

JUDGE NAME: Charles Lawton DISTRICT: Western ASSIGNED OFFICE: Washington

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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?

I schedule a first hearing which is usually a half-hour long in anticipation of the claimant testifying. We normally will not have time for other testimony so I do not want the parties to bring additional witnesses. If I am notified promptly after the assignment of the petition of the need for additional time for completing the claimant's testimony, I will consider scheduling a hearing longer than a half-hour.

a. List any documents required at the first event:

I do not require a written first hearing filing, but I will accept them. I will expect the moving party to tell me orally how he/she is going to proceed with his/her case.

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

If they are going to be offered as exhibits, they should be uploaded as exhibits prior to the hearing. A first hearing filing should be uploaded as a letter to the judge.

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

I use serial hearings.

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

No.

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

Most of my hearings will continue to be scheduled as virtual hearings. I will almost always agree to an in-person hearing if one or both of the parties feel that it is necessary for a credibility determination or if it is a scar case requiring an in-person viewing. I will consider other factors as raised by the parties.

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

My understanding of our current policy is that any hearing where testimony is anticipated is to be scheduled as a video hearing and that for all other hearings it is still recommended that the parties be by video. I am

attempting to follow that policy, so I am really not scheduling any hearings as audio only, but I am not requiring the parties to appear by video for status hearings.

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

It depends on the facts of the case.

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

The only special procedure I have is that I may schedule additional time for the first hearing if I know it is a psychological injury case because my experience is that the claimant's testimony usually takes longer for these cases.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

See below.

a. Will testimony be heard?

I will normally expect the claimant to testify, just as at any other first hearing.

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

If a party requests up to 14 days to obtain medical evidence, I will defer ruling on the supersedeas request for up to 14 days consistent with our regulations.

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

I will always reconsider a supersedeas order if requested, but only after a hearing as required by our regulations. If the question is asking under what circumstances I would overturn a prior supersedeas ruling, that depends on the facts of each case, but obviously this may occur if some new evidence is offered, possibly new medical evidence or new surveillance evidence.

d. Do you generally use written orders for denials?

Yes.

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

If the fee agreement has been offered and it provides that counsel is entitled to a fee upon denial of a supersedeas request, then I will order the deduction of a fee in the supersedeas order.

f. Describe any other procedures for supersedeas hearings:

N/A

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

If it is a challenge petition, the hearing will usually be shorter than a normal first hearing and the evidence will be limited to the question of whether the claimant actually returned to work and continues to work.

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

See below.

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

Typically the claimant will testify at a virtual hearing. I will usually schedule a live hearing for the claimant's testimony if requested. I usually tell the parties that I prefer that other lay testimony be by deposition, but if either party wants to testimony to be by virtual hearing or at a live hearing, I would normally grant that request. I will also consider attending a deposition if requested, depending on where it is located.

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

See above.

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? At least 30 days so that we have the opportunity to schedule extra time at the hearing.

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

It depends on the facts of the case.

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

My staff would normally upload the bureau documents as a judge exhibit. They typically do not upload prior decisions. I may ask one of the attorneys to upload bureau documents if my staff has not done so or to upload prior decisions.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Before. I don't like to identify the exhibits at a hearing unless they are already uploaded. If before, how far in advance of the hearing must they be uploaded? I don't care as long as they are in there at the time of the hearing.

8. When will you rule on objections to exhibits?

Generally, I will rule on objections to exhibits at the time the objections are made during a hearing.

9. What is your procedure for handling discovery disputes?

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It depends on the facts of the case.

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

I don't really have a firm policy, but I would expect to get them no later than when the final brief is filed.

COMPROMISE & RELEASES (C&Rs)

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

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- 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.

- 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?

No.

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

Before.

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

Yes, and I will need both a redacted and unredacted copy, redacted meaning that the claimant's personal information, specifically the Social Security Number and date of birth, are removed.

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

Yes, although I will also need an unredacted copy of the Act 109 documents.

- f. Will you sign bench orders?

Yes, although the practice is not common in my part of the state.

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

None.

STIPULATIONS RESOLVING DISPUTES

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

I do not have any specific procedures other than that the regulations be complied with.

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

Separate Exhibit.

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

Yes.

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

I have no other specific requirements.

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

N/A.

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

Just as with a compromise and release, the parties should upload both a redacted and unredacted version of the Act 109 documents. There should not be any confidential information in the stipulation.

7. Describe any other procedures you have for stipulations:

N/A.

BRIEFS AND PROPOSED FINDINGS

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

WCAIS Submission. As long as I have some indication that both parties have rested, I will allow the record to close by electronic submission or by mail.

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

My normal schedule is to ask for proposed findings in 30 days from the moving party and 15 days thereafter from the opposing party. I don't have a set procedure if findings are late, but I would normally have my secretary contact the attorney to remind them that findings are due. In certain circumstances I will just close the record without contacting the attorney, but I would normally then send a letter stating that I have placed the case in line for decision.

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

I generally ask for proposed findings, but sometimes I will ask for a letter brief instead. I like the findings or brief to be as concise as possible.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

Washington is my primary office. I have also been conducting a limited number in Uniontown.

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

I will schedule all mediations as virtual mediations. However, if one or both of the parties requests that the mediation be converted to an in-person mediation, I would consider doing so. I do not have specific factors that I would consider, but I imagine that if the parties feel strongly that an in-person mediation would be preferable, I would consent to their request.

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

I have been doing them by video most recently, but I don't require the parties to be by video if they are unable to do so.

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

It is my understanding that we are not permitted to allow someone to participate virtually for an in person event.

5. Do you require a Mediation Statement? No. If yes:

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

n/a

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

n/a

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

n/a

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? It depends on the circumstances of the case. For example, if the parties request the postponement because they believe the mediation would be futile I might not reschedule it if I accept their conclusion, or I may leave it up to the assigned judge to make that determination. If so, how long until it is rescheduled? We will put it on in the next available slot, normally anywhere from two weeks to two months, unless the parties make some specific request in terms of scheduling.

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

Yes.

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

I don't have any specific time limit.

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

I prefer that the parties exchange a demand and offer prior to the mediation.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes.

2. How should the parties request a Voluntary Mediation?

I believe they can submit a request through WCAIS.

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

Washington.

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

Yes. I don't really have any restrictions regarding what district they have to be from.

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:

Yes. I have no special procedures.

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

Please see my answer regarding mandatory mediations.

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

Please see my answer regarding mandatory mediations.

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

Please see my answer regarding mandatory mediations.

10. Do you require a Mediation Statement? Please see my answer regarding mandatory mediations. If yes:

a. What information do you require in that Statement?

Please see my answer regarding mandatory mediations.

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

Please see my answer regarding mandatory mediations.

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

Please see my answer regarding mandatory mediations.

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

I would expect it would be 30 to 60 days.

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

Yes.

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?

I believe if they submit a WCAIS request to postpone mediation, it now goes to the mediating Judge.

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

Please see my answer for mandatory mediations.

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

Please see my answer for mandatory mediations.

REQUESTS/MISCELLANEOUS

1. How far in advance do you require Requests for continuances, changes in hearing times, and extensions to be uploaded into WCAIS?

I do not have a set time limit. If all parties agree to the request, there is usually not a problem with a last minute request.

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

It depends on the facts of the case. I would normally schedule a conference call if one is requested.

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

I normally would not want to communicate personally by email with the parties, but my secretary often uses email to communicate with attorneys. I actually prefer that my secretary use email because then the other side can be copied and there is no question of it being an ex parte communication.

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

I will go over the allotted time within reason, but I do not like to keep the parties for my other hearings waiting so at some point I will stop the hearing and state that we will have to come back on another day to finish. With virtual hearings it becomes more important to stick to the schedule when I have other parties waiting for the next hearing who do not know that my prior hearing is running long.

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

Please see my assistant's direct dial number at the top of this questionnaire.

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.)?

I believe we still follow the Trinity School District in terms of cancelling live hearings if the school district cancels school because of the weather. I don't believe it would be necessary to cancel virtual hearings due to the weather, but I will follow whatever policy is established by WCOA.