

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?
The first event is generally a hearing with testimony, usually of the Claimant. I expect the moving party, whether it is the Claimant or Defendant, to upload all exhibits in advance of the hearing and to be ready to meet its prima facie case.
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:

I do not demand first hearing filings but they are acceptable and can be helpful.

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

Exhibits **Documents**

Further explanation:

I will allow them to be marked as Exhibits if submitted as such, but they are considered to be argument not evidence. They may be submitted simply as correspondence as well.

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:

Unless a matter is scheduled for 10 minutes, I take testimony as time allows. The parties will be given additional time for affidavits and/or other relevant evidence if necessary.

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

Further explanation:

I will allow up to 14 days routinely and will consider longer if circumstances warrant and the parties agree.

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

I will consider a motion or request for reconsideration if additional evidence has been obtained, or if circumstances have changed.

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

Further explanation:

I try to issue denials in written form as a matter of course.

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

Counsel must have uploaded/offered a valid fee agreement

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:

n/a

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.

I employ a modified serial hearing format. I expect no more than 3-4 hearings. The first hearing is generally one with testimony where possible, or if my schedule does not allow time for testimony it is a pre-trial, followed by a hearing for testimony about 30 days after the first hearing.

Any subsequent hearings will include additional lay testimony if needed and any other interim matters. The final hearing occurs about six to eight months after the first hearing and consists of any remaining lay testimony. All depositions should be completed by and submitted at the final hearing. I will do additional hearings only if the case is complicated, or the lay testimony is very lengthy, or if for good cause the parties request additional hearings after the final hearing.

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

Further explanation:

Hearing locations in Hermitage, Butler, and Smethport have no capabilities for telephone participation so counsel should make every effort to attend these hearings. Telephone participation should not be a routine manner of attendance.

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

If I am in a location with phone capabilities, I try to call during the scheduled event if a party has not appeared. Thereafter a letter is sent regarding the absence. I warn that a matter may be decided without their participation, or if it is their petition that it may be dismissed if they fail to attend again.

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

Further explanation:

If a party requests special procedures for good cause, I will consider the request.

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:

If a party has witnesses I should be notified, as should opposing parties, before the next hearing is scheduled so there is ample time for testimony. Generally, this means at least 30 days in advance of a hearing as a rule of thumb to guarantee available time.

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?

If a party is local, significant effort should be made to have the witness testify in person. I often permit employer/adjuster testimony by deposition or phone, if the issue is minor and not involving direct rebuttal to key aspects of claimant's testimony. I am willing to accommodate claimants as well in certain instances.

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

Generally, the party filing the first petition goes first, but there are exceptions depending on the type of petitions involved.

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:

I prefer before, but the parties are permitted to upload after. I also prefer the parties upload the day before so opposing counsel can review the exhibit. Regarding Bureau exhibits, I will mark them as Judge exhibits when possible but in remote locations this can be difficult. As a result, I prefer that a party offer them. I am flexible to some degree in that regard.

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

Further explanation:

I am essentially paperless. Paper copies will be accepted if not already uploaded. I do expect attorneys before me to upload their own exhibits.

14. When will you rule on objections to exhibits?

My procedures will vary. Some objections need a faster ruling than others so I am flexible. If it must be ruled on immediately I will do so.

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

I am prone to use conference calls, and I will also consider position letters if necessary on disputes. I will attend depositions if necessary.

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

The parties should follow the Special Rules. I am fine with receiving them with briefs unless the parties decide earlier is better for them.

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:

I want to see the proposed/draft Agreement uploaded with a letter 48 hours in advance so I can review the terms and language.

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:

I like to look at it during the hearing but uploading beforehand, UNLESS FULLY EXECUTED, often leads to unnecessary and sometimes inappropriate documents being uploaded. After the hearing seems best and works for the parties in my experience.

There should be no attachments to the Compromise and Release Agreement. All documents are separate exhibits.

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

Further explanation:

The two items under Act 109 may be uploaded as one exhibit, and the Social Security numbers should be removed.

- 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.

I like all exhibits to be separate from the Compromise and Release Agreement. I will allow the parties to upload any document as an exhibit so long as it is relevant and discussed during testimony. I believe a release, waiver, letter of resignation, or other separation document must be discussed and should be offered. I do not need any medical bills or bill of cost records uploaded, but I will allow them.

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

I want it redacted in all cases by the parties when being uploaded.

- 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?

I will have the parties upload it as an exhibit which I will mark as a joint exhibit. I will adopt a stipulation provided it is in proper format in accordance with the Special Rules of Administrative Practice and Procedure, (as modified in December of 2014) and it addresses the facts and issues. I expect all stipulations to clearly state the relief to be

granted, and to address the result intended for each pending petition. The Claimant will need to have consented to any stipulation, and documentation of same will be needed.

- 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:

[Click here to enter text.](#)

- 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.

Any evidence the parties deem relevant to the issues addressed, including possibly medical bills, bills of costs, co-pay records, etc., may be uploaded as a separate exhibit.

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

The parties should redact the SS number from all exhibits before uploading them.

- 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:

I will permit closure via WCAIS, so long as all exhibits have been previously discussed and addressed at a prior hearing.

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?

I generally give the parties a written briefing order or letter, ideally shortly after the final hearing, or after all depositions and exhibits are submitted by mail/electronically if permitted by me to close in that manner. If objections are not preserved on time, they are deemed waived. Once the briefing deadlines pass, I will place the matter in line for decision. If briefs are late, I will read them if I have not finished dictating the decision by the time they are received.

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

I prefer Proposed Findings with page references to relevant testimony. In the end though, the format and content is left to the parties to determine. I fully expect all argument and advocacy to be done in a brief or position letter and NOT in any Proposed Findings. The Proposed Findings should be neutral in content until one reaches the resolution of evidence and credibility determinations. I do not require that the parties submit any other post-trial submissions.

Mandatory Mediations

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

I currently mediate in New Castle, Pittsburgh, Brookville, and Butler, although it is subject to change with the potential addition of other locations.

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:

Not at this time but it is subject to change.

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:

I am willing to allow telephone participation by one party in most circumstances, but if a party is using a cell phone I may cancel if the connection is poor or cannot be maintained. Claimant should almost invariably be present but by phone is permitted on occasion. I urge defense counsel to have a person with authority present if at all possible.

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

If so:

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

I need the AWW/TTD rate, nature of injury claimed and/or accepted, the issues in litigation, status of litigation, strengths and weaknesses of the evidence/positions held by the parties, and the status of offers and demands.

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

None are required but any documents the parties deem relevant may be submitted.

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

At least one day before.

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

About 30-45 days, sometimes sooner.

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?

I should be notified if it is assigned to me as litigation judge.

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?

Absent an emergency I should be given 2 business days' notice of any request. I fully expect AT LEAST a modicum of authority. "No authority" is not a well-regarded excuse.

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

Yes **No**

Further explanation:

I expect the parties to evaluate a claim in good faith and have authority in all cases. I also expect the adjuster or other person in charge to be at the ready if not present. THIS IS A MUST.

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.

I am available in the same locations mentioned above but will consider other locations if requested, and if permitted by the Judge Manager.

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

Yes **No**

Further explanation:

I will ONLY mediate my own cases in rare circumstances, and if the parties stipulate in writing whether or not the matter is to be reassigned if mediation fails. My preference is reassignment.

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:

I have 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:

I treat these as I would a mandatory mediation, as stated above.

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

Further explanation:

See above

If so:

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

Same as above

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

Same as above

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

Same as above

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

Same as above

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?

Same as above

- 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?

2 business days in advance

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

Yes **No**

Further explanation:

Always be prepared. Know your file. Have settlement authority.

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?

For the first hearing, I will generally cancel the hearing if the canceling party verifies it is consented to by the opposing party. I will reschedule it as soon as possible and will not grant continuances thereafter except in reasonable and explained circumstances. I may in the interim request the submission of the pre-trial documents and any supersedeas documents by mail within a short time frame. If it is the type of petition that can be handled in only one hearing, such as a Utilization Review, Physical Examination/Expert Interview, etc., I will generally grant one continuance per side and relist the petition. I do not grant continuances of final hearings unless the circumstances involve death or hospitalization of a party, or counsel is undeniably otherwise occupied and has no other counsel available to attend the hearing. I will change the time of a hearing if the parties agree and there is an opening in the schedule. I generally do not grant extensions of time on the briefing schedule, but if the brief arrives before I finish dictating the decision, I will review it. All objections being preserved must be submitted by the last date of the briefing schedule, even if the brief is not in, or they are deemed waived. I expect all extension and continuance requests to be made at least 2 business days in advance of any event or deadline, and I fully expect the request to be through WCAIS.

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

Further explanation:

I am open to a conference call for most conceivable matters. I find them to be quite useful.

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

Yes **No**

Further explanation:

I do not want faxes at all. Use WCAIS. I do not want emails unless I sent one first.

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:

I will possibly briefly (15 minutes) go over the scheduled allotment of time if necessary on hearing days. I am more flexible on mediations.

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

Through my secretary Barb or, in her absence, other personnel at the Uniontown office, at (724)439-7420. If no other means works, parties may contact the New Castle office for assistance at (724)656-3084.

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

I follow the office policy for where I am that day. Pittsburgh follows the Pittsburgh Public Schools. All other offices are generally operating through bad weather but all due consideration will be given to requests to cancel or appear by phone when weather conditions make travel sufficiently risky. The parties will be notified by my staff or me. WCAIS will show cancellations if they are for the day as well.