

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?

All first hearings are pretrial hearings. No testimony will be taken at a first hearing. The moving party is required to provide a hard copy of the relevant bureau documents at the first hearing.

At the first hearing on defense driven petitions, both claimant and defendant are required to provide supersedeas evidence. Claimant must provide some evidence in opposition to supersedeas at the first hearing, except in exigent circumstances.

At the first hearing on all petitions, the parties shall advise the judge of the issues in dispute and the additional evidence to be presented. The judge will issue a scheduling order and address mandatory mediation on the record. The parties must be prepared to address issues relating to mandatory mediation.

Evidence is not admitted by mail, unless the judge specifically grants permission to do so. Such permission will be granted on a case-by-case basis. The judge requires hard copies of all evidence and evidence is not to be uploaded until after it has been admitted at a hearing on the record.

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:

The moving party is required to provide a hard copy of the relevant bureau documents at the first hearing. Both parties are required to present supersedeas evidence at a first hearing on a defense driven petition.

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

Exhibits **Documents**

Further explanation:

Please do not upload "first hearing filings" in WCAIS as this Judge does not require them. Bureau documents admitted at the first hearing must be uploaded as exhibits.

- b. Should first hearing filings be uploaded before or after the first hearing?

Before **After**

Further explanation:

Evidence should never be uploaded until it has been moved into evidence at a hearing.

3. What are your procedures for supersedeas hearings?

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

Further explanation:

Both parties are required to submit supersedeas evidence at the first hearing except in exigent circumstances.

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

Further explanation:

Unless counsel was just retained within a few days of the first hearing, the parties will not be granted additional time for supersedeas. Other exigent circumstances may require additional time for supersedeas evidence but, as a general rule, all supersedeas evidence must be presented at the supersedeas hearing. It will be handled on a case-by-case basis.

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

Late discovered evidence or a change in circumstances may require reconsideration of supersedeas. It is handled on a case-by-case basis.

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

Further explanation:

In situations where claimant's counsel is not seeking approval of a fee with supersedeas, the judge will not issue a written denial.

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

Interim fee approval requires that counsel demonstrate that, through counsel's efforts, claimant received or continued to receive benefits.

- 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:

[Click here to enter text.](#)

4. Do you use a one-day/one-hearing format or serial hearings? Please describe the structure of your hearings. Please indicate if you are willing to change your hearing format upon request of all parties.

The judge uses a serial hearing format. Generally, cases are re-listed every 90 days but the parties may opt to have a first hearing and a final hearing only. Trial schedule deadlines must be followed regardless of when cases are re-listed. Mediation does NOT delay the trial schedule.

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

Further explanation:

Participation in hearings or mediations via telephone is a rarity, not the norm.

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

The party that fails to appear risks dismissal of their petition or the granting of a petition adverse to the party that fails to appear.

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

Further explanation:

[Click here to enter text.](#)

Witnesses/Exhibits:

8. What are your rules regarding the taking of testimony?
- a. Do you prefer the testimony be taken at a hearing or by deposition?
- Hearing** **Deposition**
- b. If counsel wishes to bring a witness to a hearing, do you require prior notice? If so, how much notice do you require? **Yes** **No**

Further explanation:

Testimony is not taken at a first hearing. Generally, claimant testimony on a claimant driven petition is taken within 30 days of the first hearing via deposition. Claimant is permitted to testify in follow up at a subsequent hearing, if scheduled in advance of the hearing. Any live testimony at a hearing requires a minimum of 30 days advanced notice so that the hearing is scheduled accordingly.

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?

Any party may testify via deposition if the parties agree to the same. Generally, the judge does not allow any party to testify at a hearing via telephone. Permission to participate in a hearing via telephone is granted on a case-by-case basis but it is a rarity, not the norm, and pre-approval from the judge 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 moving party must present its medical evidence first. With cross-petitions, generally the party who first filed is required to present medical evidence first.

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:

Do not upload any exhibits until the judge has admitted it into the record at a hearing.

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

Further explanation:

Hard copies of all exhibits (including litigation costs, quantum meruit exhibits, Act 109 documents, and preserved objections) and briefs are required – no exceptions.

14. When will you rule on objections to exhibits?

Generally, the judge will rule on objections to exhibits at the time the objection is made on the record at a hearing.

15. What is your procedure for handling discovery disputes, e.g., do you employ telephone conferences, do you prefer to attend certain depositions, etc.?

All parties are required to comply with the rules of discovery in a timely manner – no exceptions. Unless placed on the record at a hearing, discovery disputes shall be put in writing, identifying the issue and the respective positions of the parties.

The judge rarely conducts conference calls but, if a party desires a conference call, the parties must make a request that complies with the Special Rules of Administrative Practice and Procedure. A request will not be considered unless it complies with the Rules.

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

As a courtesy to the parties, written preserved objections may be submitted at the time of the submission of briefs. However, the written preserved objections must be a separate writing from the brief and the judge requires both a hard copy and an upload to WCAIS as an exhibit before the judge will consider the same.

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:

[Click here to enter text.](#)

- b. Do you require the parties to provide you with a draft of the Compromise and Release Agreement to review before the hearing? If so, how far in advance of the hearing do you need to receive it? **Yes** **No**

Further explanation:

[Click here to enter text.](#)

- c. Should the parties upload the Compromise and Release Agreement, including the fee agreement and any other attachments, before or after the hearing?

Before **After**

Further explanation:

The parties do not need to upload C&R agreements. The judge's office will upload the agreements after the hearing.

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

Further explanation:

[Click here to enter text.](#)

- e. What other exhibits should be uploaded as part of the Compromise and Release Agreement or as separate exhibits (i.e., waiver of appeal, medical bills, etc.). Please indicate whether they should be uploaded as part of the Compromise and Release Agreement or as separate exhibits.

Waiver of appeal forms, litigation costs, and CMS documents should be uploaded as part of the C&R Agreement.

- 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 and other confidential information should not be redacted until after the judge has had an opportunity to review the documents at the C&R hearing. All redactions should occur after the C&R hearing but before uploading to WCAIS.

- g. Will you sign bench orders? **Yes** **No**

Further explanation:

The judge will sign bench orders when the C&R agreement and all attachments are complete and when both parties waive their right to file an appeal.

- h. Do you have any other procedures for Compromise and Release Agreements not described above? If so, what are they? **Yes** **No**

Further explanation:

[Click here to enter text.](#)

18. Please provide the following information regarding Stipulations resolving Disputes:

- a. What are your usual procedures regarding the submission, review, and adoption of such Stipulations?

Stipulations must comply with the Special Rules of Administrative Practice and Procedure. The judge requires that the parties provide a hard copy of the stipulation and attachments with original signatures.

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

Further explanation:

[Click here to enter text.](#)

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

Further explanation:

[Click here to enter text.](#)

- d. What other exhibits should be uploaded as part of the Stipulation or as separate exhibits (i.e., medical bills, etc.)? Please indicate whether they should be uploaded as part of the Stipulation or as separate exhibits.

[Click here to enter text.](#)

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

The social security number and other confidential information should not be redacted until after the judge has reviewed the stipulation and attachments but before uploading to WCAIS. The judge's office will upload stipulations.

- 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:

Generally, all evidence is taken at a hearing on the record.

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?

Generally, the parties have the opportunity to choose the briefing schedule within reason. The judge sets the deadlines at the last hearing and the parties must follow the same unless the judge has granted an extension. The judge does not send reminders about deadlines and a decision will be circulated when the briefing schedule has expired regardless of whether briefs are submitted.

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

Proposed Findings of Fact should start with a procedural history, followed by a concise summary of relevant evidence (please do not copy and paste deposition transcripts), followed by credibility determinations with the basis for the same, and then the specific factual findings. Proposed Conclusions of Law should address the burdens of proof. The supporting brief should cite relevant cases and apply the law to the facts of the case and cite to the record. A copy of the case law relied upon should be provided with the brief. Hard copies of briefs must be provided to the judge in addition to uploading the brief.

Mandatory Mediations

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

Malvern

23. Do you require the parties to execute an agreement to mediate? If so, please describe the matters to be addressed by the agreement. **Yes** **No**

Further explanation:

[Click here to enter text.](#)

24. Do you require all participants (claimant, adjustor/employer representative, counsel) to attend the mediation personally? Under what circumstances do you permit a participant to attend by telephone, if any? **Yes** **No**

Further explanation:

Click here to enter text.

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

If so:

a. What information do you require in that Statement?

The statement should outline the assigned judge, currently pending petitions, AWW and TTD rate, current status of receipt of benefits, outstanding medical bills, social security and medicare issues, child support arrears, status of negotiations to date (negotiations should begin before the mediation). The statement should also briefly explain the facts and the reasons for the settlement values placed by the parties.

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

None. Do not include evidence, medical reports or any other additional documents when submitting a mediation statement.

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

Statements must be submitted at least 3 business days in advance of the mediation and hard copies of the statements must be received at least 3 business days in advance.

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

Mandatory mediations are scheduled at the first hearing and the parties are permitted to choose a date that they will be ready to move forward with mediation. Generally, mediations occur two to three months after the first hearing but can occur later if the parties choose a later date.

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?

Postponement requests should be sent to the mediating judge. WCAIS is not the appropriate tool to send a postponement request because the mediating judge does not receive notification of the request.

Cancellation requests should be sent to the assigned judge for litigation to make a determination of futility.

- 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?

Requests should be made at least 10 days before the mediation.

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

Yes No

Further explanation:

Mediation does NOT delay the trial schedule in cases heard by this judge.

Voluntary Mediations:

30. Do you conduct Voluntary Mediations? Yes No

Further explanation:

The judge will conduct voluntary mediations on cases that are not assigned to the judge for litigation. The judge does not mediate her own cases under any circumstances.

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

Malvern

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:

The attorneys are required to contact the judge via email to request mediation. Dates are provided only after both parties confirm via email that they and their clients will abide by the rules set forth by the judge which include attending in person, attending fully prepared for mediation and with reasonable settlement authority, providing a hard copy of a mediation statement 3 business days in advance, etc.

35. Do you require all participants (claimant, adjustor/employer representative, counsel) to attend the mediation personally? Under what circumstances do you permit a participant to attend by telephone, if any? **Yes** **No**

Further explanation:

[Click here to enter text.](#)

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

Further explanation:

A hard copy of a mediation statement must be RECEIVED at least 3 business days in advance of the mediation or the voluntary mediation will be cancelled.

If so:

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

The statement should outline the assigned judge, currently pending petitions, AWW and TTD rate, current status of receipt of benefits, outstanding medical bills, social security and medicare issues, child support arrears, status of negotiations to date (negotiations should begin before the mediation). The statement should also briefly explain the facts and the reasons for the settlement values placed by the parties.

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

None.

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

A hard copy of a mediation statement must be RECEIVED at least 3 business days in advance of the mediation or the mediation will be cancelled.

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

Generally, it takes no more than 30 days until a mediation occurs but it depends on the availability of all parties involved including the judge.

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?

For voluntary mediation, the mediating judge should be contacted for all such requests.

b. If you are to be contacted, what is the latest day before the mediation that cancellation or postponement, absent an emergency situation, can be requested?

[Click here to enter text.](#)

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

Yes No

Further explanation:

This judge requires that someone with approving authority be available at the time of the mediation and that the parties come prepared with all relevant details of the case (i.e. social security status, amount of outstanding medical bills, etc).

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?

The judge follows the Special Rules of Administrative Practice and Procedure with regard to continuance requests and requests for extensions in the trial schedule. The Rules are strictly enforced.

Mediation does NOT delay the trial schedule in cases heard by this judge.

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

Further explanation:

The judge does not generally conduct conference calls. The judge hears all arguments and takes all evidence on the record at a hearing.

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

Yes No

Further explanation:

The judge accepts faxes. Emails to the general WCOA Malvern resource email account are permitted as well but emails to the judge's direct email account are strictly prohibited unless it involves voluntary mediation sent directly from an attorney, not staff.

44. Do you adhere strictly to duration listed for a hearing or mediation or are you willing to go over the allotted time? **Yes** **No**

Further explanation:

The judge conducts a "call of the list" for all hearings and parties are required to appear ready to proceed at the time listed on the hearing notice. Mediations are held for the duration listed on the notice.

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

The parties should contact the judge's secretary via telephone. Ex-parte communications with the judge are never permitted.

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

The judge takes a common sense approach to snow/emergency issues. If a party believes that weather conditions are too dangerous or has some sort of emergency, the party is expected to call the judge's secretary immediately and explain the circumstances that created the last minute continuance request (i.e. weather conditions in your area or emergency situation). The requesting party is required to contact the remaining parties and advise whether the judge has granted the continuance request so that they do not make a wasted trip. A follow up letter of explanation must be sent by the requesting party to document the file. The judge will grant continuances liberally in snow/emergency situations as long as the above criteria is met.