

## **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? The first event is generally a hearing. I expect the moving party to identify the relief being sought and the evidence anticipated. I expect the responding party to identify defenses to the pending Petition and the evidence anticipated. I would like the Clamant to testify.
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:**

Click here to enter text.

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

**Exhibits**  **Documents**

#### **Further explanation:**

Click here to enter text.

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

**Before**  **After**

**Further explanation:**

[Click here to enter text.](#)

3. What are your procedures for supersedeas hearings?

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

**Further explanation:**

I expect the Claimant to testify at the supersedeas hearing.

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

**Further explanation:**

A reasonable extension of time will generally be granted if the responding party requires additional time to obtain medical evidence in response to the supersedeas request.

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

I will reconsider supersedeas if I am provided with new evidence relevant to the previously circulated supersedeas order.

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

**Further explanation:**

[Click here to enter text.](#)

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

An executed fee agreement must be submitted.

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.

I utilize serial hearings. The first hearing is for testimony from the Claimant. Testimony from additional fact witnesses can be completed at subsequent hearings or by deposition if all parties are in agreement. If there are no additional fact witnesses, a status hearing will generally be scheduled to ensure the parties are proceeding with depositions, resolve any disputes that may have arisen, and determine whether mediation needs to be scheduled. Updated or rebuttal testimony from the Claimant will be heard at the final hearing, upon request of one or both of the parties.

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

**Further explanation:**

[Click here to enter text.](#)

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

The first time a party fails to appear at an event, I will generally continue the event and relist for my next availability. When a part fails to appear on multiple occasions, I will entertain and grant appropriate motions for dismissal, closure of the record, etc.

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:**

Notice of intent to present a witness at a hearing (other than the Claimant at the first hearing) should be provided prior to circulation of the hearing notice or as soon as possible following circulation of the hearing notice.

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?

Expert witnesses may almost always testify by deposition. Fact witnesses testifying primarily to authenticate documents may also testify by deposition. Fact witnesses testifying regarding specific events in which credibility is critical should generally testify in person at a hearing. If it is unusually difficult for a fact witness to appear at a hearing (for instance, if the witness resides in a distant state), the witness may testify by telephone during a hearing or by deposition.

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 should present its medical evidence first. When there are cross-petitions, the party which filed the first petition should present its medical evidence first. If the cross petition raises new issues not addressed by the initial petition, the party which filed the first petition should begin by presenting its medical evidence on that first petition. The party filing the cross-petition would then present its medical evidence, and the party which filed the first petition would then have the opportunity to present its medical evidence in opposition to the cross-petition.

11. Do the parties need to upload the Bureau documents as exhibits or will they automatically be made Judge Exhibits? **Parties Upload**  **Judge**

12. Do you require that counsel upload exhibits to WCAIS before or after the hearing? If before, what is the latest day before the hearing that they may be uploaded? **Before**  **After**

**Further explanation:**

I do not have a requirement or a preference in terms of when exhibits are uploaded to WCAIS. In many respects, the timing depends upon the exhibit being uploaded. As I would prefer to be given hard copies of deposition transcripts, the original transcripts should be uploaded to WCAIS before hearings. However, as Compromise and Release Agreements are often not fully executed until the hearing, C&R agreements should be uploaded to WCAIS after hearings.

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

**Further explanation:**

I do not "require" counsel to bring hard copies of exhibits to the hearings. However, I prefer to receive hard copies of exhibits, and I believe that a hard copy of each exhibit should be provided to the opposing party.

14. When will you rule on objections to exhibits?

Rulings on objections will be made when the exhibits are discussed during hearings. If the dispute is closing by mail or through WCAIS following a final hearing, I will rule on objections prior to circulating the final Order.

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

I generally address discovery disputes during hearings or by conference call. I am willing to attend depositions if the parties believe it is necessary and my schedule permits.

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

Written preservations of depositions objections may be submitted with Proposed Findings of Fact and Conclusions of Law. The preserved objections should be in the form of a letter, which should be uploaded to WCAIS as an exhibit.

**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:**

[Click here to enter text.](#)

- 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.

Waivers of appeal, medical bills specifically discussed in the Compromise and Release Agreement, Medicare Set-Aside approvals or proposals, and other items of a similar nature should be uploaded as part of the Compromise and Release Agreement.

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

Confidential information should be redacted from the C&R Agreement and Act 109 documents subsequent to the hearing on the C&R, but prior to uploading those documents as exhibits.

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

**Further explanation:**

[Click here to enter text.](#)

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

**Further explanation:**

[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 should be uploaded to WCAIS as exhibits. I will review the Stipulation and circulate a Decision adopting the Stipulation if I am satisfied that it complies fully with the Judges' Rules. If I have questions or concerns regarding the Stipulation, I will contact the parties to discuss and attempt to resolve those concerns.

- 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.

Any other exhibits specifically referenced in the Stipulation should be uploaded to WCAIS as part of the Stipulation.

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

Confidential information should be redacted from the Stipulation and Act 109 documents before they are uploaded to WCAIS. You should send me paper copies of those exhibits prior to redactions so that I may verify the accuracy of the lien search.

- 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:**

[Click here to enter text.](#)

20. What are the time requirements for the submission of briefs and other post-hearing submissions? Do you have any procedure if the briefs or post-hearing submissions are not received in a timely manner?

I will establish a briefing schedule on the record at a final hearing, or I will circulate a written briefing schedule in disputes in which the record closes by WCAIS after the final hearing. The moving party's brief is generally due first, with the responding party's brief due shortly thereafter. When there are cross-petitions, the briefs are generally due simultaneously. In the event that briefs are not received at the expiration of the briefing schedule, I generally attempt to contact the party from whom a brief is outstanding. However, once the deadline for submission of briefs has passed, I may circulate a Decision at any time, whether or not briefs have been received. It is your responsibility to submit briefs timely.

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

I prefer to receive Proposed Findings of Fact and Conclusions of Law that closely adhere to the format I utilize in my Decisions. Additionally, a short letter brief addressing specific legal issues or highlighting certain facts can sometimes be helpful.

### **Mandatory Mediations**

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

Harrisburg

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:**

Counsel for both parties should always be present. Unless it is unusually difficult for a claimant to appear at mediation (for instance, if the claimant resides in a distant state), the claimant should also personally attend the mediation. I generally do not require employer representatives or adjusters to attend mediations in person; although the personal presence of such individuals can assist with a successful mediation.

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

If so:

a. What information do you require in that Statement?

The mediation statement should list: the parties involved; the date and nature of the work injury; the average weekly wage and compensation rate; the petitions currently pending; a brief statement of the parties' positions on the current litigation; a brief statement of the strengths and weaknesses of each party's case; and a summary of settlement expectations, as well as demands and offers which have been exchanged.

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

No documents are required with the Mediation Statement, although I will review any documents which are attached.

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

The Mediation Statement should be provided 24 hours in advance of the mediation.

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

I strive to schedule mediations as quickly as possible once a request is received. Generally mediations can be scheduled within 45 days.

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?

The party requesting cancellation should contact both me and the mediating judge.

- 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?

The day prior to the mediation.

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

**Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

**Voluntary Mediations:**

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

**Further explanation:**

[Click here to enter text.](#)

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

Harrisburg

32. Are you willing to mediate Disputes that are assigned to you for hearing and decision?

Yes  No

**Further explanation:**

I prefer that disputes assigned to me for hearing and decision be mediated by another Judge. In limited circumstances, upon the request of all parties, I will agree to mediate a case assigned to me for hearing and decision. In that event, the parties are required to complete a Voluntary Mediation/Settlement Conference Agreement. \*Insert Link to Patrick Sheldon Form – Voluntary Mediation Agreement here\*

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:**

In the rare instance that I mediate a case assigned to me for hearing and decision, the parties are required to complete a Voluntary Mediation/Settlement Conference Agreement.

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:**

Counsel for both parties should always be present. Unless it is unusually difficult for a claimant to appear at mediation (for instance, if the claimant resides in a distant state), the claimant should also personally attend the mediation. I generally do not require employer representatives or adjusters to attend mediations in person; although the personal presence of such individuals can assist with a successful mediation.

36. Do you require a Mediation Statement? Yes  No

**Further explanation:**

[Click here to enter text.](#)

If so:

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

The mediation statement should list: the parties involved; the date and nature of the work injury; the average weekly wage and compensation rate; the petitions currently pending; a brief statement of the parties' positions on the current litigation; a brief statement of the strengths and weaknesses of each party's case; and a summary of settlement expectations, as well as demands and offers which have been exchanged.

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

No documents are required with the Mediation Statement, although I will review any documents which are attached.

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

The Mediation Statement should be provided 24 hours in advance of the mediation.

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

I strive to schedule mediations as quickly as possible once a request is received. Generally mediations can be scheduled within 45 days.

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?

A party wishing to cancel or postpone a voluntary mediation should contact me.

- 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?

The request for cancellation or postponement should be submitted no later than the day prior to the scheduled mediation.

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

**Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

**Requests/Miscellaneous:**

41. What is your procedure regarding continuances, changes in hearing times and extensions, i.e., how far in advance do you require the Request be uploaded into WCAIS?

As long as there is no objection to the request for continuance, rescheduling, extension, etc.; said request may be uploaded to WCAIS at any time.

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

**Further explanation:**

I will conduct a conference call at the request of the parties.

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

**Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

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

**Further explanation:**

I am willing to go over the time allotted for hearings and mediations.

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

Contact my secretary be telephone.

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

My hearings and mediations will be cancelled whenever there is a cancellation for employees under the Governor’s jurisdiction in the Harrisburg Capitol Complex. If hearings are not cancelled on that basis, I may still cancel based upon weather conditions. If I do not cancel, I will freely grant requests for continuance or participation by telephone.

**Attachment:**

[Voluntary Mediation Agreement](#)