

JUDGE'S PROCEDURAL RULES AND POLICIES

Workers' Compensation Automation and Integration System (WCAIS) is the official repository for all documents related to a Dispute (matter pending) before a Workers' Compensation Judge. All documents, including evidence and briefs, that would have been submitted to a Workers' Compensation Judge by mail or in person prior to WCAIS should now be uploaded into WCAIS. If Social Security numbers appear on any such document, the first five numbers should be redacted before the document is uploaded, unless otherwise specified below. Requests, such as Requests for Continuance and Subpoenas, should also be made through WCAIS.

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

FIRST EVENTS

1. **What is the first event (i.e. pretrial, hearing, conference call) and what will occur?** Hearing. Both sides present documentary evidence and, if time allows, witness testimony.
2. **List any documents required at the first Event:** First Hearing Statements are permitted but not required. Admissibility of uploaded exhibits will be determined at the time of the hearing.
 - a. **Should docs be uploaded as Exhibits or Letters to the Judge?** Letter to Judge. First Hearing Statements are not considered evidence and should be uploaded as a document.
 - b. **Should docs be uploaded before or after the first Event?** Before. Exhibits that the party wants included as part of the evidentiary record should be uploaded upon receipt.

SUPERSEDEAS PROCEDURES

1. **What are your procedures for supersedeas hearings?** Counsel should be prepared to offer testimony from the Claimant.
 - a. **Will testimony be heard?** Yes [Click or tap here to enter text.](#)
 - b. **Is additional time generally granted to obtain medical evidence?** Yes. Additional time is permitted with the consent of the opposing party.
 - c. **Under what circumstances will you reconsider a supersedeas order?** Supersedeas may be reconsidered at a subsequent hearing or upon written request.
 - d. **Do you generally use written orders for denials?** Yes A written Supersedeas Order will be issued following the initial hearing.
 - e. **What is required for employee's counsel to obtain interim fee approval?** Submit an executed fee agreement as required by the Act and WCJ Rules.
 - f. **Describe any other procedures for supersedeas hearings:** Procedures are in accordance with the Act and WCJ Rules.
 - g. **Describe procedures for special supersedeas hearings, if different:** Procedure does not differ.

HEARINGS

1. **Describe the structure of your hearings and whether you are willing to change your hearing format:** Hearing format is determined by the nature of the Petition. In most instances serial hearings are conducted.
 - a. **Are you willing to change the hearing format upon request?** Choose an item. [Click or tap here to enter text.](#)

2. **Are you willing to allow counsel to participate by telephone?** Yes. Participation by telephone is permitted with consent of opposing counsel. A request in advance of the hearing is recommended.
3. **What procedure do you follow if a party fails to appear at a hearing?** Party will be provided with an opportunity to explain their absence.
4. **Do you have special procedures for psychological injury cases?** No. Parties should advise in advance of the first hearing if “special procedures” are warranted.

WITNESSES/EXHIBITS

1. **What are your rules regarding taking testimony?** [Click or tap here to enter text.](#)
 - a. **Do you prefer testimony at a hearing or by deposition?** Hearing [Click or tap here to enter text.](#)
 - b. **If a counsel wishes to bring a witness to a hearing, do you require prior notice?** No **If yes:**
 - i. **How much notice do you require?** Advance notice is preferred. Counsel should also consult with opposing counsel in advance and note time allotted for scheduled hearing. Hearings can be specially set for the taking of lay or expert witness testimony.
2. **Under what circumstances will you permit a party or witness (including an expert witness) to testify by deposition, phone, or videoconference, rather than appear at the hearing?** Not preferred, but for good cause. Testimony of expert medical witnesses should be taken by deposition.
3. **What is your procedure regarding the order of testimony with respect to submission of medical evidence, particularly when cross petitions are filed?** No depositions required until all sides have notice of what is at issue. Party with the burden of proof will be required to proceed first.
4. **Do the parties need to upload the Bureau and WCOA documents as exhibits or will you admit them electronically as Judge exhibits?** Judge [Click or tap here to enter text.](#)
5. **Do you require counsel to upload exhibits to WCAIS before or after the hearing?** Before **If before:**
 - a. **What is the latest day before the hearing that they may be uploaded?** Exhibits should be uploaded as soon as possible before the scheduled hearing. Parties should upload Bureau documents that have not been filed with the Bureau.
6. **Do you require counsel to bring exhibit hard copies to the hearing?** No. Only Compromise and Release Agreements and Act 109 Affidavits should be produced in hard copy and not uploaded.
7. **When will you rule on objections to exhibits?** At the time the objection is preserved. It is recommended that objections be preserved within 30 days of when the applicable exhibit is offered.
8. **What is your procedure for handling discovery disputes, e.g. do you employ telephone conferences, do you prefer to attend certain depositions, etc.?** Telephone conferences can be used to resolve discovery disputes. Judge’s attendance at a deposition will be entertained upon request of a party or at the Judge’s discretion.
9. **What is the last day to file written preservations of deposition objections?** With proposed findings of fact but dispositive objections should be raised as soon as possible.

COMPROMISE & RELEASES (C&Rs)

1. **Describe your procedures regarding the review of C&R Agreements:** [Click or tap here to enter text.](#)
 - a. **Are you willing to allow amendments of existing petitions or do you require the filing of a separate Petition Seeking Approval of a C&R Agreement?** Amendments. A separate petition is required where the parties seek a decision on the merits of a pending petition.

- b. Are parties required to provide a draft of the C&R Agreement before the hearing? No If yes:**
- i. How far in advance of the hearing do you need to receive it?** Draft copy is not required but preferred two days before the scheduled hearing. This aids in the preparation for the hearing and the issuance of a Decision.
 - c. Should the parties upload the C&R Agreement, including the fee agreement and any other attachments, before or after the hearing?** After. The executed C&R Agreement will be marked as a Joint Exhibit and uploaded by the Judge following the hearing.
 - d. Should child support docs be uploaded as a separate exhibit?** Yes. The Act 109 and Lien Search documents will be uploaded as a separate exhibit for the Claimant by the Judge following the hearing.
 - e. What other exhibits should be uploaded as part of the C&R Agreement or as separate exhibits (i.e., waiver of appeal, medical bills, etc.)?** Fee agreement is required. Costs, court orders, CMS documents and any additional documents will be included upon agreement of the parties.
 - f. Should they be a part of the C&R Agreement or separate exhibits?** [Click or tap here to enter text.](#)
 - g. When should SSNs and other confidential information be redacted from the C&R Agreement and Act 109 documents?** The Judge will redact confidential information following the hearing.
 - h. Will you sign bench orders?** No. The parties will be advised at the conclusion of the hearing if the Claimant has demonstrated the required level of understanding for approval of the C&R.
 - i. Describe any other procedures you have for C&R Agreements:** If employee is resigning from employment as an essential part of the compromise settlement of the workers' compensation claim, that fact must be placed on the record. An agreement that resolves "any and all injuries" will be permitted but with a caveat regarding its enforceability. All documents should be executed/witnessed before entering the hearing room.

STIPULATIONS (STIPs) RESOLVING DISPUTES

- 1. What are your usual procedures regarding the submission, review, and adoption?** Stipulations should comply with the WCJ Rules which includes a requirement that Stipulations be signed by the claimant as well as counsel.
- 2. Should the fee agreement be part of the stip or separate exhibit?** Separate Exhibit. Fee should also be described in the Stipulation.
- 3. Should child support documents be uploaded as a separate exhibit?** Yes. The Act 109 and Lien Search documents will be uploaded as a separate exhibit for the Claimant by the Judge following the hearing.
- 4. What other exhibits should be uploaded (i.e. medical bills, etc.)?** The Stipulation will be circulated as part of the Decision.
 - a. Should they be part of the stip or a separate exhibit?** Exhibits will not be circulated and should be uploaded separately even if referenced in the Stipulation.
- 5. When should SSNs and other confidential information be redacted from the stip and Act 109 documents?** WCJ will redact confidential information from any Stipulation and Act 109 document.
- 6. Describe any other procedures you have for stips:** Parties should be specific in describing what issues/petitions are being resolved by the Stipulation.

BRIEFS AND POST-HEARING SUBMISSIONS

- 1. Will you close a case via WCAIS submission or is a final hearing required?** Final Hearing. Any subsequent electronic submissions should be determined at the final hearing so that there is no dispute regarding admissibility.

2. **What are the time requirements for submissions and what procedures are taken when time requirements aren't met?** Proposed Findings are due 45 days from the close of the record. Allotted time may be reduced or increased with consent of the opposing party.
3. **Describe any preferences regarding the format and content of submissions:** Proposed Findings unless otherwise directed.

MANDATORY MEDIATIONS

1. **List the offices where you conduct mandatory mediations:** Brookville and Pittsburgh.
2. **Do you require all participants to attend in-person?** No
 - a. **Under what circumstances do you permit attendance by phone?** Attendance by phone is permitted but not encouraged.
3. **Do you require a Mediation Statement? Yes If yes:**
 - a. **What information do you require in that Statement?** A brief position statement with a demand/offer is suggested. Format of the statement is not critical. The statement, however, should include the following: employee's date of birth; date of injury; nature of accepted injury; AWW and weekly benefit rate; liens; outstanding medical expenses; support issues; and whether a resignation will be required. Party should also list any impediments to settlement. While a Statement is not required, the preparation and submission of a Statement improves the likelihood of a successful mediation.
 - b. **What documents, if any, must accompany the Statement?** Any record not already marked as an exhibit that a party believes is important. This would include medical reports and applicable Bureau documents.
 - c. **How far in advance of the mediation must the parties submit the Statement and accompanying documents?** Two days.
4. **After you approve a Mediation Request, how long until it's scheduled?** Mandatory Mediations are generally scheduled when requested at the time of hearing.
5. **Are you willing to conduct more than one session per Dispute?** Yes. If it appears that additional time is needed, another session will be scheduled.
6. **If the party wants to request cancellation or postponement of a mediation on a Dispute assigned to you, should they contact you or the mediating Judge? You If you:**
 - a. **What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?** 24 hours must be provided.
7. **What else should the parties know or do before the mediation?** Parties should discuss the process with their clients and exchange at least one settlement demand and offer before the scheduled mediation.

VOLUNTARY MEDIATIONS

1. **Do you conduct Voluntary Mediations?** Yes. Voluntary mediations will be scheduled upon receipt of a request submitted via WCAIS.
2. **List the offices where you conduct voluntary mediations:** Brookville and Pittsburgh
3. **Do you mediate Disputes assigned to you for hearing and decision?** Yes. With agreement of the parties and where the Claimant's credibility is not an issue.
4. **Do you mediate Disputes in which one or both parties are unrepresented? Yes If yes:**
 - a. **Describe any special procedures:** Same procedures as in Mandatory Mediation.

5. **Do you require parties to execute an agreement to mediation?** No **If yes:**
 - a. **Describe the matters addressed by the agreement:** An agreement is not required.
6. **Do you require all participants to attend in-person?** No
 - a. **Under what circumstances do you permit attendance by phone?** Same as in Mandatory Mediation procedure. Participation by telephone is not encouraged.
7. **Do you require a Mediation Statement?** Yes **If yes:**
 - a. **What information do you require in that Statement?** Same procedure as for Mandatory Mediations.
 - b. **What documents, if any, must accompany the Statement?** Any reports or records that the party believes is significant.
 - c. **How far in advance of the mediation must the parties submit the Statement and accompanying documents?** Two days.
8. **After you approve a Mediation Request, how long until it's scheduled?** Voluntary Mediations can be scheduled at the convenience of the parties by contacting my Brookville office.
9. **Are you willing to conduct more than one session per Dispute?** Yes. Additional sessions will be scheduled as needed.
10. **If the party wants to request cancellation or postponement of a mediation on a Dispute assigned to you, should they contact you or the mediating Judge?** Mediating Judge **If you:**
 - a. **What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?** 24 hours.
11. **What else should the parties know or do before the mediation?** Preparation and exchange of a settlement offer and demand in advance improves the likelihood of success.

REQUESTS/MISCELLANEOUS

1. **How far in advance do you require Requests for continuances, changes in hearing times, and extensions to be uploaded into WCAIS?** 24 hours with consent of opposing party.
2. **Under what circumstances do you conduct conference calls?** If there will be no witness testimony, a conference call is preferred to save time and resources.
3. **Under what circumstances do you accept faxes and e-mails from parties?** Encourage the most efficient means of communication between all parties.
4. **Do you adhere strictly to duration listed for a Hearing or Mediation?** Yes. Duration of hearing or mediation will be adjusted based on circumstances presented at the time. Parties must respect the impact of exceeding scheduled time on others.
5. **What is the best way to contact you in an urgent situation?** E-mail: jmctiernan@pa.gov or phoning my office @ 814-849-5382.
6. **What is your snow/emergency cancellation policy (i.e., do you follow a specific school district closing schedule, etc.)?** Consistent with posted WCOA policy. Pittsburgh WCOA schedule is governed by the Pittsburgh Public School schedule. Brookville WCOA schedule is on a case-by-case basis.