/a

g. Describe any other procedures you have for C&R Agreements:

The Claimant shall testify by audio and visual teleconference. The Judge requires that she observe the Claimant testify about the Compromise and Release Agreement.

STIPULATIONS RESOLVING DISPUTES

1. What are your usual procedures regarding the submission, review, and adoption of stipulations?

Stipulations are ordinarily uploaded in WCAIS as an exhibit, accompanied by a request in WCAIS that the Judge review the Stipulation, and adopt same. The Judge, upon upload and request, will review the posture of the litigation and determine whether the Stipulation of Fact is fair, reasonable, and in accord with the relief requested.

2. Should the fee agreement be part of the stipulation or separate exhibit?

The contingency fee agreement should be a part of the Stipulation, if the Judge is awarding a counsel fee.

3. Should child support documents be uploaded as a separate exhibit?

The child support documents can be uploaded as a separate exhibit.

4. What other exhibits should be uploaded (i.e. medical bills, etc.)?

No other documents ought to be uploaded, unless the Stipulation of Fact relies upon supporting documentation such as medical bills.

5. Should other exhibits uploaded as be part of the stipulation or as separate exhibits?

Other exhibits, if relevant, ought to be uploaded as a separate exhibit.

6. When should Social Security numbers and other confidential information be redacted from the stipulation and Act 109 documents?

The social security number and other confidential information ought to be redacted prior to uploading.

7. Describe any other procedures you have for stipulations:

The Stipulation of Fact ought to contain information sufficient to dispose of pending petitions. The Stipulation of Fact must specifically state whether it disposes of pending petitions. If the Stipulation of Fact does not resolve all pending petitions, the Stipulation of Fact must be clear that petitions will be pending following the adoption of the Stipulation of Fact. The Stipulation must state clearly the petitions that it resolves, as well as the petitions that are not resolved by it.

BRIEFS AND PROPOSED FINDINGS

1. Will you close a case via WCAIS submission or is a final hearing required?

The Judge does not allow the case to close without a final hearing. The Judge utilizes the final hearing to record: (a) final submissions; (b) final arguments (b)certification of the record; and (b) the briefing schedule.

2. What are the time requirements for final submissions and what procedures are taken when time requirements are not met?

Final submissions shall be uploaded prior to the final hearing. There are circumstances that arise at the final hearing that may necessitate further submissions, such as credit printouts, etc. The Judge allows this but expects all submissions to be uploaded prior to the moving party's brief. If an extension request has not been made in WCAIS and the Judge does not receive a brief on its due date, the Judge in her discretion will decide the merits of the case, without consideration to a late brief.

3. Describe any preferences regarding the format and content of final submissions:

No preference

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

In person mediations shall be conducted at the Allentown Field Office. The Judge prefers however to conduct mediations virtually on the TEAMS platform.

2. What factors will you consider in deciding whether to conduct a mandatory mediation virtually or in-person?

The Judge's mediations are conducted on the TEAMS platform, unless all parties agree to conduct the mediation in person. In that case, the request for an in-person mediation should be placed in WCAIS for this Judge's review.

3. What factors will you consider in deciding whether to conduct a virtual mandatory mediation by audio only or by audio with video?

The Judge prefers audio only.

4. Are you willing to allow counsel or a party to participate virtually in an in-person mandatory mediation? If so, under what circumstances?

No – all parties shall be present for the in-person mediation.

5. Do you require a Mediation Statement? yes If yes:

a. What information do you require in that Statement?

Relevant information would include: (a) name of the parties and WCAIS dispute number; (b) whether the injury is an accepted injury; (c) the petition upon which the mediation arises: Claim Petition, Termination Petition, Review Petition, etc.; (d) a general brief summation of medical evidence; (e) a general, brief summation of fact testimony; (f) favorable evidence to the party's position; unfavorable factors to the party's position; (g) the AWW and corresponding indemnity payable rate; (h) outstanding medical bills; (i) lien information, if known; (j) the demand/offer; (k) any other relevant information.

b. What documents, if any, must accompany the Statement?

None

c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

72 hours

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? yes If so, how long until it is rescheduled? It depends upon the Judge's calendar and the reason for the postponement.

7. Are you willing to conduct more than one mandatory mediation session per Dispute?

Yes.

8. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

The mediation may be cancelled the day of the mediation if a good faith explanation is given, and all parties agree.

9. What else should the parties know or do before the mediation?

Counsel should come to the mediation with knowledge of all relevant information; if an attorney is substituting for another attorney at the mediation, this Judge expects the substituting attorney to be as knowledgeable of all relevant information as the handling attorney; the Employer's counsel shall bring authority to the mediation; Claimant's counsel shall set reasonable expectations for the mediation, and explain those reasonable expectations to the Claimant; this Judge does not advise Claimants; nor will the Judge put a value on the case.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes

2. How should the parties request a Voluntary Mediation?

The parties may request a voluntary mediation through email or phone contact with the Judge's assistant. The assistant will then assign a mediation date and time to the parties.

3. List the locations where you conduct in-person voluntary mediations:

The Judge will conduct in-person voluntary mediations, upon the agreement that all parties shall attend the in-person mediation, at the Allentown Field Office.

4. Will you conduct virtual voluntary mediations? If yes, for which WCOA Districts will you conduct them?

Virtual voluntary mediations are this Judge's preference. She is amenable to mediating disputes in all WCOA Districts.

5. Do you mediate Disputes assigned to you for hearing and decision?

No.

6. Do you mediate Disputes in which one or both parties are unrepresented? If yes, describe any special procedures you have for such cases:

No.

7. What factors will you consider in deciding whether to conduct a voluntary mediation virtually or in-person?

The Judge conducts mediations on the TEAMS platform, unless an agreement is made among the parties that all parties to the mediation shall be present for an in-person mediation.

8. What factors will you consider in deciding whether to conduct a virtual voluntary mediation by audio only or by audio with video?

This Judge is satisfied with audio only virtual voluntary mediations.

9. Are you willing to allow counsel or a party to participate virtually in an in-person voluntary mediation? If so, under what circumstances?

The Judge conducts only virtual mediations.

10. Do you require a Mediation Statement? Yes. If yes:

a. What information do you require in that Statement?

- (a) Whether the injury is an accepted injury; (b) is the mediation arising from a litigation; (c) what are the petitions that are currently pending; (d) the Claimant's medical status; (e) a brief summation of medical evidence; (f) the AWW and the compensation payable rate; (g) the demand/offer; (h) factors favorable

to the respective party; (i) factors unfavorable to the respective party; (j) prior mediation attempts; (k) any other relevant factors.

b. What documents, if any, must accompany the Statement?

None

c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

72 hours

11. After you approve a Voluntary Mediation Request, how long until it is scheduled?

Very flexible.

12. Are you willing to conduct more than one voluntary mediation session per Dispute?

Yes.

13. If the party wants to request cancellation or postponement of a voluntary mediation on a Dispute assigned to you, should they contact you or the mediating Judge?

As a mediating Judge, I appreciate if the cancellation or postponement request comes directly to me.

14. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

Same day, if a reasonable explanation is given.

15. What else should the parties know or do before the mediation?

See the Judge's response in the mandatory mediation section of this Questionnaire.

REQUESTS/MISCELLANEOUS

1. How far in advance do you require Requests for continuances, changes in hearing times, and extensions to be uploaded into WCAIS?

A reasonable period depending upon circumstances: a request for a continuance on the date of the hearing will be denied. A request for a change in hearing time will be permitted if reasonable notice is given, and all parties and the Judge agree to new hearing time. Reasonable requests for extensions to a briefing schedule shall be requested prior to the due date, and in most cases will be granted.

2. Under what circumstances do you conduct off the record conference calls?

Conference calls are suitable to discuss case statuses, unforeseen changes in medical experts, and on occasions when attorneys have conflicts in their schedule that necessitates the Judge's intervention. This Judge utilizes conference calls during the litigation process often, especially to discuss status.

3. Under what conditions/circumstances do you accept e-mails from parties?

This Judge accepts emails if all parties to the dispute are included on the email. The Judge will not respond to ex parte emails and will send the email back as not acceptable.

4. Do you adhere strictly to the duration listed for a Hearing or Mediation?

Yes.

5. What is the best way to contact you in an emergency situation?

Through email or call to my assistant.

6. What is your snow/emergency cancellation policy regarding in-person and virtual events (i.e., do you follow a specific school district closing schedule, etc.)? Virtual events will not cancel.