

## **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?

Pretrial Hearing and Conference. Purpose is to identify factual and legal issues, consider proposed amendments to pleadings, enter into stipulations of matters not in dispute, exchange discovery, disclose witnesses, consider motions, discuss procedural issues and scheduling concerns, consider settlement options or schedule mediation.

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:**

The Moving party shall submit a Memorandum addressing the items listed at #1 above. The Responding party shall reply with a Memorandum in 45 days. The parties shall complete a Stipulation of Undisputed Facts. See attached Forms. Relevant Bureau documents should be provided. (Insert links to Karl K Baldys Form – MOVING PARTY FILING, Karl K. Baldys Form – RESPONDING PARTY FILING, and Karl K. Baldys Form –STIPULATION OF UNDISPUTED FACTS here)

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

**Exhibits**  **Documents**

**Further explanation:**

Memoranda of Counsel are not admitted as exhibits unless requested. Evidentiary exhibits can be identified and offered for admission, including but not limited to supersedeas exhibits. Evidentiary exhibits should be uploaded as exhibits. Courtesy hard copies of memos and exhibits are requested.

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:**

It is preferred that supersedeas exhibits be offered instead of testimony e.g., witness statements or affidavits instead of testimony. However, brief testimony may be permitted in the appropriate case. If a fee approval is being requested, a fee agreement must be provided.

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

**Further explanation:**

A reasonable extension of time will generally be permitted subject to objection by opposing counsel.

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

Change of circumstances, omission or error, or new evidence obtained.

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 request for fee approval and a copy of the fee agreement. Contingent fee approvals require a result favorable to the client.

- 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:**

Submission of evidence is limited to issues relating to Suspension or Modification pursuant to Act Sec. 413.

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.

Serial Hearings are held consistent with the procedure identified at the pretrial hearing, subject to modification as necessary to allow for a fair consideration of all relevant evidence as required by the caselaw. In general, the moving party must proceed with the submission of evidence at the first hearing on the merits. Changes to format can be made as agreed upon by counsel with the approval of the WCJ.

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

**Further explanation:**

Participation by telephone must be requested in advance with indication of concurrence/non-concurrence of opposing counsel. In general, Counsel must be present for hearings which involve the examination of witnesses.

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

Failure of a party to appear, without reasonable explanation, can result in the disposition of the matter on the merits based on the existing record.

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

**Further explanation:**

The WCJ will consider special procedures as requested by counsel at the pretrial hearing.

**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:**

The preference is for Claimants to testify at a hearing. Other lay witnesses, and expert witnesses, may be deposed as agreed upon by the parties subject to considerations of the significance of credibility regarding the particular issues in the case as discussed with the WCJ at the pretrial conference. In general, the preference is that expert witnesses be deposed.

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?

The practice is that party witnesses be available to testify before the WCJ. Illness, distance from the hearing site, or other extenuating circumstances will be considered if raised by counsel in advance, taking into account the objections or agreements of counsel. The preference is that expert witnesses be deposed.

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

The party with the burden of proof will, generally, be required to go forward with the submission of medical evidence and the time periods set forth in the Rules will be followed. However, both the order of testimony and the time frames may be modified by the WCJ to promote efficiency (time and cost) and due process. The procedure will be discussed at time of hearing or by conference call.

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:**

Counsel should upload exhibits to WCAIS after the Hearing. Please Note: Hard copies must be available at time of hearing so that evidentiary issues can be fully considered with authenticated documents to allow for rulings by the WCJ.

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

**Further explanation:**

See #12 above.

14. When will you rule on objections to exhibits?

In general, at time of Hearing.

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

Telephone conferences can be requested by counsel to resolve discovery issues. With respect to Depositions, the WCJ will not, generally, attend Depositions.

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

When briefs are due.

**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:**

Please note that separate C&R Petitions may be required, e.g., if the pending petition must be decided in whole or in part.

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:**

[Click here to enter text.](#)

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:**

Hard copies must be brought to the Hearing. WCJ staff will upload admitted documents, redacting social security numbers as necessary.

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

**Further explanation:**

The C&R agreement is marked as a separate exhibit, generally JT-1. Other documents, such as the fee agreement, child support documents, waiver of appeal, etc., are marked as party exhibits, i.e. C-1, D-1. Addenda to the C&R agreement will be a part of JT-1. Additional detailed agreements, e.g., Medicare Set Aside, etc., will be marked as Joint exhibits. WCJ staff will upload documents admitted at the Hearing.

- 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 d. above.

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

Following the Hearing.

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

**Further explanation:**

Bench Orders have been signed to mitigate WCAIS delays. As the system has improved, these should soon no longer be required. The preference is to avoid Bench Orders.

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

**Further explanation:**

The signature page must be completed as required by the Act to include a signature of the Employer/Insurer/Third Party Administrator.

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?

Stipulations should be in writing and uploaded to WCAIS. Hard copies should be submitted at time of Hearing or by mail. All stipulations are subject to review and approval by the WCJ.

- 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:**

If required by the nature of the stipulation, child support documents must be submitted to the WCJ and will be uploaded by WCJ staff following necessary redaction of social security numbers.

- 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.

Comprehensive written stipulations may not require additional documents. If counsel believe exhibits are necessary, these may be attached to the stipulation, or if lengthy, identified as separate party exhibits.

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

Following review by the WCJ.

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

**Further explanation:**

Claimant should personally sign the written stipulation.

**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:**

Click here to enter text.

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?

Time deadlines are set based on the requirements of each case. Typically, a moving party is afforded 45 days and a responding party 15 days thereafter. Fee bills, statements of costs, preserved deposition objections, Act 109, and similar documents may be offered with the

submission of briefs, but must be copied to opposing counsel who may lodge objections. If briefs are not timely submitted, the WCJ may decide the case without the briefs.

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

An acceptable format would include: List of witnesses and exhibits; Procedural history; Proposed Findings; Discussion or Argument; Proposed Conclusions; Proposed Order.

### **Mandatory Mediations**

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

Mediations may be conducted at the hearing sites in Williamsport, Wellsboro, or Bloomsburg.

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:**

An agreement form is required for Voluntary Mediations only. See attached form.

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:**

However, in general, both counsel should attend, Claimant should attend, and an authorized representative of the Defendant should attend or be available by phone.

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

If so:

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

Sufficient information to identify the factual and legal issues and the basis for the position of each party regarding settlement.

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

[Click here to enter text.](#)

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

3 to 4 days.

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

Approximatley 30 to 45 days.

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?

Mediating 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?

Please notify as soon as practical.

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

**Yes**  **No**

**Further explanation:**

Parties should be prepared to address all issues relevant to settlement.

**Voluntary Mediations:**

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

**Further explanation:**

Voluntary Mediation agreement is required. See form attached. (Insert link to Karl K. Baldys – Form - VOLUNTARY MEDIATION AGREEMENT here)

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

Voluntary mediations are held at the hearing sites in Williamsport, Wellsboro or Bloomsburg.

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

**Yes**  **No**

**Further explanation:**

Click here to enter text.

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:**

Click here to enter text.

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:**

Please see form. Key requirement is that parties cannot request recusal based on WCJ's participation in the Voluntary Mediation process.

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:**

The practice is that Claimant and both counsel be present, and that an authorized representative of the Defendant be present or available by phone.

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

**Further explanation:**

See # 25 above.

If so:

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

Click here to enter text.

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

Click here to enter text.

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

Click here to enter text.

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

Thirty to forty-five days.

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?

The mediating 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?

Cancellations should be requested as soon as practical.

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

**Yes**  **No**

**Further explanation:**

Click here to enter text.

**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?

Continuances should be requested no later than 10 calendar days before the date of hearing unless a shorter time is justified due to the circumstances. Requests should be in writing. See Form attached. (Insert link to Karl K. Baldys Form - Request For Continuance or Postponement here)

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

**Further explanation:**

When the circumstances require a prompt resolution of the issue.

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

Yes  No

**Further explanation:**

Faxes and e-mails should only be sent to the Williamsport Office as follows, unless otherwise directed. The Williamsport Office fax # is: 570-321-6534. The Williamsport Office e-mail address is: RA-LI-WCOA- Wmsprt@pa.gov

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:**

The intent of pretrial conferences is to accurately estimate the time required. Time will be extended as the circumstances of the case may require and as the schedule may allow.

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

Contact the WCJ's secretary-Helen Blank @ the Williamsport Office e-mail RA-LI-WCOA-Wmsprt or phone # 570-327-3735/ fax # 570-321-6534.

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

If you require a cancellation due to weather or emergency, please contact the Williamsport Office. See #45 above.

**Attachments:**

- [Moving Party Filing](#)
- [Request for Continuance or Postponement](#)
- [Responding Party Memo](#)
- [Stipulation of Undisputed Facts](#)
- [Voluntary Mediation Agreement](#)