

## **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.

### **Table of Contents**

- A. [First Event/First Hearing](#)
- B. [Witnesses/Exhibits](#)
- C. [C&Rs/Stipulations](#)
- D. [Close of Record/Briefs](#)
- E. [Mandatory Mediations](#)
- F. [Voluntary Mediations](#)
- G. [Requests/Miscellaneous](#)

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

**Further explanation:**

A hard copy of all Bureau of Workers' Compensation documents relevant to the issue(s) shall be provided.

- 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:**

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.

3. What are your procedures for supersedeas hearings?

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

**Further explanation:**

[Click here to enter text.](#)

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

**Further explanation:**

- 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**  **No**

**Further explanation:**

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

**Further explanation:**

A hard copy of the supersedeas evidence must be provided.

- 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.

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.

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

**Further explanation:**

[Click here to enter text.](#)

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

No set procedure. It depends on the circumstances.

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:**

A request to present witness testimony must be made at a hearing at which time a date for the witness testimony will be set.

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?

Generally, whenever the parties agree, a party or witness may testify by deposition or telephone deposition.

10. 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.

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:**

Evidence shall be uploaded after moved into evidence at a hearing and ruled on as admissible.

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?

No set policy.

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 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.

16. What is the last day the parties may 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.

**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:**

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. 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:**

[Click here to enter text.](#)

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

**Further explanation:**

[Click here to enter text.](#)

- 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.

[Click here to enter text.](#)

- f. When should the social security number 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.

- 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?

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.

The judge shall be provided with a copy of the unredacted child support documents.

- 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.

[Click here to enter text.](#)

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

- 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:**

[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?

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.

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

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

Malvern



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 adjuster/employer representative may participate by telephone.

The claimant shall attend the mediation.

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

If so:

a. What information do you require in that Statement?

Negotiations must take place before the mediation and Employer must have authority and extend authority at least a week before the mediation.

Do not provide a summary of all the evidence.

The mediation statement should be concise and contain the demand or offer and the basis for the demand or offer.

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.

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

[Click here to enter text.](#)

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?

A cancellation request shall be made to the Judge assigned the petition(s) and a postponement request shall be made to 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?

A cancellation 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.

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

**Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

**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.

[Click here to enter text.](#)

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:**

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:**

Click here to enter text.

36. Do you require a Mediation Statement? Yes  No

**Further explanation:**

Click here to enter text.

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?

Click here to enter text.

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?

Click here to enter text.

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?

Click here to enter text.

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?

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. All information required by 131.13 shall be included in the continuance request form.

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.

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

**Further explanation:**

As a general rule, telephone conferences are not permitted. Both parties shall make a request for a conference call in writing advising of the issue(s) in dispute, their respective positions and providing the relevant case law, regulation or special rule that controls the issue.

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

**Yes**  **No**

**Further explanation:**

Emails shall be sent to the Malvern user resources email account: WCOA-Malvern@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 hearing notice is not indicative of the time allotted for the hearing.

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

At the Malvern Office: 610-251-2878

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

Cancelations will be posted on WCAIS and on the answering machine at the Malvern office.