

## **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, they should be completely redacted before the document is uploaded, unless otherwise specified below. All communications with the Judge, including but not limited to Requests, should be submitted through WCAIS unless otherwise specified by the Judge.

## **HEARING PROCEDURES**

### **1. What is the first event and what will occur?**

The first event is a Pre-trial hearing for all cases, except for Petitions to Seek Approval of a Compromise and Release Agreement. If a supersedeas hearing was requested, the first hearing will serve both as a Supersedeas hearing and a Pre-trial hearing. Timeliness is expected. In the event that you anticipate that you will be late for your scheduled hearing, please send an e-mail to [dkrass@pa.gov](mailto:dkrass@pa.gov) with a copy to all parties. Please review the Teams invite, which will provide information about the nature of the hearing. The Claimant's testimony will NOT be heard at the Pre-trial hearing, unless the matter is an Employee Challenge that requires testimony. Please consult the Dispute Summary Hearing Information tab on WCAIS regarding the date, time, and nature of your hearing before contacting the Judge's office. Generally, the Judge will not grant a continuance of the Pre-trial hearing.

#### **a. List any documents required at the first event:**

The preparation and submission of a written Pre-trial stipulation is optional. However, all parties must be prepared to orally advise the judge, on the record, regarding the allegations and issues of fact and law concerning the presentation or defense of the case; regarding any proposed amendments to the pleadings; regarding any stipulations of fact; regarding the average weekly wage; regarding the names and addresses of medical and fact witnesses; regarding the current address of the Claimant; and regarding any other subjects which may aid in the disposition of the proceedings. The parties should consult the WCAIS system prior to the Pre-trial hearing to ensure that all information in the Interested Parties & Associated Recipients tab of the Dispute Summary is accurate. In the event of any inaccuracies, an Interested Party form (LIBC-113) should be completed and sent as a request through the Dispute Summary Requests tab (miscellaneous request) on WCAIS. At the first hearing, the parties are required to provide all Bureau documentation or Workers' Compensation Judge's decisions that control payment or non-payment of workers' compensation benefits in the matter. A statement of wages should also be provided. All exhibits should be uploaded on WCAIS through the Exhibits tab at least 48 hours in advance of the Pre-trial hearing, including but not limited to Bureau documentation and supersedeas documents. Evidence will not be considered if it is not uploaded prior to the hearing within the aforementioned timeframe. Exhibits must be uploaded in WCAIS for both virtual and in-person hearings. Paper exhibits will no longer be accepted.

#### **b. Should documents be uploaded as Exhibits or Letters to the Judge?**

If the document is an Exhibit, then it should be uploaded through the Dispute Summary Exhibits tab on WCAIS. If the document is a letter/correspondence, then it should be uploaded as a Letter to the Judge through the Dispute Summary Documents and Correspondence tab on WCAIS, unless the correspondence involves a request, which then should be submitted as an appropriate request through the Dispute Summary Requests tab on WCAIS. All supersedeas documentation should be uploaded as a supersedeas packet in one upload through the Dispute Summary Exhibits tab on WCAIS. Please note that the supersedeas check box must be marked on upload. All documentation must be uploaded at least 48 hours in advance of the Pre-trial hearing.

**2. Describe the format of your hearings (e.g., serial, one day – one trial).**

A one day/one trial format will be used that will consist of a Pre-trial hearing and a Final hearing. The Final hearing will be held approximately nine months from the date of the Pre-trial hearing or sooner if the parties are ready to proceed. At the Final hearing, the Claimant must be present to testify virtually or in person before the Judge. Any exception to this requirement will only be made for good cause shown. At the Final hearing, all depositions and other evidence will be introduced, the record will close, and a briefing schedule will be set. Any Requests to re-open the record must be made in writing through the Dispute Summary Requests tab (miscellaneous request) on WCAIS. All deposition transcripts, litigation costs, itemization of quantum meruit attorney fees, medical bills etc. must be submitted at the Final hearing. No evidence will be accepted after the Final Hearing except for an updated bill of costs, updated quantum meruit fee request, and updated child support documentation. All parties must preserve any objections made at a deposition at the time of the Final hearing in writing or the objections will be waived.

**3. Are you willing to change the hearing format upon request?**

Not usually, but Requests will be considered on a case-by-case basis.

**4. What factors will you consider in deciding whether to conduct a hearing in-person?**

All non-testimony hearings will be heard virtually. All testimony hearings (Final hearings, C&R hearings, and Special listings) will be scheduled virtually by default. An in-person hearing will only be considered by request of a party/parties to be made through the Dispute Summary Requests tab (Request a Hearing option) on WCAIS at least 60 days in advance of the Final hearing. Requests for an in-person hearing for a Special listing or C&R hearing must be made at the time of the request for a hearing. Factors to be considered include but are not limited to the following: any Covid recommendations/restrictions in place at the time of hearing, the substance of the request and noted reasons for the request, the timeliness of the request, objections to the request, and any potential impediments to virtual testimony.

**5. What factors will you consider in deciding whether to conduct a virtual hearing by audio only or by audio with video?**

Effective September 8, 2021, this Workers' Compensation Judge will attend all virtual hearings by video. All non-testimony hearings will be heard virtually and may be attended by the parties either by audio only or by audio with video. However, the parties **must** use the Teams link to access the hearing so that they can be easily identified for the record. All testimony hearings (Final hearings, C&R hearings, and Special listings) will be scheduled virtually by default and must be attended with all parties on video. Notice of an inability of any party to participate in a video hearing should be sent through the Dispute Summary Requests tab (miscellaneous request) on WCAIS at least 10 days in advance of any scheduled hearing with the reasons noted thereon. Effective September 8, 2021, no attorney will be excused from participating by video when required.

**6. What procedure do you follow if a party fails to appear at a hearing?**

There is no standard procedure. The consequences of non-attendance at a hearing when a party is provided with proper notice will depend upon the circumstances of the case and will include dismissal of the matter, if warranted.

**7. Do you have special procedures for psychological injury cases?**

No. If you need a special accommodation for reasons related to the psychological condition of your client or a witness, a written request should be made in advance of the hearing through the Dispute Summary Requests tab (miscellaneous request) on WCAIS.

## **SUPERSEDEAS PROCEDURES**

### **1. What are your procedures for supersedeas hearings?**

The moving party should upload its supersedeas evidence as one packet through the Dispute Summary Exhibits tab on WCAIS at least 48 hours in advance of the Pre-trial hearing. Please ensure that the supersedeas box located next to the Exhibit description box is checked on upload.

#### **a. Will testimony be heard?**

No. The usual procedure is that evidence in the form of records, reports, and affidavits of the Claimant and other witnesses will be permitted. If a party wishes to present testimony in support of or in opposition to the supersedeas request, a written request must be made at least fourteen days prior to the hearing, and the request must be approved by the Judge. The request will usually be granted but the testimony should be brief. All Requests for testimony on supersedeas should be made through the Dispute Summary Requests tab (miscellaneous request) on WCAIS.

#### **b. Is additional time generally granted to obtain medical evidence?**

Yes. Requests for additional time to submit supersedeas documentation will usually be granted to allow the responding party an additional fourteen (14) days to submit this evidence. The moving party should upload its supersedeas evidence as one packet through the Dispute Summary Exhibits tab on WCAIS at least 48 hours in advance of the Pre-trial hearing. Please ensure that the supersedeas box located next to the Exhibit description box is checked on upload.

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

Requests for reconsideration will be considered only if compelling and new evidence is presented. Requests for reconsideration should be made through the Dispute Summary Requests tab (miscellaneous request) on WCAIS.

#### **d. Do you generally use written orders for denials?**

Yes. The granting or denial of the supersedeas request is generally memorialized in a written order.

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

Counsel may request an order for payment of interim counsel fees upon submission of an executed counsel fee agreement. Any such request should be made through the Dispute Summary Requests tab (miscellaneous request) of WCAIS. The contingent fee agreement should be uploaded through the Dispute Summary Exhibits Tab on WCAIS.

#### **f. Describe any other procedures for supersedeas hearings:**

Supersedeas documentation should be uploaded into the Dispute Summary Exhibits tab at least 48 hours in advance of the supersedeas hearing. All documentation should be uploaded as one packet. The Exhibit name and Exhibit description should be entered as "Claimant's supersedeas documentation" or "Employer's supersedeas documentation". When entering the Exhibit information, please remember to check off the supersedeas box located next to the Exhibit description box.

#### **g. Describe procedures for special supersedeas hearings, if different:**

Brief testimony from the Claimant will be heard on an Employee Challenge.

## **WITNESSES/EXHIBITS**

### **1. What are your rules regarding taking testimony?**

Generally, the parties will take the trial deposition testimony of the Claimant within 45 days of the first hearing and then the Claimant will testify virtually or in-person (by approved request) at the Final hearing.

### **2. Do you require testimony at a virtual hearing, an in-person hearing, or by deposition?**

The Claimant must testify at the Final hearing. This testimony will be scheduled virtually by default as noted above. Expert witnesses (medical, vocational, investigative, etc.) and fact witnesses may testify by trial deposition. A special listing for the testimony of fact witnesses will be scheduled if written notification is provided at least 60 days in advance of the Final hearing date through the Dispute Summary Requests tab (miscellaneous request) on WCAIS. Otherwise, the testimony must be taken by deposition. Special listings and C&R hearings will be scheduled virtually by default. Any Requests for an in-person hearing must be made at the time of the request for the Special listing or C&R hearing.

### **3. Under what circumstances will you change your requirements for presentation of testimony?**

A request for consideration of an exception should be sent through the Dispute Summary Requests tab (miscellaneous request) tab on WCAIS and will be decided on a case-by-case basis.

### **4. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice? Yes. If yes, how much notice do you require?**

The Claimant must testify at the Final hearing. This testimony will be scheduled virtually by default as noted above. Expert witnesses (medical, vocational, investigative, etc.) and fact witnesses may testify by trial deposition. A special listing for the testimony of fact witnesses will be scheduled if written notification is provided at least sixty days in advance of the Final hearing date through the Dispute Summary Requests tab (miscellaneous request) on WCAIS. Otherwise, the testimony must be taken by deposition. Special listings will be scheduled virtually by default. Any Requests for an in-person hearing must be made at the time of the request for the Special listing.

### **5. What is your procedure regarding the order of expert medical testimony when cross petitions are filed?**

Generally, the party who filed the first Petition or the party with the burden of proof will be the first to proceed with expert medical testimony. Questions or concerns regarding the order of presentation of testimony should be brought to the attention of the Judge at the Pre-trial hearing.

### **6. Do the parties need to upload the Bureau and WCOA documents as exhibits or will you admit them electronically as Judge exhibits?**

The parties should upload the Bureau documentation through the Dispute Summary Exhibits tab on WCAIS at least 48 hours in advance of the Pre-trial hearing.

### **7. Do you require counsel to upload exhibits to WCAIS before or after the hearing?**

The parties should upload all Exhibits through the Dispute Summary Exhibits tab on WCAIS. Do not upload Exhibits through any other Dispute Summary tab. When uploading Exhibits, you must include an accurate description of the Exhibit in the Exhibit name field. Please do not enter C-1, D-2, Joint-1, etc. into the Exhibit name field. The name should describe the exhibit such as Deposition of the Claimant, Deposition of Dr. Smith, etc. The Exhibit description field is optional, but it may be used to designate parts of exhibits or for further description of the exhibit. Avoid uploading Exhibits in parts, if possible. Use the WCAIS Help instructions to reduce the file size. If you must upload an Exhibit in parts, designate the individual parts as part one, part two, etc. If you are uploading a Deposition Transcript, designate the document as a Deposition Transcript and not as an exhibit. All other exhibits can be uploaded as exhibits. All deposition exhibit uploads must be checked by counsel to ensure that all exhibits admitted during the deposition are included in the uploaded exhibit. All uploaded exhibits must be

readable and all pages oriented in the proper direction and in the proper order. All exhibits must be uploaded on all dispute numbers on consolidated matters. Do not upload exhibits on the WCAIS system after the close of the record if they were not previously entered into evidence at a hearing. The only exceptions are updated litigation costs, updated quantum meruit fee statements, and updated child support documentation submitted with Proposed Findings of Fact, Conclusions of Law, and Brief. You must make a formal request to re-open the record in order to submit additional evidence after the close of the record. The request should be made through the Dispute Summary Requests tab (miscellaneous request) on WCAIS. All permitted exhibits submitted with the Proposed Findings of Fact, Conclusions of Law, and Brief should also be uploaded individually through the Exhibits tab. Litigation costs should be contained in a separate writing with supporting documentation, which should be uploaded through the Exhibits tab and not just listed in the Proposed Findings of Fact.

**If before, how far in advance of the hearing must they be uploaded?**

At least 48 hours.

**8. When will you rule on objections to exhibits?**

Generally, the objections are ruled upon at the time of submission of the relevant evidence at a hearing.

**9. What is your procedure for handling discovery disputes?**

In general, discovery disputes are discouraged, and the parties are encouraged to communicate with each other to resolve such disputes. However, when necessary, discovery disputes may be presented in writing through the Dispute Summary Requests tab (conference call or miscellaneous request) on WCAIS. The dispute will be resolved by conference call on the record, or by order or other writing at the Judge's discretion. If this Judge determines that a conference call is necessary, a call will take place on a hearing day to secure an accurate record of the dispute. Attendance by the Judge at depositions or rulings during depositions will not be considered.

**10. What is the last day to file written preservations of deposition objections?**

The Final hearing before the record is closed. No written preservation of deposition objections will be accepted after the close of the record.

**COMPROMISE & RELEASES (C&Rs)**

**1. Describe your procedures regarding the review of C&R Agreements:**

Please see below.

**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 to existing Petitions will be permitted. The filing of an additional petition is neither necessary nor desired. However, a Petition to Seek Approval of a Compromise and Release Agreement will need to be filed if a) the pending petition must remain open for decision after the resolution and there are no other open petitions under the dispute number or b) the Compromise and Release Agreement resolves claims for multiple injury dates, and there is no open Petition under a particular injury date. In order to close all injury dates, there must be an open Petition under each dispute number/injury date to amend; if not, a Petition to Seek Approval of a Compromise and Release Agreement must be filed under that dispute number.

**b. Are parties required to provide a draft of the C&R Agreement before the hearing? If yes, how far in advance of the hearing do you need to receive it?**

Compromise and Release agreements should be submitted prior to the hearing in order to allow for judicial review. The executed unredacted document should be sent to dkrass@pa.gov with a copy to all counsel at least 48 hours in advance of the hearing.

**c. Should the parties upload the signed C&R Agreement, including the fee agreement and any other attachments, before or after the hearing?**

The redacted Compromise and Release Agreement should be uploaded through the Dispute Summary Exhibits tab on WCAIS after the hearing in the manner marked and admitted at the Compromise and Release hearing. The Exhibit name and Exhibit description boxes should indicate the following: "Compromise and Release Agreement with attachments". Abbreviations and shorthand notations should not be used in the Exhibit name and description boxes. All attachments should be uploaded with the Agreement. (contingent fee agreement, child support documentation, Medicare documentation, Authorization for Alternative delivery, etc.) Redaction of dates of birth and social security numbers is required on all uploads. On the rare occasion that a Bench Order may be issued, the Bench Order should not be uploaded as part of the Exhibit.

**d. Should child support documents be uploaded as a separate exhibit?**

No.

**e. Should Social Security numbers and other confidential information be redacted from the C&R Agreement and Act 109 documents?**

Yes. The redacted Compromise and Release Agreement should be uploaded through the Dispute Summary Exhibits tab on WCAIS after the hearing in the manner marked and admitted at the Compromise and Release hearing as noted above.

**f. Will you sign bench orders?**

No. A Bench Order will generally not be issued. If immediate circulation of a Decision is required, then a special request must be made at the hearing.

**g. Describe any other procedures you have for C&R Agreements:**

If you are scheduled for a hearing, and the matter resolves before the scheduled hearing, you must request permission to present a Compromise and Release Agreement at the scheduled hearing (or on some other date) by submitting a Request a Hearing request through the Dispute Summary Requests tab on WCAIS. All requests for a C&R hearing should be made through WCAIS and not through e-mail transmission. Redacted Compromise and Release Agreements should be uploaded into the WCAIS system within two business days after the Compromise and Release hearing, as time is of the essence.

Please review the following checklist before the Compromise and Release hearing:

- Are you using the most current Compromise and Release Agreement form?
- Are the Claimant's name, current address, social security number, and date of birth properly designated on the form and on any attachments?
- Is the Employer/insurance carrier/third party administrator information accurate?
- Is an accurate Dispute number on the Agreement?
- Have you checked for spelling errors?
- Is every agreed upon provision written in understandable form on the agreement form?
- Does the agreement state the total amount of the settlement?
- Does the agreement explain the net settlement amount by indicating any reductions from the total settlement amount for attorney fees, child support, etc.?
- Are you prepared to present the agreement? (the agreement is completely filled out; all necessary language is included in the agreement; you have met with your client beforehand and familiarized him/her with the terms of the agreement; you have scheduled an interpreter, if needed; the agreement is properly witnessed or notarized as of October 1, 2021)

- Have you properly scheduled an interpreter? You may not use your own interpreter. Interpreters must be requested through the Dispute Summary Requests tab (interpreter request) on WCAIS at least 14 days prior to the hearing with no exceptions. If you have forgotten to request an interpreter, then you must make a continuance request through the Dispute Summary Requests tab (continuance request) on WCAIS.
- Are there child support or spousal support issues regarding your case, and do you have the appropriate documentation from the proper authorities?
- Are there Medicare issues regarding your case, and do you have the appropriate documentation from the proper authorities? The parties must seek approval from the Centers for Medicare and Medicaid Services in those cases where this approval is required.
- Does the Agreement specify whether the past medical expenses have been resolved, what past medical expenses will be paid, and adequately consider any pending Petitions for Utilization Review Determination?
- Do you have a Compromise and Release Agreement for each injury date being resolved? Have you filed a Petition to Seek Approval of a Compromise and Release Agreement for any injury dates/dispute numbers that are closed with no open petitions?
- Have you sent an unredacted executed version of the C&R agreement to the Judge at [dkrass@pa.gov](mailto:dkrass@pa.gov) with a copy to all counsel at least 48 hours in advance of the hearing?

## **STIPULATIONS RESOLVING DISPUTES**

### **1. What are your usual procedures regarding the submission, review, and adoption of stipulations?**

All stipulations should comply with the Special Rules of Administrative Procedure before Workers' Compensation Judges. The stipulation will be rejected if it is not signed by the Claimant or unrepresented Employer, if it is not in compliance with the Special Rules, or if child support documentation is not provided when needed. A stipulation should be submitted through the Dispute Summary Requests tab (miscellaneous request) on WCAIS for judicial review. The request should attach a cover letter and a copy of the unredacted stipulation with any attachments including the fee agreement and child support documentation, if needed. The redacted Stipulation and all attachments referred to in the stipulation, as well as the child support documentation, should also be simultaneously uploaded as one document through the Dispute Summary Exhibits tab on WCAIS with the Exhibit name and description as follows: "Stipulation of Facts". All social security numbers and dates of birth should be redacted on the Exhibit upload.

### **2. Should the fee agreement be part of the stipulation or separate exhibit?**

Part of stipulation.

### **3. Should child support documents be uploaded as a separate exhibit?**

No.

### **4. What other exhibits should be uploaded (i.e., medical bills, etc.)?**

All attachments referred to in the Stipulation should be made part of the Stipulation Exhibit.

### **5. Should other exhibits uploaded as be part of the stipulation or as separate exhibits?**

Part of the stipulation.

### **6. When should Social Security numbers and other confidential information be redacted from the stipulation and Act 109 documents?**

The Stipulation with attached documentation should be redacted before it is uploaded through the Dispute Summary Exhibits tab on WCAIS. The request with attached stipulation sent through the Dispute Summary Requests tab on WCAIS should not be redacted so that it can be reviewed by the Judge.

**7. Describe any other procedures you have for stipulations:**

None.

**BRIEFS AND PROPOSED FINDINGS**

**1. Will you close a case via WCAIS submission or is a final hearing required?**

A Final hearing is required.

**2. What are the time requirements for final submissions and what procedures are taken when time requirements are not met?**

The briefing schedule will be set at the Final Hearing in consultation with the parties. If the parties require an extension of the briefing schedule, the parties must make a formal request through the Dispute Summary Briefs tab on WCAIS before the date the brief is due.

**3. Describe any preferences regarding the format and content of final submissions:**

All Proposed Findings of Fact, Conclusions of Law, and Briefs should be uploaded through the Dispute Summary Briefs tab on WCAIS. Do not upload these documents in the Exhibits tab or the Documents and Correspondence tab on WCAIS. If you are unable to properly upload your Proposed Findings of Fact, Conclusions of Law, and Briefs, please send a request through the Dispute Summary Requests tab (miscellaneous request) on WCAIS and explain your difficulty.

This Judge prefers the following format for all Proposed Findings of Fact, Conclusions of Law, and Briefs:

- Times New Roman, 12-point font, single spaced.
- Numbered Findings starting at the left-hand margin.
- A finding providing a complete list of all litigation costs. The costs should be in two columns (the left-hand column with the name of the entity; the right-hand column with the amount expended to the entity). The litigation costs should not be typed into a table/chart/cell.
- Summarize all evidence of record.
- Summarize each deposition and hearing transcript individually; do not combine summaries if the Claimant or a witness testifies on more than one occasion, unless the additional testimony is a continuation of prior testimony (direct is taken one day; cross is taken another day).
- Summaries of evidence should be accurate.
- Address all factual and legal issues.
- Provide reasons why testimony should be found to be credible or not credible.
- Cite to the record.
- Clearly state what relief you are seeking from the Judge.



- Address all elements of your claim.
- Address all defenses to the claim.
- Address all burdens of proof.
- Provide calculations and the basis for calculations in complex average weekly wage cases, pension offset cases, etc.
- Provide accurate dates throughout the document (dates of injury, dates of alleged disability, dates of surgery, dates of termination of employment, etc.).

## **MANDATORY MEDIATIONS**

### **1. List the offices where you conduct mandatory mediations:**

Bristol Field office.

### **2. What factors will you consider in deciding whether to conduct a mandatory mediation virtually or in-person?**

All mandatory mediations will be scheduled virtually by default. An in-person mandatory mediation will only be considered by request of a party/parties to be made through the Dispute Summary Requests tab (miscellaneous request) on WCAIS at least 30 days in advance of the mandatory mediation date.

### **3. What factors will you consider in deciding whether to conduct a virtual mandatory mediation by audio only or by audio with video?**

Effective September 8, 2021, this Workers' Compensation Judge will attend all mediations by video. The parties must use the Teams link to access the mediation. All mandatory mediations will be scheduled virtually by default and must be attended with all parties on video. Notice of an inability of any party to participate in a video mediation should be sent by Miscellaneous Request on WCAIS at least 10 days in advance of any scheduled mandatory mediation with the reasons noted thereon. Effective September 8, 2021, no attorney will be excused from participating by video.

### **4. Are you willing to allow counsel or a party to participate virtually in an in-person mandatory mediation? If so, under what circumstances?**

No. Mediations will be conducted with all parties appearing virtually or all parties appearing in-person. There will be no hybrid arrangements.

### **5. Do you require a Mediation Statement? Yes. If yes:**

#### **a. What information do you require in that Statement?**

No specific format is required. However, the following information is helpful:

- Case caption and Dispute Number
- Date and time of Mediation
- Type of petitions pending
- Name of Assigned Judge
- Date of Injury -Claimant's age
- Claimant's educational level

- Last date of employment
- Allegations of pending petitions
- Average weekly wage and compensation rate
- Annual compensation rate for one through seven years
- Description of the accepted injury or alleged injury
- Names of medical experts
- Status of litigation
- Strengths and weaknesses of your case and your opponent's case
- Last demand and last offer
- Reasons for the current demand and offer

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

No documents are required.

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

At least 48 hours in advance of the mandatory mediation.

**6. If there is a request to postpone a mandatory mediation, will it be rescheduled? Generally, no. If so, how long until it is rescheduled?** The parties may request a voluntary mediation when they are ready for mediation.

**7. Are you willing to conduct more than one mandatory mediation session per Dispute?**

Yes. Requests for second sessions are considered on a case-by-case basis. These sessions will be scheduled as a voluntary mediation.

**8. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?**

The parties should contact the Mediating Judge as soon as possible before the Mediation date. Requests for postponement will be considered on a case-by-case basis. Request for cancellation due to futility must be sent to the Assigned Judge.

**9. What else should the parties know or do before the mediation?**

The parties should adequately prepare for the mediation by obtaining all required information, by obtaining authority from an adjuster/Employer, and in appropriate instances, by contacting the opposing party to initiate negotiations before the mediation.

## **VOLUNTARY MEDIATIONS**

**1. Do you conduct Voluntary Mediations?**

Yes.

**2. How should the parties request a Voluntary Mediation?**

Contact the Judge at dkrass@pa.gov.

**3. List the locations where you conduct in-person voluntary mediations:**

Bristol Field office.

**4. Will you conduct virtual voluntary mediations? If yes, for which WCOA Districts will you conduct them?**

Yes. All Districts.

**5. Do you mediate Disputes assigned to you for hearing and decision?**

No.

**6. Do you mediate Disputes in which one or both parties are unrepresented? If yes, describe any special procedures you have for such cases:**

No.

**7. What factors will you consider in deciding whether to conduct a voluntary mediation virtually or in-person?**

All voluntary mediations will be conducted virtually. The Judge will not conduct an in-person voluntary mediation.

**8. What factors will you consider in deciding whether to conduct a virtual voluntary mediation by audio only or by audio with video?**

Effective September 8, 2021, this Workers' Compensation Judge will attend all mediations by video. The parties must use the Teams link to access the mediation. All voluntary mediations must be attended with all parties on video. Notice of an inability of any party to participate in a video mediation should be sent through the Dispute Summary Requests tab (miscellaneous request) on WCAIS at least 10 days in advance of any scheduled voluntary mediation with the reasons noted thereon.

**9. Are you willing to allow counsel or a party to participate virtually in an in-person voluntary mediation? If so, under what circumstances?**

No. Mediations will be conducted with all parties appearing virtually. There will be no hybrid arrangements.

**10. Do you require a Mediation Statement? Yes. If yes:**

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

No specific format is required. However, the following information is helpful:

- Case caption and Dispute Number
- Date and time of Mediation
- Type of petitions pending

- Name of Assigned Judge
- Date of Injury
- Claimant's age
- Claimant's educational level
- Last date of employment
- Allegations of pending petitions
- Average weekly wage and compensation rate
- Annual compensation rate for one through seven years
- Description of the accepted injury or alleged injury
- Names of medical experts
- Status of litigation
- Strengths and weaknesses of your case and your opponent's case
- Last demand and last offer
- Reasons for the current demand and offer

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

No documents are required.

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

At least 48 hours in advance of the voluntary mediation.

**11. After you approve a Voluntary Mediation Request, how long until it is scheduled?**

The parties are provided with the available dates and times at the time of the e-mail request.

**12. Are you willing to conduct more than one voluntary mediation session per Dispute?**

Yes. Requests for second sessions are considered on a case-by-case basis.

**13. If the party wants to request cancellation or postponement of a voluntary mediation on a Dispute assigned to you, should they contact you or the mediating Judge?**

All Requests for cancellation/postponement of a voluntary mediation should be made to the Mediating Judge and not the Assigned Judge.

**14. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?**

The parties should contact the Mediating Judge as soon as possible before the Mediation date. Requests for postponement will be considered on a case-by-case basis.

## **15. What else should the parties know or do before the mediation?**

The parties should adequately prepare for the mediation by obtaining all required information, by obtaining authority from an adjuster/Employer, and in appropriate instances, by contacting the opposing party to initiate negotiations before the mediation.

### **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 should comply with the Special Rules of Administrative Procedure before Workers' Compensation Judges. Continuance Requests should be submitted through the Dispute Summary Requests tab on WCAIS as a continuance request. Other Requests that are not continuance requests should be submitted through the Dispute Summary Requests tab on WCAIS as a miscellaneous request unless the request fits within one of the pre-determined categories in the drop-down box on WCAIS.

#### **2. Under what circumstances do you conduct off the record conference calls?**

None. Requests for a conference call should be made in writing through the Dispute Summary Requests tab (conference call request) on WCAIS. If this Judge determines that a conference call is necessary, a call will take place on the first available hearing day to obtain an accurate record of the dispute.

#### **3. Under what conditions/circumstances do you accept e-mails from parties?**

All communications should be submitted in WCAIS with only minor exceptions. If you are requesting a response from the Judge to your communication, then please use the proper request in the dropdown menu through the Dispute Summary Requests tab. If your communication is merely providing a status on the case or submitting general information, such as a copy of a Notice of Deposition, then please submit a letter through the Dispute Summary Documents and Correspondence tab. An e-mail to the Judge should only be sent for the following reasons: a) you are responding to an e-mail sent to you directly by the Judge; b) you have an emergency on a hearing or mediation day that requires immediate notice to the Judge; c) you are requesting a voluntary mediation date; or d) you are forwarding an unredacted executed Compromise and Release Agreement at least 48 hours in advance of the Compromise and Release hearing. All counsel should be sent a copy of any e-mails sent to the Judge.

#### **4. Do you adhere strictly to the duration listed for a Hearing or Mediation?**

This Workers' Compensation Judge endeavors to stay within the allotted time scheduled for a hearing or mediation. The allotted time may be extended if there is sufficient time available to do so on the day of the hearing or mediation.

#### **5. What is the best way to contact you in an emergency situation?**

Make a request through the Dispute Summary Requests tab (continuance or miscellaneous request) on WCAIS. For an emergency on the day of the hearing/mediation, e-mail the Judge at [dkrass@pa.gov](mailto:dkrass@pa.gov) with a copy to all counsel.

#### **6. What is your snow/emergency cancellation policy regarding in-person and virtual events (i.e., do you follow a specific school district closing schedule, etc.)?**

There is no snow policy during teleworking. All hearings and mediations will go forward virtually on those days, unless specifically cancelled by the Judge. If the matter is scheduled for an in-person hearing or mediation on an inclement weather day, the event will only be cancelled and re-scheduled if the office is closed on that day. Please consult the Alerts section on the WCAIS Dashboard for information about office closures or specific hearing cancellations.

## 7. Use of the WCAIS system:

This Workers' Compensation Judge prefers that the majority of communications regarding a Dispute be made through the WCAIS system with the exceptions noted above. All parties should follow the Special Rules of Administrative Practice and Procedure before Workers' Compensation Judges, all ethical guidelines, and this Judge's procedures when using the WCAIS system. Ensure that your staff understands these rules and procedures.

- All uploading of documentation and Requests must be done through the Dispute Summary and not the Claims summary.
- Double check all information that you enter on WCAIS, particularly the information you enter on your pleadings (proper spelling of names, correct addresses, correct injury dates, etc.).
- Please review your Attorney Profile and fill out all fields, whether they are required or not. Please make sure that your telephone number and e-mail address are in your profile, even if you have chosen to receive WCAIS communications through regular mail rather than e-mail. This is necessary for proper communication with all counsel.
- Please use the Requests tab and not the Documents and Correspondence tab of the Dispute Summary when you are requesting an action by this Workers' Compensation Judge such as an interpreter request, continuance request, motion to quash subpoena, objection, withdrawal of petition, request for withdrawal of counsel, etc.
- Please use the appropriate request type in the Dispute Summary Requests tab. If you use the incorrect request type, your request will be denied.
- Please provide the position of all parties or information about your attempts to contact other parties when making a WCAIS request. If you fail to do so, your request will be denied.
- The withdrawal petition request is used to withdraw a Petition NOT to withdraw your appearance. Requests for withdrawal of appearance should be made as a miscellaneous request from the Dispute Summary Requests tab.
- An external party may choose to send a miscellaneous request if a request does not fit into one of the pre-determined WCAIS categories shown in the Dispute Summary Requests tab dropdown (e.g., Requests for withdrawal or substitution of appearance, motions, Requests for approval of stipulation, etc.).
- When you make a request through the Dispute Summary Requests tab, you will have the option to enter details about the request in a details box that will create a letter, to upload any letters or documents relevant to the request, and to choose the parties' positions regarding the request. Provide as much detail about the request as possible.
- The Dispute Summary Documents and Correspondence tab should be used to upload Notices of Deposition and any correspondence not requiring Judge action. A Notice of Deposition should be uploaded as a Notice of Deposition and not as a Letter to the Judge.
- Please familiarize yourself with the Quick Links Widget on your Dashboard. A link to the "WCOA Dashboard" is located on the upper right-hand side of the Dashboard and contains grids for "Upcoming Briefs", "WCOA Petitions/Answers", "WCOA Requests", and "Judge Communication". Most communications from the Judge's office will appear in the WCOA Requests and Judge Communications table. You can see the Judge Communications in real time, even if you have elected to receive WCAIS communications by regular mail rather than e-mail.
- If you upload a document through the Dispute Summary Exhibits tab on WCAIS and can see the document through the view hyperlink, WCAIS will provide notice of the upload to the Judge's office. There is no need to send an additional copy by any other method, unless specifically requested by the Judge.
- If you upload a document through the Dispute Summary Documents and Correspondence tab on WCAIS and receive confirmation of the upload, WCAIS will provide notice of the upload to the Judge's office. There is no need to send an additional copy by any other method, unless specifically requested by the Judge.
- All exhibits should be uploaded through the Dispute Summary Exhibits tab. Do NOT upload exhibits through any other tab.
- If you feel it is necessary to communicate with the Judge's office outside of the WCAIS system, then choose one communication method. Do NOT send the same correspondence by e-mail, regular mail, fax, and hand delivery. There is no need to send multiple copies of correspondence, particularly if it has been uploaded on WCAIS.

**8. Questions about Teams:**

All questions regarding accessing Microsoft Teams should be addressed to the WCAIS Resource Center at 1-800-482-2383.

**9. Request for an Interpreter:**

All requests for an interpreter should be made through the Dispute Summary Requests tab (interpreter request) on WCAIS at least 14 days in advance of any scheduled hearing or mediation date.