

## **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? For petitions filed by the Claimant, the matter will be listed for (45) minutes and Claimant will be expected to testify. For petitions filed by the Defendant, a (15) minute supersedeas hearing will be held with Claimant's testimony to be provided at the (45) minute final hearing. Interpretation services, to the extent they will be required, should be immediately requested upon receipt of the Notice of Assignment. For a special supersedeas hearing conducted pursuant to § 413(c)(1) or § 413(d)(1) of the Act, or if petitions were filed by both parties, the matter will be scheduled for (45) minutes, supersedeas evidence will be accepted, and the Claimant will testify. All matters will be scheduled for a (45) minute final hearing unless the parties request additional time to present additional testimony. If an Interpreter is requested any testimonial hearings will be extended to (60) minutes.
  
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 parties are expected to be able to outline their theory of the case and provide all information relevant to the case. Both parties will be expected to identify any medical and/or lay witnesses, to be presented via deposition prior to the close of the record.

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

**Exhibits**  **Documents**

**Further explanation:**

To the extent parties insist on completing First Hearing Filings they should be uploaded as Documents and not as Exhibits as the First Hearing Filing will not be marked or admitted as evidence.

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

**Before**  **After**

**Further explanation:**

Parties are encouraged to upload all Documents and Exhibits prior to the hearing.

3. What are your procedures for supersedeas hearings?

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

**Further explanation:**

No testimony will be heard, unless specifically requested by one of the parties. I generally limit the supersedeas hearing to (15) minutes for the presentation of documentary evidence from the Defendant and from the Claimant, if available. If petitions have been filed by both parties, a 45 minute hearing will be listed and I will take Claimant's testimony at the initial hearing with respect to all pending petitions. As noted above, Exhibits, including Supersedeas Exhibits should be uploaded into WCAIS prior to the hearing.

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

**Further explanation:**

Generally, I will allow Claimant (14) – (21) days to present contrary medical evidence and/or an affidavit from the Claimant. Claimant should be prepared to outline the nature of this evidence at the time of the initial hearing. Under rare circumstances this time period may be extended.

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

I will reconsider a supersedeas order upon submission of additional evidence not available prior to date of the initial supersedeas decision. Pursuant to rule 131.41 (b) a second supersedeas hearing will be held unless this requirement is waived by the parties.

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

**Further explanation:**

Generally a written Interlocutory Order regarding supersedeas will be issued. If no indemnity benefits are being paid, supersedeas may be denied from the bench.

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

I only require the submission of a valid fee agreement.

- f. Do you have any other procedures for supersedeas hearings not described above? If so, what are they? **Yes**  **No**

**Further explanation:**

I have no other procedures for supersedeas; however I reserve the right to amend my procedures with respect to supersedeas as necessitated by the procedural and factual developments of each individual case.

- g. Do you have different procedures for special supersedeas hearings? If so, please describe them? **Yes**  **No**

**Further explanation:**

For Special Supersedeas in relation to an Employee Challenge Petition the first hearing will be scheduled for (15) minutes, and testimony limited to the issues raised under the Challenge Petition will be heard. If Defendant has also filed a Modification/Suspension Petition in response to the Employee Challenge which is assigned prior to the Special Supersedeas Hearing the hearing will be expanded to (45) minutes and those issues will be addressed during the testimony as well.

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 use a modified one-day/one-hearing format. Please see Question 1 regarding testimony at the first hearing. I will then schedule the matter for a final hearing in approximately 180 days. Between the date of the first hearing and the date of the final hearing, I expect the parties to complete any medical examinations, depositions of both medical and lay witnesses, and any other necessary procedural matters, so that the presentation of evidence can be concluded at the time of the final hearing whenever possible. If specifically requested I will list a matter for an interim hearing for the presentation of Defense witness testimony at my sole discretion.

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

**Further explanation:**

I expect counsel to appear for scheduled hearings. However, I may consider participation by phone on a case-by-case basis if counsel provides a prior WCAIS request at least three (3) days in advance of a hearing or in instances of inclement weather where hearings have not been canceled. Requests should be submitted through WCAIS or via facsimile with a valid contact number that can be used at the time of the

scheduled hearing, and a certificate of service demonstrating that all parties have received notice of the request.

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

If a party fails to appear at a scheduled event the matter is re-listed in approximately (30)-(45) days. If a party fails to appear at this second scheduled event I then entertain appropriate motions to dismiss for failure to prosecute/defend.

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

**Further explanation:**

I have no special procedures for psychological cases; however I reserve the right to create such procedures as I deem necessary to address any special circumstances which may arise during the course of litigating a case regarding psychological issues.

**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:**

I expect the Claimant to testify at a hearing, unless unforeseen circumstances preclude such testimony. Experts and other lay witnesses are to testify by deposition. If additional testimony will be required at an interim or at the final hearing the parties are reminded that the party presenting the witness must advise my office, through WCAIS or in writing, at least (45) days prior to the hearing, as to the identity of the additional witness, provide an offer of proof as to the testimony, and provide an estimate of the additional time required.

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?

I expect the Claimant to testify live at a hearing, if such testimony is to be offered during the course of litigation. Other lay witnesses and expert witnesses should be presented by deposition. I expect all trial depositions of lay witnesses and expert witnesses to be completed or at the very least scheduled prior to the final hearing. I do not permit any party or witness to testify by telephone except under extraordinary circumstances, at my sole discretion.

10. What is your procedure regarding the order of testimony with respect to submission of medical evidence, particularly when cross petitions are filed?

Generally, the party with the burden of proof is expected to proceed first with its evidence, including the completion of medical evidence. If cross petitions are filed, I will, at the first hearing, establish the order for the taking and presentation of the medical evidence on a case by case basis.

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 endeavor to secure and admit the relevant Bureau documents prior to the first hearing; however, the moving party should be prepared to provide all Bureau documents including, but not limited to, the Notice of Compensation Payable, the Statement of Wages and/or any Supplemental Agreements or prior Decision(s) that may be relevant to the petition(s) to be decided. In particular, the controlling bureau document should be made available. These documents will be made part of the record at the first hearing.

While I prefer the parties upload Exhibits prior to the hearing, parties may upload exhibits at any time; however exhibits uploaded after a hearing will not be moved into evidence until the next scheduled hearing, unless agreed upon in advance during a hearing.

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

**Further explanation:**

Hard copies are not necessary, unless the exhibit is to be utilized by a witness during the testimony to be provided. Surveillance DVDs must be submitted in hard copy.

14. When will you rule on objections to exhibits?

I generally rule on exhibits at hearings. If exhibits are submitted after the final hearing which were not specifically discussed and ruled upon at the final hearing, opposing counsel will have (14) days from the date of receipt by my office during which to preserve an objection to those exhibits. If no objection is received within (14) days, the exhibit will be admitted if it is otherwise admissible.

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

If the parties are unable to come to an agreement concerning the production of documents or witnesses, I will conduct a telephone conference. The party posing the objection shall be responsible for coordinating the scheduling of the conference with my secretary. I do not generally attend depositions.

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

Written preservation of deposition objections are to be submitted prior to the close of the record. The date for the close of the record will be provided at the final hearing.

**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:**

Amendments to existing petitions are encouraged, but in certain circumstances a new petition will also be acceptable. Parties are reminded that to the extent other petitions are to proceed to Decision or if multiple dates of injury and BCN's are to be addressed, separate petitions will be required for each BCN.

- 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 fully executed Compromise and Release Agreement with the contingent fee agreement, Waiver of Appeal and a summary of litigation costs can be uploaded and will be marked and admitted as Joint Exhibit 01. This Exhibit will be circulated with the Decision and Order.

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

**Further explanation:**

The Act 109 documents will be admitted, but will not be circulated with the Decision and Order.

- 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.

Medicare, Medicaid and Social Security information, third party subrogation claims and medical bills being addressed in the Compromise and Release can be submitted and marked as a separate exhibit; however these exhibits may or may not be attached to the C&R Decision at my discretion.

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

Whenever a party is uploading any document in WCAIS I expect the first five digits of the Social Security Number to be redacted; however a copy showing the complete Social Security Number must be reviewed by the Claimant on the record at the time of the hearing.

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

**Further explanation:**

Bench Orders will be executed so long as neither party has an objection to the form of the Order. A separate Decision and Order will also be circulated by my office.

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

**Further explanation:**

The signature of a representative of the “employer, insurer, or third party administrator” is not required on the certification page; however, defense counsel may be required to state, on the record, that their client is aware of and is in agreement with the terms of the Compromise and Release Agreement if it is not signed by the Defendant Employer/Insurer.

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?

A Stipulation of Facts resolving all or some of the pending Petitions and Issues can be submitted at any time. I do require the signature of all Counsel of Record as well as the Claimant in order to adopt the Stipulation.

- 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:**

The Stipulation of Facts should confirm that Claimant has reviewed the name, address, Social Security Number and Date of Birth in the Act 109 documentation and confirms that they are correct.

- 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.

Medicare, Medicaid and Social Security information, medical bills and any claims for subrogation should also be provided and can be marked as an exhibit; however these exhibits may or may not be attached to the Decision at my discretion.

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

Whenever a party is uploading any document in WCAIS I expect the first five digits of the Social Security Number to be redacted.

- 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:**

Yes, a case may close after the final hearing. A CLOSING DATE and BRIEFING SCHEDULE will be provided at the time of the final hearing. Exhibits should be submitted by the closing date absent a compelling reason for delay. Briefs will be due on the date established on the record. I will then issue a Decision and Order regardless of whether or not briefs have been received.

- a) In accordance with Rule 131.66, a party seeking to preserve objections in any trial deposition shall submit a separate writing, introduced prior to the close of the evidentiary record, as close of the record is defined in Rule 131.101 (c) -- (e), which identifies all objections the party wishes to preserve. Objections not so preserved shall be deemed waived.
- b) If a party desires to present testimony in rebuttal to any evidence presented at the final hearing, that party is advised to utilize the procedure set forth in Judge's Rules 131.53 (e) & (f) & 131.63 (d).
- c) If not already provided, the employer/carrier shall submit a Statement of Wages, if appropriate for the Petition at issue. The employer will also submit all supporting raw wage data used in calculating the Average Weekly Wage. This requirement can be waived if claimant or claimant's counsel stipulates to the accuracy of the Statement of Wages.

d) In the event that the claimant is seeking reimbursement of any costs and expenses of litigation, the claimant shall have assembled any such costs and expenses for submission as one exhibit. Said exhibit shall include a cover sheet indicating the date that the cost or expense was incurred, the type of cost or expense (i.e. whether for a transcript, medical records or reports, a deposition fee, etc.), the name of the supplier of the services, and the amount of the cost or expense.

e) In the event that the claimant is seeking payment of any medical bills or expenses, the claimant shall have assembled any such medical bills for submission as one exhibit. Said exhibit shall include a cover sheet indicating the name of each health care provider, the dates of service, treatment, prescription, etc., the amount of the bill, any portion of the bill that has been paid and by whom, and any portion of the bill that is still unpaid. With rare exception I will not accept submissions of individual medical bills by mail.

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?

A closing date and briefing order will be issued at the final hearing. Post-trial submissions will generally be due from the parties approximately (30) days after the closing date. I will not grant extensions of time for post-trial submissions. If the submissions are received late, but before I start to decide the case, they will be considered. Updated Quantum Meruit submissions, litigation costs, and Act 109 documentation may be submitted with the Proposed Findings.

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

Post-trial submissions should include Proposed Findings of Fact, a brief Argument that succinctly sets forth the issues to be decided, case law and legal argument, the Proposed Conclusions of Law, and a Proposed Order. Proposed Findings of Fact must contain a specific cite to the record including page and line numbers.

### **Mandatory Mediations**

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

Reading & Allentown

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:**

Adjusters/Employer representatives may participate via telephone. If Claimant lives out-of-state and/or has some other good excuse for not appearing in person they too may participate via telephone.

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

If so:

a. What information do you require in that Statement?

[Click here to enter text.](#)

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

[Click here to enter text.](#)

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

[Click here to enter text.](#)

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

This varies depending on schedule and case load. Mandatory Mediations generally will take place some where between the date of the IME and the final hearing in a case.

27. Are you willing to conduct more than one session per Dispute? **Yes**  **No**

**Further explanation:**

If progress is being made at the initial mediation or if the parties need to obtain additional information in order to proceed with the mediation I will allow for multiple sessions.

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 should contact the presiding Judge, unless the postponement is based on inclement weather the day of the Mediation.

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?

As soon as possible, but not less than (7) days 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.

Reading

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

Yes  No

**Further explanation:**

Parties must stipulate on the record or in writing that the information learned during the voluntary mediation cannot form the basis for a recusal motion or an appeal to the WCAB.

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:**

[Click here to enter text.](#)

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:**

Adjusters/Employer representatives may participate via telephone. If Claimant lives out-of-state and/or has some other good excuse for not appearing in person they too may participate via telephone.

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?

[Click here to enter text.](#)

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

[Click here to enter text.](#)

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

[Click here to enter text.](#)

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

Generally a few weeks.

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?

In a voluntary situation I will postpone or cancel a mediation at either parties request.

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?

I ask that cancelations be requested at least (3) days in advance whenever possible.

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?

I will generally grant requests for continuances of the first hearing by agreement of the parties, or in the absence of such agreement, for compelling reasons. All requests for continuances shall be in writing and must include the information set forth in 34 Pa. Code § 131.13. Requests should be submitted no less than (5) days prior to the scheduled event through WCAIS or, if necessary, via US mail or facsimile. The first hearing will then be promptly rescheduled. I will not grant requests for the continuance of a final hearing absent extreme circumstances. I am willing to entertain requests for a change in the time for a hearing, and the parties should contact my secretary in writing with any such request.

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

**Further explanation:**

In limited circumstances I will allow a conference call; however only with prior approval from my office. The party requesting the conference call must secure all parties on the line before dialing into my office to complete the call.

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

Yes  No

**Further explanation:**

While I prefer to receive Correspondence and Requests through WCAIS I will accept faxes from the parties. I do not accept E-mails.

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 try to maintain my hearing schedule as closely as possible. I do allow mediations to run over, if the parties are continuing to make progress toward resolution of the issues or claim.

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

Contact my secretary Cindy in the Reading WCOA Office and she will contact me if the emergency/request warrants it.

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

If some or all of my hearings are canceled I will cancel the hearings between 12:00 and 3:00PM the day before the scheduled event. If I have not canceled the hearing by 3:00PM it will take place as scheduled unless an emergency situation arises. I do grant continuances for inclement weather the day of an event.