

## **Workers' Compensation Judges' Procedural Questionnaire**

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, the first five numbers should be redacted before the document is uploaded, unless otherwise specified below. Requests, such as Requests for Continuance and Subpoenas, should also be made through WCAIS.

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### **First Event/Hearings:**

1. What is the first Event (i.e., pretrial, hearing, conference call) and what will occur at the first Event with the judge?

Judge Lugo follows a serial hearing format. Prior to the first hearing, all relevant documentary evidence is to be uploaded to WCAIS at least 48 hours before the hearing (not including weekends). At the first hearing, all counsel are expected to identify the legal and factual issues, as well as the names of all potential lay and expert witnesses. The Claimant's testimony will be taken at the first hearing, and if time allows, the employer's lay witnesses if it is the employer's petition. Supersedeas, if applicable, will be addressed after the first hearing.

2. Are any first hearing filings or documents required at the first Event with the judge? If so, what are they? **Yes**  **No**

#### **Further explanation:**

Click here to enter text.

- a. Should first hearing filings or documents be uploaded as Exhibits or as Documents?

**Exhibits**  **Documents**

#### **Further explanation:**

Click here to enter text.

- b. Should first hearing filings be uploaded before or after the first hearing?

**Before**  **After**

**Further explanation:**

Click here to enter text.

3. What are your procedures for supersedeas hearings?

- a. Will testimony be heard? **Yes**  **No**

**Further explanation:**

Supersedeas, when applicable, will be addressed at the first hearing. The parties may present testimony and all supersedeas exhibits must be uploaded to WCAIS 48 hours before a hearing (not including weekends).

- b. Is additional time generally granted to obtain medical evidence? **Yes**  **No**

**Further explanation:**

An additional 14 days from the first hearing will be granted, if requested, to upload supersedeas exhibits.

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

At the parties request, in writing, based on new evidence, i.e., deposition of expert, surveillance, after discovered evidence, etc.

- d. Do you generally use written orders for denials? **Yes**  **No**

**Further explanation:**

Click here to enter text.

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

A written request or request via WCAIS with adequate foundation for request.

- f. Do you have any other procedures for supersedeas hearings not described above? If so, what are they? **Yes**  **No**

**Further explanation:**

Click here to enter text.

- g. Do you have different procedures for special supersedeas hearings? If so, please describe them? **Yes**  **No**

**Further explanation:**

Click here to enter text.

4. Do you use a one-day/one-hearing format or serial hearings? Please describe the structure of your hearings. Please indicate if you are willing to change your hearing format upon request of all parties.

Judge Lugo follows a serial hearing format. Generally, the Claimant's testimony is taken at the first hearing. If there is sufficient time and the employer is the moving party, the employer witnesses' testimony will be taken. If there is insufficient time for additional witnesses, a second hearing will be scheduled within 45-60 days from the first hearing. A final hearing is not scheduled for the sole purpose of the submission of closing documents. The record in most cases closes out via final submissions through WCAIS by the close date set by the Judge.

5. Are you willing to allow counsel to participate in hearings by telephone? **Yes**  **No**

**Further explanation:**

Participation by phone, in general, is for special circumstances or emergency situations, which may include illness, inability to travel due to inclement weather or other extraordinary situations.

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

If the moving party fails to appear, the petition may be dismissed. If the responding party fails to appear, the hearing will proceed as scheduled and a letter issued for failure to appear, a copy of which will go to all related parties.

7. Do you have any special procedures for psychological injury cases? **Yes**  **No**

**Further explanation:**

Click here to enter text.

**Witnesses/Exhibits:**

8. What are your rules regarding the taking of testimony?  
a. Do you prefer the testimony be taken at a hearing or by deposition?

**Hearing**  **Deposition**

- b. If counsel wishes to bring a witness to a hearing, do you require prior notice? If so, how much notice do you require? **Yes**  **No**

**Further explanation:**

Claimant must be at the first hearing, unless a request has been made to excuse Claimant. At the first hearing, all potential witnesses are to be identified, lay and expert. Generally, the Claimant's testimony is taken at the first hearing, and employer's lay witnesses at the next scheduled hearing. Notice of a change in potential witnesses must be made in writing as soon as possible and no later than 48 hours before the scheduled hearing.

9. Under what circumstances will you permit a party or witness (including an expert witness) to testify by deposition or by phone, rather than appear at the hearing?

Most lay witness' testimony is to be presented at a hearing unless the parties have agreed to a deposition and the Judge has approved the deposition of lay witnesses. Claimant's rebuttal testimony can be taken by deposition at the parties request. Lay testimony may be done by phone, at a hearing, under special circumstances, such as, illness, inclement weather or if the witness is out of state.

Expert witnesses (medical, vocational, psychiatric, environmental, etc.) are to be deposed. Requests can be made to present the expert at a hearing if good reason is provided.

10. What is your procedure regarding the order of testimony with respect to submission of medical evidence, particularly when cross petitions are filed?

Moving party must have prima facia medical evidence uploaded to WCAIS no later than 48 hours before the first hearing (excluding weekends). In cases involving cross-petitions, all parties should upload medical evidence to WCAIS no later than 48 hours before the hearing (excluding weekends). As to expert depositions, the Judge will set a schedule for the parties to follow at the hearing.

11. Do the parties need to upload the Bureau documents as exhibits or will they automatically be made Judge Exhibits? **Parties Upload**  **Judge**

12. Do you require that counsel upload exhibits to WCAIS before or after the hearing? If before, what is the latest day before the hearing that they may be uploaded? **Before**  **After**

**Further explanation:**

No later than 48 hours before a hearing, excluding weekends.

13. Do you require counsel to bring hard copies of the exhibits to the hearing? **Yes**  **No**

**Further explanation:**

Click here to enter text.

14. When will you rule on objections to exhibits?

At the first hearing or next available hearing after submission of exhibit(s). If a hearing is not scheduled or anticipated to be scheduled, written objections to submission of exhibits filed before the close of the record will be addressed by Judge in writing. Objections filed after the close of the record will be addressed in the decision. Exhibits should not be uploaded after the close of the record without an agreement from opposing counsel.

15. What is your procedure for handling discovery disputes, e.g., do you employ telephone conferences, do you prefer to attend certain depositions, etc.?

Discovery disputes will be handled by telephone; however, if a timely request for the Judge to attend a deposition is made, the Judge will make an attempt to attend the deposition if her schedule allows.

16. What is the last day the parties may file written preservations of deposition objections?

Close date set by the Judge.

**C&Rs/Stipulations:**

17. Please describe your procedures regarding the review of Compromise and Release 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 Compromise and Release Agreement?

**Amendments**  **New Petition**

**Further explanation:**

Click here to enter text.

- b. Do you require the parties to provide you with a draft of the Compromise and Release Agreement to review before the hearing? If so, how far in advance of the hearing do you need to receive it? **Yes**  **No**

**Further explanation:**

A draft of the C & R Agreement should be sent to Judge via WCAIS as a document/correspondence no later than 48 hours before the hearing (excluding weekends). It should not be uploaded as an exhibit. Following the hearing, the Judge's staff will upload the C & R Agreement and all other exhibits.

- c. Should the parties upload the Compromise and Release Agreement, including the fee agreement and any other attachments, before or after the hearing?

**Before**  **After**

**Further explanation:**

The Judge's staff will upload the executed C & R Agreement and other related exhibits to WCAIS after the hearing.

- d. Should the child support documents be uploaded as a separate exhibit? **Yes**  **No**

**Further explanation:**

The Judge's staff will upload the executed C & R Agreement and related exhibits to WCAIS after the hearing. Documents that should be included as part of and attached to the C & R Agreement are: fee agreement, bill of costs, medical bills to be paid under terms of agreement, liens to be reimbursed, MSA and/or Court Orders from Domestic Relations. The other expected exhibit, separate and apart from the C & R Agreement, is the Act 109 Affidavit and lien search report, which will be a separate exhibit. The parties may also wish to provide a Waiver of Appeal, but it is not required.

- e. What other exhibits should be uploaded as part of the Compromise and Release Agreement or as separate exhibits (i.e., waiver of appeal, medical bills, etc.). Please indicate whether they should be uploaded as part of the Compromise and Release Agreement or as separate exhibits.

See above – 17 (d)

- f. When should the social security number and other confidential information be redacted from the C&R agreement and Act 109 documents?

The Judge's staff will redact the Social Security Number from the C & R Agreement and other related exhibits.

- g. Will you sign bench orders? **Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

- h. Do you have any other procedures for Compromise and Release Agreements not described above? If so, what are they? **Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

18. Please provide the following information regarding Stipulations resolving Disputes:

- a. What are your usual procedures regarding the submission, review, and adoption of such Stipulations?

Written Stipulations must be executed by all parties, including: Claimant, Claimant Counsel, and Defense Counsel. Fully executed Stipulations can be uploaded to WCAIS by the parties as an exhibit.

- b. Should the fee agreement be uploaded as part of the Stipulation or as a separate exhibit? **Part of Stipulation**  **Separate Exhibit**

**Further explanation:**

[Click here to enter text.](#)

- c. Should the child support documents be uploaded as a separate exhibit? **Yes**  **No**

**Further explanation:**

However, Domestic Relation Court Orders must be attached to the Stipulation.

- d. What other exhibits should be uploaded as part of the Stipulation or as separate exhibits (i.e., medical bills, etc.)? Please indicate whether they should be uploaded as part of the Stipulation or as separate exhibits.

Exhibits, such as fee agreement, bill of cost, medical bills to be paid, and liens to be reimbursed are not required to be attached to the Stipulation; however, they must be uploaded to WCAIS as separate exhibits.

- e. When should the social security number and other confidential information be redacted from the Stipulation and Act 109 documents?

Redaction of confidential information, such as Social Security Number, will be done by Judge's staff.

- f. Do you have any other procedures for Stipulations not described above? If so, what are they? **Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

**Close of Record/Briefs:**

19. Are you willing to close a case by electronic submission via WCAIS or is a final hearing required? **Electronic Submission**  **Final Hearing**

**Further explanation:**

Hearings are generally scheduled only for the presentation of testimony or to address procedural matters and special motions, such as a Motion for Recusal or a Motion to Dismiss Petition.

20. What are the time requirements for the submission of briefs and other post-hearing submissions? Do you have any procedure if the briefs or post-hearing submissions are not received in a timely manner?

Briefs and post-hearing submissions are to be uploaded to WCAIS on or before close date set by the Judge. If post-hearing submissions are not filed by close date, the record will close as is and no reminders will be issued by the Judge's office.

21. Please describe your preferences for the format and content of briefs and post-hearing submissions.

Judge Lugo prefers narrative positional statements, but will accept Proposed Findings of Facts and/or legal briefs.

### **Mandatory Mediations**

22. Please list the offices at which you conduct mandatory mediations.

Currently Judge Lugo conducts Mandatory Mediations in the Erie WCOA office for cases from Erie, Warren, Crawford and Venango Counties.

23. Do you require the parties to execute an agreement to mediate? If so, please describe the matters to be addressed by the agreement. **Yes**  **No**

#### **Further explanation:**

[Click here to enter text.](#)

24. 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, if any? **Yes**  **No**

#### **Further explanation:**

The only exception is that the Workers' Compensation Adjuster, if not local, may participate by phone.

25. Do you require a Mediation Statement? **Yes**  **No**

If so:

a. What information do you require in that Statement?

Judge Lugo does not have a specialized mediation form; however, the parties are expected to upload mediation statements/narratives to WCAIS or to mail or fax written mediation statements/narratives at least 48 hours before the mediation (excluding weekends). The mediation statements/narratives should include description of injury



and medical evidence, summarization of litigation (i.e., identification of legal and factual issues and summary of evidence), and analysis of case and settlement parameters.

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

Medical records or any other documents that are not already in WCAIS, including but not limited to Bureau records, MSA proposal or CMS approval of MSA, child support order or arrearages information, lien statements (including DPW), third party recovery information, UC records and unpaid medical bills.

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

As soon as possible, but no later than 48 hours before mediation (excluding weekends).

26. Once you receive a mediation request, what is the usual amount of time that elapses until the mediation takes place?

Generally within 30-60 days, depending on Judge's mediation schedule and availability of parties.

27. Are you willing to conduct more than one session per Dispute? **Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

28. If a party wants to request cancellation or postponement of a mediation on a Dispute assigned to you:

a. Should the party contact you or the mediating judge?

For a Mandatory Mediation, the adjudicating Judge should be contacted about postponements and cancellations.

b. If you are to be contacted, what is the latest day before the mediation that cancellation or postponement, absent an emergency situation, can be requested?

See above.

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

**Yes**  **No**

**Further explanation:**

Parties should be adequately prepared and have all necessary information related to the Workers' Compensation claim (medical bills, liens, credits or underpayments) as well as information

regarding peripheral issues, such as: SSD, Medicare, MSA proposal and/or approval by CMS, child support, pension benefits, union benefits, COBRA, bankruptcy, etc. in order to have genuine settlement discussions.

**Voluntary Mediations:**

30. Do you conduct Voluntary Mediations? **Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

31. Please list the offices at which you will mediate a Dispute.

Any WCOA office in Western or Central Pennsylvania.

32. Are you willing to mediate Disputes that are assigned to you for hearing and decision?

**Yes**  **No**

**Further explanation:**

Only by agreement of the parties.

33. Are you willing to mediate Disputes in which one or both parties are not represented by counsel? If so, do you have any special procedures? **Yes**  **No**

**Further explanation:**

No special procedures.

34. Do you require the parties to execute an agreement to mediate? If so, please describe the matters addressed by the agreement. **Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

35. 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, if any? **Yes**  **No**

**Further explanation:**

Only exception, is that the Workers' Compensation Adjuster, if not local, may participate by phone.

36. Do you require a Mediation Statement? **Yes**  **No**

**Further explanation:**

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If so:

a. What information do you require in that Statement?

Judge Lugo does not have a specialized mediation form; however, the parties are expected to upload mediation statements/narratives to WCAIS or to mail or fax written mediation statements/narratives at least 48 hours before the mediation (excluding weekends). The mediation statements/narratives should include description of injury and medical evidence, summarization of litigation (i.e., identification of legal and factual issues and summary of evidence), and analysis of case and settlement parameters.

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

Medical records or any other documents that are not already in WCAIS, including but not limited to Bureau records, MSA proposal or CMS approval of MSA, child support order or arrearages information, lien statements (including DPW), third party recovery information, UC records and unpaid medical bills.

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

As soon as possible, but no later than 48 hours before mediation (excluding weekends).

37. Once you receive a mediation request, what is the usual amount of time that elapses until the mediation takes place?

Generally within 30-60 days, depending on Judge's mediation schedule and availability of parties.

38. Are you willing to conduct more than one session per Dispute? **Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

39. If a party wants to request cancellation or postponement of a mediation on a Dispute assigned to you:

a. Should the party contact you or the mediating judge?

In a Voluntary Mediation, the mediating Judge should be contacted regarding postponements or cancellations.

- b. If you are to be contacted, what is the latest day before the mediation that cancellation or postponement, absent an emergency situation, can be requested?

As soon as possible, but no later than 48 hours before mediation (excluding weekends).

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

Yes  No

**Further explanation:**

Parties should be adequately prepared and have all necessary information related to the Workers' Compensation claim (medical bills, liens, credits or underpayments) as well as information regarding peripheral issues, such as: SSD, Medicare, MSA proposal and/or approval by CMS, child support, pension benefits, union benefits, COBRA, bankruptcy, etc. in order to have genuine settlement discussions.

**Requests/Miscellaneous:**

41. What is your procedure regarding continuances, changes in hearing times and extensions, i.e., how far in advance do you require the Request be uploaded into WCAIS?

Requests should be uploaded to WCAIS as soon as the conflict or need for an extension arises, but no later than 48 hours before the hearing or deadline for deposition or close of record date (excluding weekends).

42. Do you conduct/permit conference call? If so, under what circumstances? Yes  No

**Further explanation:**

Either at Judge's discretion or at request of parties.

43. Do you accept faxes and e-mails from the parties? If so, under what circumstances?

Yes  No

**Further explanation:**

However, telephone requests for permission to fax documents will be considered in emergency situations.

44. Do you adhere strictly to duration listed for a hearing or mediation or are you willing to go over the allotted time? Yes  No

**Further explanation:**

Judge Lugo tries to adhere to time schedule; however, extra time may be granted, within reason, if the Judge's schedule allows and it does not interfere with other cases schedule for hearing or mediation.

45. What is the best way to contact you in an urgent/emergency situation?

Telephone Judge's office and speak to her secretary.

46. What is your snow/emergency cancellation policy (i.e., do you follow a specific school district closing schedule, etc.)?

Judge Lugo does not follow a specific school district's closing policy. Hearings or mediations will only be cancelled for extreme inclement weather or illness. However, timely requests for a postponement or to participate by phone due to inclement weather or illness will be considered.

Additionally, separate and apart from weather issues and other emergencies, the parties should not hesitate to telephone or send a letter with any concerns relative to any litigation and/or mediation before Judge Lugo. The goal is for the Workers' Compensation process to be smooth, efficient and flexible.