

**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, 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.

**[CLICK HERE TO VIEW THE JUDGE'S SPECIAL PROCEDURES DURING THE GOVERNOR'S EMERGENCY DECLARATION DUE TO COVID-19.](#)**

**FIRST EVENTS**

1. **What is the first event (i.e. pretrial, hearing, conference call) and what will occur?** The first event is a Pre-Trial Hearing. No testimony will be taken. Claimant will testify by deposition and/or at a later hearing. A mandatory scheduling order will be placed on the record. Mediation does not extend or modify the scheduling order. The parties shall submit a hard copy of the Bureau of Workers' Compensation document(s) relevant to the issue(s) presented. The parties shall advise the of the issues in dispute, stipulations and the evidence to be presented. Supersedeas evidence will be taken on Employer petitions. Prior to the first hearing, counsel shall discuss mandatory mediation with their client. At all times, the parties shall conduct themselves and present evidence consistent with the Special Rules of Practice and Procedures before Judges and consistent with this Judge's Procedural Questionnaire.
2. **List any documents required at the first Event:** A hard copy of all Bureau of Workers' Compensation documents relevant to the issue(s) shall be provided.
  - a. **Should docs be uploaded as Exhibits or Letters to the Judge?** Exhibits [Click or tap here to enter text.](#)
  - b. **Should docs be uploaded before or after the first Event?** After The relevant Bureau of Workers' Compensation documents and all evidence shall be uploaded after moved into evidence at a hearing and ruled on as admissible.

**SUPERSEDEAS PROCEDURES**

1. **What are your procedures for supersedeas hearings?** [Click or tap here to enter text.](#)
  - a. **Will testimony be heard?** No [Click or tap here to enter text.](#)
  - b. **Is additional time generally granted to obtain medical evidence?** No
  - c. **Under what circumstances will you reconsider a supersedeas order?** I will reconsider supersedeas based on new evidence.
  - d. **Do you generally use written orders for denials?** Yes [Click or tap here to enter text.](#)
  - e. **What is required for employee's counsel to obtain interim fee approval?** A hard copy of the contingent fee agreement and the appropriate circumstances.
  - f. **Describe any other procedures for supersedeas hearings:** A hard copy of the supersedeas evidence must be provided. Generally, counsel shall provide only one medical report that addresses Claimant's status regarding the issue(s) in dispute (Fully recovered? Able to work? Able to perform job offered?) on or about the date relief is requested.
  - g. **Describe procedures for special supersedeas hearings, if different:** [Click or tap here to enter text.](#)

**HEARINGS**

1. **Describe the structure of your hearings and whether you are willing to change your hearing format:** A serial hearing format is used. The case is generally relisted every 3 months or less depending on the nature of the petition(s), the issues and the dates of any scheduled depositions.
  - a. **Are you willing to change the hearing format upon request?** Choose an item. Click or tap here to enter text.
2. **Are you willing to allow counsel to participate by telephone?** No Click or tap here to enter text.
3. **What procedure do you follow if a party fails to appear at a hearing?** No set procedure. It depends on the circumstances.
4. **Do you have special procedures for psychological injury cases?** No Click or tap here to enter text.

### WITNESSES/EXHIBITS

1. **What are your rules regarding taking testimony?** Click or tap here to enter text.
  - a. **Do you prefer testimony at a hearing or by deposition?** Choose an item. Click or tap here to enter text.
  - b. **If a counsel wishes to bring a witness to a hearing, do you require prior notice?** Yes **If yes:**
    - i. **How much notice do you require?** A request to present witness testimony must be made at a hearing at which time a date for the witness testimony will be set.
2. **Under what circumstances will you permit a party or witness (including an expert witness) to testify by deposition, phone, or videoconference, rather than appear at the hearing?** Generally, whenever the parties agree, a party or witness may testify by deposition or telephone deposition.
3. **What is your procedure regarding the order of testimony with respect to submission of medical evidence, particularly when cross petitions are filed?** The moving party shall present its medical evidence first if medical evidence is part of its case in chief. Generally, with cross-petitions, the party that filed the first petition is required to present its medical evidence first if medical evidence is part of its case in chief.
4. **Do the parties need to upload the Bureau and WCOA documents as exhibits or will you admit them electronically as Judge exhibits?** Parties Upload Click or tap here to enter text.
5. **Do you require counsel to upload exhibits to WCAIS before or after the hearing?** After Evidence shall be uploaded after moved into evidence at a hearing and ruled on as admissible. **If before:**
  - a. **What is the latest day before the hearing that they may be uploaded?** Click or tap here to enter text.
6. **Do you require counsel to bring exhibit hard copies to the hearing?** Yes Click or tap here to enter text.
7. **When will you rule on objections to exhibits?** No set policy.
8. **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 shall be put in writing by both parties. Each party shall advise of the issue(s) in dispute, their respective positions and provide the relevant case law, regulation or special rule that controls the issue.
9. **What is the last day to file written preservations of deposition objections?** The parties may provide deposition objections preserved consistent with the Special Rules of Practice and Procedure no later than with their briefs.

### COMPROMISE & RELEASES (C&Rs)

1. **Describe your procedures regarding the review of C&R Agreements:** Click or tap here to enter text.
  - a. **Are you willing to allow amendments of existing petitions or do you require the filing of a separate Petition Seeking Approval of a C&R Agreement?** Amendments Call Bernadette McGuire at (610) 251-2878 to

schedule a hearing on a Compromise and Release Agreement. Do not send a letter or request via WCAIS asking for a hearing on a Compromise and Release Agreement to be scheduled.

- b. Are parties required to provide a draft of the C&R Agreement before the hearing? No If yes:**
  - i. How far in advance of the hearing do you need to receive it?** Click or tap here to enter text.
- c. Should the parties upload the C&R Agreement, including the fee agreement and any other attachments, before or after the hearing?** After Click or tap here to enter text.
- d. Should child support docs be uploaded as a separate exhibit?** No Click or tap here to enter text.
- e. What other exhibits should be uploaded as part of the C&R Agreement or as separate exhibits (i.e., waiver of appeal, medical bills, etc.?)** Click or tap here to enter text.
- f. Should they be a part of the C&R Agreement or separate exhibits?** Click or tap here to enter text.
- g. When should SSNs and other confidential information be redacted from the C&R Agreement and Act 109 documents?** Redactions should be made after the hearing on the Compromise and Release Agreement and before the documents are uploaded into WCAIS.
- h. Will you sign bench orders?** Yes Click or tap here to enter text.
- i. Describe any other procedures you have for C&R Agreements:** Click or tap here to enter text.

### **STIPULATIONS (STIPs) RESOLVING DISPUTES**

- 1. What are your usual procedures regarding the submission, review, and adoption?** Stipulations shall comply with the amended Special Rules of Practice and Procedure including but not limited to Section 131.91 (b)(4) and (b)(5). The Stipulation may be mailed to the Judge, submitted at a hearing or uploaded into WCAIS as an exhibit with a letter uploaded into correspondence advising of the Stipulation.
- 2. Should the fee agreement be part of the stip or separate exhibit?** Part of Stipulation Click or tap here to enter text.
- 3. Should child support documents be uploaded as a separate exhibit?** No Click or tap here to enter text.
- 4. What other exhibits should be uploaded (i.e. medical bills, etc.)?** Click or tap here to enter text.
  - a. Should they be part of the stip or a separate exhibit?** Click or tap here to enter text.
- 5. When should SSNs and other confidential information be redacted from the stip and Act 109 documents?** Redactions should be made before the Stipulation and Act 109 documents are uploaded into WCAIS. A hard copy of the Stipulation and unredacted Act 109 documents shall be provided to the Judge via mail, fax, email to the user resources account or at a hearing.
- 6. Describe any other procedures you have for stips:** Click or tap here to enter text.

### **BRIEFS AND POST-HEARING SUBMISSIONS**

- 1. Will you close a case via WCAIS submission or is a final hearing required?** Final Hearing
- 2. What are the time requirements for submissions and what procedures are taken when time requirements aren't met?** The parties generally request and are provided with 30 to 45 days for the submission of proposed Findings of Fact, proposed Conclusions of Law and supporting briefs.
- 3. Describe any preferences regarding the format and content of submissions:** Proposed Findings of Fact should start with a procedural history, followed by a concise and non-argumentative summary of the relevant evidence, this should be followed by credibility determinations with the bases for the same and then the specific factual findings. The latter are the elements that support the burden of proof. Conclusions of Law shall state the burden(s) of proof and whether the burden(s) of proof have been met. The supporting brief should cite relevant caselaw, regulations and

rules and the relevant caselaw etc. should be applied to the facts of the case. A copy of the caselaw relied on should be provided with the brief. A HARD COPY OF THE PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND BRIEF SHALL BE PROVIDED TO THE JUDGE.

### **MANDATORY MEDIATIONS**

1. **List the offices where you conduct mandatory mediations:** Malvern
2. **Do you require all participants to attend in-person?** No
  - a. **Under what circumstances do you permit attendance by phone?** The adjuster/employer representative may participate by telephone. The claimant shall attend the mediation.
3. **Do you require a Mediation Statement? Yes If yes:**
  - a. **What information do you require in that Statement?** The mediation statement should be concise and contain the demand or offer and the basis for the demand or offer. Do not provide a summary of all the evidence.
  - b. **What documents, if any, must accompany the Statement?** No documents are to be provided.
  - c. **How far in advance of the mediation must the parties submit the Statement and accompanying documents?** A hard copy of the mediation statement shall be provided to the Judge no later than a week before the mediation.
4. **After you approve a Mediation Request, how long until it's scheduled?** Click or tap here to enter text.
5. **Are you willing to conduct more than one session per Dispute?** No Click or tap here to enter text.
6. **If the party wants to request cancellation or postponement of a mediation on a Dispute assigned to you, should they contact you or the mediating Judge?** A cancelation request shall be made to the Judge assigned the petition(s) and a postponement request shall be made to the mediating Judge. **If you:**
  - a. **What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?** A cancelation or postponement request should be made ASAP so the mediation slot may be used for another case but no later than 7 days before the date of the mediation.
7. **What else should the parties know or do before the mediation?** Negotiations must take place before the mediation and Employer must have authority and extend authority at least a week before the mediation.

### **VOLUNTARY MEDIATIONS**

1. **Do you conduct Voluntary Mediations?** No Click or tap here to enter text.
2. **List the offices where you conduct voluntary mediations:** Click or tap here to enter text.
3. **Do you mediate Disputes assigned to you for hearing and decision?** Choose an item. Click or tap here to enter text.
4. **Do you mediate Disputes in which one or both parties are unrepresented?** Choose an item. **If yes:**
  - a. **Describe any special procedures:** Click or tap here to enter text.
5. **Do you require parties to execute an agreement to mediation?** Choose an item. **If yes:**
  - a. **Describe the matters addressed by the agreement:** Click or tap here to enter text.
6. **Do you require all participants to attend in-person?** Choose an item.
  - a. **Under what circumstances do you permit attendance by phone?** Click or tap here to enter text.
7. **Do you require a Mediation Statement?** Choose an item. **If yes:**
  - a. **What information do you require in that Statement?** Click or tap here to enter text.

- b. **What documents, if any, must accompany the Statement?** Click or tap here to enter text.
  - c. **How far in advance of the mediation must the parties submit the Statement and accompanying documents?** Click or tap here to enter text.
8. **After you approve a Mediation Request, how long until it's scheduled?** Click or tap here to enter text.
  9. **Are you willing to conduct more than one session per Dispute?** Choose an item. Click or tap here to enter text.
  10. **If the party wants to request cancellation or postponement of a mediation on a Dispute assigned to you, should they contact you or the mediating Judge?** Choose an item. **If you:**
    - a. **What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?** Click or tap here to enter text.
  11. **What else should the parties know or do before the mediation?** Click or tap here to enter text.

### REQUESTS/MISCELLANEOUS

1. **How far in advance do you require Requests for continuances, changes in hearing times, and extensions to be uploaded into WCAIS?** ALL REQUESTS VIA WCAIS SHALL BE IN THE FORM OF A LETTER AND THE LETTER UPLOADED. Continuance requests shall be made on this Judge's continuance request form and mailed with SASEs for all parties to this Judge's attention or uploaded into WCAIS no later than 10 days before the hearing. The continuance form shall be completed in its entirety. A continuance request may be made in a letter that is uploaded into the WCAIS continuance request function if it contains all the information required by Section 131.13. Requests for extensions of the time shall be made prior to the time provided expiring but no later than 10 days before the time provided expires and must be in letter form. The request for an extension of time shall provide the reason why additional time is needed and the position of opposing counsel.
2. **Under what circumstances do you conduct conference calls?** As a general rule, telephone conferences are not permitted. The matter will be listed to address the issue.
3. **Under what circumstances do you accept faxes and e-mails from parties?** Emails shall be sent to the Malvern user resources email account: WCOA-Malvern@pa.gov
4. **Do you adhere strictly to duration listed for a Hearing or Mediation?** The hearing notice is not indicative of the time allotted for the hearing.
5. **What is the best way to contact you in an urgent situation?** At the Malvern Office: 610-251-2878
6. **What is your snow/emergency cancellation policy (i.e., do you follow a specific school district closing schedule, etc.)?** Snow/emergency cancelations and time changes will be posted on WCAIS.