

## **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?**

Typically, the first hearing on a Claimant's petition is scheduled for 45 minutes and Claimant is expected to testify, no more than 20 minutes on direct and 10 minutes on cross. Hearings on these types of petitions, where testimony is expected, will be listed as virtual with all participants expected to appear by video, unless one of the parties make a timely request in WCAIS for an in person hearing and has the concurrence of the opposing party. On an Employer petition, such as a Modification, Suspension or Termination, the first hearing is scheduled for 30 minutes and will be virtual with the counsel expected to connect to the hearing using Microsoft Teams video unless counsel has technical issues, in which case audio will be permitted. Supersedeas exhibits should be uploaded into WCAIS before the hearing. I will go over supersedeas exhibits and a record will be made as to the content of those exhibits. Generally, there is no testimony taken. With all petitions, the Judge will set deadlines consistent with Special Rules of Administrative Practice and Procedure Before Workers' Compensation Judges (the "Rules") and Act 147, which deadlines are mandatory and will not be altered absent good cause shown. The Parties should have all relevant Bureau documents uploaded into WCAIS before the first hearing. These may include the Notice of Compensation Payable, the Statement of Wages, prior decisions, supplemental agreements, etc.

#### **a. List any documents required at the first event:**

The Parties are to comply with Sections 131.52 and 131.53 of the Rules. A first hearing filing and a responding party 45 day filing is expected. These documents are to be uploaded in WCAIS in Documents and Correspondence.

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

The documents listed in subpart a should be uploaded as a Letter to Judge under the Documents and Correspondence tab in WCAIS.

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

I conduct a modified one day one trial format. Generally, there is a first hearing that follows the procedures outlined above, then a final hearing that will be held approximately five to six months thereafter. The final hearing date is set at the time of the first hearing, and I expect counsel to commit to availability for that date.

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

Generally, I will not change the hearing format. However, I will consider requests for good cause shown.

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

Generally, first hearings are scheduled virtually. Claimant's testimony on Claim, Reinstatement, and Review Petitions is expected even though the hearing is conducted virtually. If requested in a timely manner, an opportunity

will be given for in-person testimony at a subsequent or final hearing. There is generally no testimony expected at the first hearing on Employer Petitions. At the first hearing, counsel is expected to inform this Judge whether they will be requesting any future hearing or the final hearing to be conducted in person. If a hearing has already been scheduled to be conducted virtually, any request for an in-person hearing will be considered a continuance request, and such request must be made in a timely manner in accordance with the Rules. Failure to make a timely request, will be denied. This Judge will generally want hearing to view scars to be conducted in-person. Other factors may be considered when determining if an in-person hearing is appropriate. Status hearings, C&R hearings, and hearings where no testimony is expected, will generally be conducted virtually.

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

Generally, when conducting virtual events, I want counsel and the parties to make every effort to join the meeting by video with audio unless there is a technical reason that precludes the same.

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

If a party fails to appear as scheduled for an event such as a hearing, the party risks having a Decision and Order issued that is adverse. If a party fails to appear for a mandatory mediation where this Judge is the litigating Judge, the party risks the imposition of sanctions that are available to this Judge.

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

No.

**SUPERSEDEAS PROCEDURES**

**1. What are your procedures for supersedeas hearings?**

I expect to receive all documents, exhibits and affidavits consistent with 34 Pa. Code Sec. 131.43. These documents should be uploaded into WCAIS before the hearing and a record will be created as to the content of supersedeas exhibits. I may permit the responding party a brief extension of time, if necessary, to obtain medical records, reports, or affidavits and to present the same through WCAIS subsequent to the first hearing. Counsel for Claimant should present a written fee agreement at the first hearing, uploaded on the merits in WCAIS, in order to obtain interim approval of his/her counsel fee. Special supersedeas hearings will be conducted consistent with Section 413(a) of the Act and current case law concerning conduct of such hearings. As a general rule, Supersedeas hearings will be conducted virtually.

**a. Will testimony be heard?**

No

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

Yes

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

I generally do not reconsider Supersedeas once the Interlocutory Order is issued.

**d. Do you generally use written orders for denials?**

Yes

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

Counsel must have a written fee agreement uploaded into WCAIS on the merits at the time the supersedeas Interlocutory Order is issued. An Affidavit from Claimant, that includes a recitation as to an understanding of the fee agreement should also be uploaded as part of Claimant's Supersedeas exhibits.

**f. Describe any other procedures for supersedeas hearings:**

N/A

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

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**WITNESSES/EXHIBITS**

**1. What are your rules regarding taking testimony?**

See above. Most if not all fact witnesses are expected to testify at a scheduled hearing. By default, I list hearings as virtual. However, if a party wants to present testimony at an in-person hearing, counsel must submit a request through WCAIS for such a hearing and must have the concurrence of opposing counsel to have this Judge grant such a request.

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

See above. Most if not all fact witnesses are expected to testify at a scheduled hearing. By default, all hearings will be scheduled as virtual. However, I will consider taking fact testimony in person if all parties agree to the same, and the parties make the request at the first hearing held in the dispute. All expert witness testimony, including medical and vocational testimony is to be done by deposition.

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

A change in the manner testimony is presented will be considered upon request of the parties where all parties agree. Whether to change the format of how testimony is presented still remains within the discretion of this Judge.

**4. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice? Yes If yes, how much notice do you require?** Counsel should inform this Judge at the first hearing if there is a request to change the manner testimony is to be presented.

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

Typically, the moving Party is to proceed first with evidence in a dispute. Where there are cross petitions filed, the first Party to file generally is expected to proceed first with evidence and testimony unless the parties agree otherwise. This is typically discussed at the first hearing.

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

It is preferred that the parties upload Bureau and WCOA documents as exhibits. However, this Judge may upload documents deemed necessary to establish the factual background of the case if counsel fails to upload such exhibits.

- 7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Before If before, how far in advance of the hearing must they be uploaded?** If Parties upload exhibits before a hearing, these exhibits should be uploaded no later than the day before the hearing. The Parties should inform the Judge at the time of the hearing that they have uploaded exhibits so that any objections and the admissibility of an exhibit can be addressed at that time.

- 8. When will you rule on objections to exhibits?**

I will rule on objections to exhibits when offered at a hearing. If additional exhibits are uploaded after the final hearing, a party may submit a written objection, which will be ruled upon in the Decision. Should there be objections to documents offered during a deposition, the Parties must preserve those objections in a separate writing in accordance with the Rules.

- 9. What is your procedure for handling discovery disputes?**

I do not use telephone conferences to address discovery objections. Such objections should be uploaded to WCAIS. I will issue an Interlocutory Order with instructions. I generally do not attend depositions. Should there be objections during a deposition to a certain line of questioning, the objection should be made on the record, the witness is to answer, and the objection must be preserved in a separate writing in accordance with the Rules.

- 10. What is the last day to file written preservations of deposition objections?**

A written preservation of objections should be submitted at the time the deposition is submitted into the record. The due date for Proposed Findings of Fact is the absolute last day all evidence, including preservation of objections made during a deposition, will be received. Thereafter, the record will be closed in WCAIS and the parties will no longer be able to upload any additional exhibits.

### **COMPROMISE & RELEASES (C&Rs)**

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

I require a fully executed Compromise and Release Agreement, i.e., the document must be signed by all parties (the Claimant and a Claims Representative/Employer representative as well as both counsels. Signatures of counsel alone is not sufficient), to be uploaded at least two days before the scheduled hearing since I will generally be conducting C&R hearings virtually. All private information, such as Social Security Numbers and dates of birth, are to be redacted from this Exhibit. The fee agreement between Claimant and Claimant's counsel must be attached. This document, once reviewed and in the proper format, will be marked as a Joint Exhibit.

- 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?**

I permit amendments to pending petitions. However, if the parties are seeking a decision on some or all of the pending petitions, a Petition to Seek Approval of a Compromise and Release Agreement should be filed.

- 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?**

The parties are expected to upload to WCAIS, under the exhibit tab, the final and fully executed version of the Compromise and Release Agreement at least two days before the scheduled hearing.

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

See above.

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

Yes, the Act 109 documents, which is a two page exhibit that includes the Claimant's Statement and the lien search, is to be uploaded to WCAIS as a separate exhibit. This exhibit, like the C&R Agreement, is to be uploaded to WCAIS at least two days before the scheduled hearing.

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

The Act 109 documents exhibit is to have all information visible. I do not require nor do I want a redacted exhibit.

- f. Will you sign bench orders?**

No

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

Failure to upload all required settlement documents at least two days before the scheduled hearing may result in the cancellation and rescheduling of the hearing.

### **STIPULATIONS RESOLVING DISPUTES**

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

I will accept Stipulations filed only through WCAIS. The terms of the Stipulation should expressly indicate whether or not all pending petitions are resolved and include a statement as to the status of the claim going forward, e.g., benefits payable, benefits suspended, benefits terminated. The document is to also include reference to the fee agreement (attached if not already in the record), as well as any litigation costs that are to be reimbursed.

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

Separate Exhibit.

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

Yes.

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

See below.

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

Everything related to the Stipulation should be attached to the Stipulation as an exhibit and referenced in the text of the Stipulation as such.

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

Social Security numbers should not be referenced anywhere in the Stipulation or any of its attachments. The Act 109 documents will be marked and admitted as a separate exhibit.

**7. Describe any other procedures you have for stipulations:**

Even if the Parties have promised a Stipulation of Facts, this Judge may still list the matter for hearing until a fully executed copy of the Stipulation is actually received from the Parties.

**BRIEFS AND PROPOSED FINDINGS**

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

WCAIS submission.

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

Briefs are typically due in about 60 days from the final hearing unless there are extenuating circumstances. The due date for the briefs and Proposed Findings is the last date this Judge will accept any evidence, e.g., litigation expenses, depositions, etc. Whether or not Proposed Findings and briefs are received by the due date, the record will close, and no additional exhibits will be permitted to be uploaded to WCAIS. This Judge will begin writing the final decision the day after the due date.

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

Post-trial submissions should include Proposed Findings of Fact, Proposed Conclusions of Law, a Proposed Order, and a supporting brief that specifically sets forth the issues to be decided and legal argument. Support for the Proposed Findings of Fact must contain a specific cite to the record with deposition and hearing transcript references referred to by page and line(s). All references to the Act, governing regulations and case law must be properly cited.

**MANDATORY MEDIATIONS**

**1. List the offices where you conduct mandatory mediations:**

Harrisburg and Pottsville WCOA

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

I will generally conduct mediations virtually. However, I will consider requests from the parties for in person mediations. Any request for an in person event must be submitted through WCAIS and the parties must concur in the request.

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

Generally, I prefer all parties/counsel to participate in events using the video capabilities of Microsoft Teams. However, I will consider requests for participation by audio only if counsel can demonstrate good cause.

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

Generally, no. I find it is extremely helpful if all participants are present, at a minimum the attorneys are required to attend along with the Claimant. On the Employer/carrier side, a person with ultimate authority to resolve a dispute must be available by phone during the entire period for which the mediation is scheduled.

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

**a. What information do you require in that Statement?**

The mediation statement should include the following: 1) the case name; 2) the date and time of the mediation; 3) the name of the Judge assigned to the mediation; 4) the name of the Judge assigned to the litigation; 5) the name of Claimant's counsel; 6) the name of defense counsel; 7) a list of pending petitions; 8) the date of injury; 9) the mechanism of injury; 10) the description of injury; 11) a brief summary of the treatment to date with the names of the primary health care providers; 12) the average weekly wage and the weekly compensation rate; 13) a brief summary of your position in litigation; 14) what past due benefits, if any, are in controversy; 15) whether the parties have had any discussions or negotiations regarding settlement and if so outline what progress has been made; 16) whether you believe a negotiated settlement of the case is possible and set forth your proposal in order of importance outlining what components are negotiable and which are non-negotiable.

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

Whatever you believe is relevant to the mediation process.

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

I request that you submit mediation statements one week in advance of the scheduled mediation date.

**6. If there is a request to postpone a mandatory mediation, will it be rescheduled? Generally, no If so, how long until it is rescheduled?** I typically ask the parties to seek a voluntary mediation when a previously scheduled mediation is cancelled.

**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?**

At least one week. The parties should be mindful that they had previously committed to being ready to mediate the case in a meaningful way when the mediation date was initially set.

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

Whether Defense counsel has official authority or not, it expected that counsel has made recommendations to the client, and that defense counsel will appear for the mediation and discuss the case/negotiate within the parameters counsel would be willing to recommend to the client.

**VOLUNTARY MEDIATIONS**

**1. Do you conduct Voluntary Mediations?**

Yes. Although I am willing to conduct voluntary mediations, these will only be conducted in a field office located in the Central District, if done in person. I am willing to mediate in a virtual environment for cases pending in any WCOA office. I expect mediation statements in advance of such mediations.

**2. How should the parties request a Voluntary Mediation?**

Through WCAIS.

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

See above

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

See above

**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?**

I will consider current safety guidelines in conjunction with the request of the parties as to how they wish to have the mediation conducted.



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

Virtual mediations will be conducted using the video capabilities of the virtual platform utilized by the WCOA.

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

Generally, no. . See response #4 under Mandatory Mediation section.

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

- a. What information do you require in that Statement?**

See requirements under Mandatory Mediation Section

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

See requirements under Mandatory Mediation Section

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

See requirements under Mandatory Mediation Section

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

It depends upon my schedule/availability.

- 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?**

You should contact me. However, if you contact the mediating Judge, your request will be forwarded to me for consideration.

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

At least one week.

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

N/A

### **REQUESTS/MISCELLANEOUS**

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

Requests should be uploaded in WCAIS. The parties should refer to and follow the Rules with respect to requests for continuances.

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

I generally do not conduct conference calls. I prefer to have issues presented on the record.

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

The parties are directed to utilize WCAIS for all communications with respect to Requests and letters to this Judge.

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

All hearings and mediations are scheduled for a specific time slot with other disputes scheduled either before or after your slot. As such, this Judge expects both counsel and the parties to be present and prepared to proceed at the assigned time. Failure to do so may limit the time you have to present your case or could result in the rescheduling of the dispute to another hearing date depending upon the circumstances. Unless there is fortuitously additional time in the hearing day schedule, it may be impossible to go over the allotted time scheduled for the hearing or mediation.

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

The parties may contact my assistant, by phone, at the contact information set forth at the beginning of this document.

**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.)?**

For in person Events: If the WCOA does not authorize closure of our office, I will generally hold scheduled hearings and mediations. However, the workday prior to an expected snow or weather event, I strive to make a determination as to whether or not hearings or mediations should be cancelled, and cancellation or delay information will be posted to the WCAIS Dashboard. This is the only notification that the parties will receive, and counsel should monitor the WCAIS Dashboard for any communication that may impact their scheduled events.

For Virtual Events: All virtual events will be held regardless of weather or other conditions.