

## **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?

I list all cases for a specific time and duration slot, without overlap. Claimant petitions will be slotted for 45 minutes, and Claimant's testimony will be taken. Employer petitions will be slotted for a 15 minute pre-trial conference, and supersedeas exhibits will be offered. Some petitions might be given different durations. Always review the hearing notices carefully. Compromise and Release petitions will be slotted for 15 minutes for Claimant's testimony, generally the two earliest slots of the hearing day. At the conclusion of the first hearing, I give counsel a written trial schedule that lists the remaining hearings, outlines my expectations for each, and includes a mediation date, time, and mediator.

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:**

In all cases, First Hearing Filings and Stipulations of Undisputed Facts will be offered by the moving party. Respective Claimant and Defendant forms for each are attached. In all cases, within 45 days of the first hearing, the responding party will offer the Responding Party 45 Day Filing. The form is attached. In Employer petitions, supersedeas documents from both parties should be offered.

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

**Exhibits**  **Documents**

**Further explanation:**

Exhibits can be uploaded, without numbering, and I will identify and admit them at the hearing, after opportunity to object.

- 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:**

I expect affidavits/verifications from claimants, employers, and relevant fact witnesses, medical and vocational reports, limited and relevant health care records, and a signed fee agreement.

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

**Further explanation:**

I prefer all documentation from both parties at the first listing, unless a sufficient reason for the requested extension is given. Generally, 14-day extensions will be given, unless opposing counsel agrees to a longer time.

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

Reconsideration by either party will be entertained, but only for changes in circumstances or for documents that could not have been obtained by the date of the initial consideration.

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

**Further explanation:**

Supersedeas orders, including for medical-only matters, will be in writing and entered within the required time.

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

A written contingent fee agreement must be offered, even if counsel is already receiving a fee.

- 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:**

I comply with the expedited hearing requirement. All else remains the same.

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 use the serial hearing format. See paragraph 1 for my first hearing procedures. The second hearing will be 120 days after the first. At that listing, I expect the moving party's medical, vocational, and fact evidence, if by deposition, and I take testimony from both moving and responding party witnesses, if pre-scheduled. The third and final hearing will be 90 days after the second. I expect the responding party's medical, vocational, and additional fact evidence, moving party's rebuttal evidence, including testimony, if pre-scheduled, and I expect all remaining documentary evidence from both parties. At the end of each hearing, I state on the record what I expect for the next hearing, so counsel will always have a reference point when preparing for the next hearing. In appropriate circumstances, upon prior request, and if there is no objection, I can change the format.

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

**Further explanation:**

But only upon prior request or when required by circumstances of weather, medical necessity, etc. And never when testimony is taken, except Compromise and Release, and only if all documents are already fully executed.

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

At the first listing, I verify that hearing notices have been sent to the correct addresses and that they have not been returned. If the moving party is absent, I dismiss the petition without prejudice. If the responding party is absent, I proceed with the hearing, unless the moving

party requests otherwise. Thereafter, the circumstances developed through the prior hearings determine how I proceed.

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

**Further explanation:**

However, I accommodate reasonable requests that are not objected to.

**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:**

I ask at each hearing if witnesses are expected at the next hearing, so I can slot the appropriate time. The required moving party's first hearing filing and responding party's 45 day filing should list all the witness names. Until hearing notices are sent, the previously allotted time can be reduced or expanded; once notices are sent, the time is fixed.

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?

Depositions are permitted, including the claimant, if agreed to by all parties. (Despite the paragraph 8(a) limited choices,) I have no preference for live versus deposition testimony; I need to know how counsel are proceeding only to schedule sufficient hearing time, if testimony is to be taken at a hearing.

Telephone testimony is not favored, except for witnesses who are out of the geographic area, generally in excess of 100 miles from the hearing location, or are medically unable to attend. Even under those circumstances, a deposition is preferred. Advance notice and permission for telephone testimony is required.

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 on the first petition filed will be expected to proceed with evidence first, unless the circumstances, such as a petition to add additional body parts as injuries, justify otherwise. I expect the 90-day and 90-day deadlines to be complied with. When the circumstances require, such as when responding party's petition is filed after moving

party's expert has testified, I encourage counsel to waive hearsay objections and agree to the admission of supplemental reports.

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, but do not require, that the parties upload exhibits before the hearing, but I do not want counsel to number them. I do not look at the exhibits until the hearing at which they are offered. I identify them when I admit them, after opportunity for objections. Post-hearing uploading is allowed when necessary.

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

**Further explanation:**

Counsel should have uploaded the original transcripts, including the signed stenographer's certificate and all deposition exhibits, before the hearing, if possible. I want paper copies of all deposition transcripts. They can be original, two-sided, or miniscripts.

14. When will you rule on objections to exhibits?

Written objections, if offered, should be brief, identify the transcript page, and the basis for the objection. I require all objections to all evidence, including depositions, to be orally argued at the hearing at which offered, if possible, so that I can rule on them immediately. If time does not permit, or if further consideration is required before ruling, I rule on them no later than the final hearing, if possible. All rulings are in the hearing transcript, or by a letter-ruling admitted as an exhibit.

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 expect the parties to attempt to resolve all disputes before resorting to a ruling. Conference calls, followed by letters or formal rulings where required, are used. I generally do not attend depositions. If the demeanor of the witness is considered crucial, request live testimony or consider taking a videotape deposition.

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

Because I require on the record argument and rule on objections at a hearing when the exhibit is offered, I have no deadline. Follow the regulations.

**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:**

However, I cannot amend a petition that the parties want to remain open for decision. In that event, a new Compromise and Release petition is required.

- 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:**

A draft agreement must be submitted in advance, preferably a week, certainly not less than two business days, before the hearing. It need not be executed. It can be mailed, faxed, or uploaded - under Documents, not Exhibits.

- 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:**

Too often, I cannot use as exhibits what has been uploaded before the hearing. I give counsel specific instructions at the hearing how exhibits should be uploaded, or my staff will upload them to ensure compliance with my requirement.

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

**Further explanation:**

The Act 109 documents must have the full and unredacted social security number and date of birth, as they are not attached to the circulated decision. They must be separate.

- 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.

The only required exhibits are the agreement, the fee agreement, and approved Medicare set aside agreements, which are attached to the decision, and LIBC-10 and Act 109 documents, which are not attached. All other exhibits are optional, at counsel's

discretion, and generally not attached. All exhibits should be uploaded as separate exhibits. We identify them and select the ones that must be circulated with the decision.

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

The social security number should never be on any pages of the agreement. It should always be on both Act 109 documents.

- 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:**

When a Medicare set aside is not already approved, so that wage and medical benefits are bifurcated, and only wages are being resolved, I generally require a second petition and a hearing, after CMS' approval, to resolve the medical benefits.

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?

Regulation 131.91(b)(2) requires a finding that the claimant understands it, so I require appropriate language to that effect in the stipulation. Social security numbers must not be included on the document, as it is attached to the circulated decision. If more than \$5,000 is to be paid, offer Act 109 documents as a separate exhibit. The fee agreement must be offered, whether attached or separate. If submitted on paper, do not fax; all signatures must be originals, and it must be dated. If uploaded, it should be done under Exhibits, and all exhibits should be offered separately.

- b. Should the fee agreement be uploaded as part of the Stipulation or as a separate exhibit? **Part of Stipulation**  **Separate Exhibit**

**Further explanation:**

I have no preference, as long as it is offered.

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

**Further explanation:**

Social security numbers and dates of birth must be included on the Act 109 documents, so they must be separate from other exhibits.

- 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.

Generally, only the stipulation and fee agreement will be circulated, so any additional exhibits that counsel want to be in the record can be separately uploaded or offered.

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

Always redact the social security number from the stipulation and fee agreement. Never redact it from the Act 109 documents.

- 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 want to ensure that both parties know which exhibits are admitted and which are not. Depositions, unless counsel stipulate that there are no objections to preserve, cannot be offered after the final hearing. If timely offered and admitted, they can be uploaded after the final hearing. The only exhibits that may be offered/uploaded after the final hearing are supplemental costs, counsel fees, Act 109, and, if needed, benefit offset documents for non-exhausted offsettable monies. When necessary, after the final hearing, I conduct conference calls and issue letter rulings that I admit as exhibits.

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 always distribute a written briefing schedule at the final hearing. Generally, the moving party's brief is due 30 days after the expected receipt of the final hearing transcript (generally 45-60 days out). The responding party's brief is due 15 days thereafter. If a reply brief from the moving party appears to be appropriate, it is due 7 days thereafter. I do not give later reminders of due dates. Requests for extensions of time from either party must be made before the expiration of that party's deadline. If the moving party does not file timely, the

responding party should nevertheless file on time. Generally, late briefs are not given much consideration.

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

Each party should include a list of all hearing dates, hearing witnesses, exhibits offered and whether admitted. Each party should submit proposed findings of fact, conclusions of law, and order concerning all relief sought for all pending petitions. Findings should not be lengthy. Extensive recitation of testimony is not helpful or effective. Use simple declarative statements concerning each element of your petition or defense. Cite the page(s) or exhibit(s) that supports the proposed finding. Conclusions should be succinct, not boilerplate, relate to the specific issues to be decided, and make reference to the statute, regulations, or decisions. Each party should submit a brief that discusses the relevant testimony of each witness and why that witness should be found credible or not credible, referencing the indicia of credibility or lack of credibility. The brief should discuss only the relevant issues in the pending case. Discussion of general legal principles is not helpful.

### **Mandatory Mediations**

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

Reading, but only for conflict matters that the other Reading field office Judges cannot mediate.

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:**

I prefer that all attend in person, but that almost never happens. As long as the adjuster is actually available by telephone, I can conduct a meaningful mediation.

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

If so:

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

I use the standard Mediation Conference Disclosure Report. The two-page form is attached. As the adjudicator, I distribute it, with the trial schedule, at the first hearing.

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

I do not require any additional documents but will read what is sent. With WCAIS, most documents are already available.

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

I prefer to have them a week, but not less than 3 business days, before the mediation, because I prepare for the mediation several days in advance. The forms can be uploaded, but only under the Mandatory Mediation tab so as to preserve confidentiality.

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

As the adjudicator, I pre-schedule it for three-four months after the first hearing. I encourage counsel to deal directly with the mediator if they want an earlier or later date. When I am the conflict case mediator, I have one mediation date per quarter.

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?

For futility/permanent cancellation requests, counsel should contact me when I am the adjudicator, as I make that decision. All requests for postponements or rescheduling should be done directly with the mediator.

- 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?

As the conflict case mediator, I have limited my availability, so rescheduling is unlikely. As the adjudicator, I expect professional courtesy from counsel, and I consider anything less than 3-4 days' notice discourteous, and denial of the request is likely.

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

**Yes**  **No**

**Further explanation:**

Both counsel should discuss the case fully with the clients and have realistic figures in mind. Demands and offers should have been made well before the mediation date. Claimants should always contact each health care provider when the bills are not being paid and find out if the provider is willing to compromise the bill and by how much.

### **Voluntary Mediations:**

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

#### **Further explanation:**

I will conduct them only in conflict cases on my quarterly mandatory mediations dates, and only if slots are available. All requests must be made to my assistant, and we determine availability.

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

Reading

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:**

See paragraph 24.

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

**Further explanation:**

Completed Mandatory Mediation Disclosure Reports are sufficient.

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?

That depends entirely upon availability of slots.

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?

See paragraph 28.

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?

See paragraph 28

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?

Continuance forms, not letters, are required if the request is by fax or mail. The Request for Continuance form is attached. If online, use the Request tab. Whether requested by paper or online, continuances will be granted for sufficient reason only; agreement of opposing counsel, standing alone, is not sufficient. I enforce Regulation 131.13(f). Make timely requests.

Extensions will be entertained, but the request must be in writing and submitted before the original deadline sought to be extended. If objected to by opposing counsel, a formal ruling will be made.

Because I use a slotted, time- and duration-specific format, once hearing notices are sent, it is generally not possible to change the hearing time or duration and still maintain the same date.

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

#### **Further explanation:**

I permit conference calls, scheduled through my assistant. I initiate them if there is an issue that can be resolved without scheduling a hearing.

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

**Yes**  **No**

#### **Further explanation:**

I accept faxes, so long as opposing counsel is also served with it.

I accept Resource Account emails only. I do not give out my email address and do not accept any direct emails from parties.

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 try to adhere to the schedule, because subsequent parties should not be made to wait excessively. Be mindful of that when you request a duration. When appropriate, I allow the parties to finish rather than cut them off and reschedule.

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

Call the main number and speak with my assistant. I do not accept direct calls that are not pre-scheduled conference calls.

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

The Reading office is in a state office building. If it is closed, or on delay, my hearing and mediation schedule is similarly canceled, or, if delayed, matters listed before the delay time are canceled. In addition, I may cancel hearings if I believe travel for the participants is dangerous, even if the office is not officially closed. If I have not canceled hearings, but the parties request a continuance because of the conditions, I generally grant it. I use WCAIS to announce cancellations or delays.

[Responding Party - 45 Day Filing](#)

[Continuance Request](#)

[Mediation Disclosure Report](#)

[First Hearing Filing: Moving Party - Claimant](#)

[First Hearing Filing: Moving Party - Defendant](#)