

## **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?**

The first hearing will be held as a pre-trial conference or supersedeas hearing. A trial schedule will be established. Mediation will be discussed. Affidavits will be accepted in lieu of testimony in support of or in opposition to a supersedeas request. The Parties should be prepared to discuss the issues involved in the litigation and identify anticipated evidence, including lay and expert witnesses. The Parties should be prepared to address whether the lay witnesses will testify in person, by telephone, by video, or by deposition. Lay witness testimony by telephone should be exceedingly rare. I believe lay witness testimony by video is appropriate in most cases. Counsel should confirm their witnesses are able to participate in a video hearing prior to the first hearing. If you believe there is a need for a witness to testify in person, please discuss the prospect of in-person testimony with opposing counsel prior to the first hearing. If counsel cannot agree upon the manner in which testimony will be presented, counsel should be prepared to provide information that will allow me to determine if the testimony should be by video, in person, by deposition, or by telephone.

#### **a. List any documents required at the first event:**

The moving party should provide the relevant Bureau Documents at the first hearing. A first hearing filing is not required.

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

The relevant Bureau Documents should be uploaded as Exhibits prior to the first hearing. If a party chooses to submit a first hearing filing, it should be uploaded as a Letter to the Judge.

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

I utilize serial hearings. Generally, I schedule a second hearing approximately 30 days after the pre-trial conference, and I expect lay witness testimony to begin at the second hearing. Testimony from additional lay witnesses can be completed at subsequent hearings, or by deposition if all parties agree. If there are no additional lay 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.

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

I will entertain requests for slight alterations to the hearing format.

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

Although I believe lay witness testimony by video is appropriate in most cases, if a Party requests an in-person hearing, I will generally grant that request. When discussing testimony during the pre-trial conference or at a subsequent hearing, I will specifically ask you if the testimony can be done by video or if it needs to be done in person. Your request for an in-person hearing should be made on the record, during the hearing, in response to my question. If you initially choose a virtual hearing for testimony but later determine the testimony should be done in person, the request for in-person testimony should be made on the record during a hearing. Objections to in-person testimony will be entertained. Factors I will consider when deciding whether to conduct an in-person hearing include the extent to which the credibility of lay witnesses is at issue, the extent to which the case is primarily a medical issue, the extent to which the case is primarily a legal issue, the distance between the witness' physical location and the hearing site, the need for witnesses to review voluminous documentary evidence or physical evidence while testifying, the existence of a scar or disfigurement which require an in-person assessment, whether other witnesses have already testified by video, and whether the witness has already testified at an in-person hearing in the current litigation. The need for C&R hearings to be held in person is exceedingly rare. A hearing without witnesses rarely needs to be in person.

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

Virtual hearings should generally include video. Factors I will consider when deciding whether to conduct a virtual hearing by audio only or by audio with video include the Parties' ability to successfully access and utilize the video function in Microsoft Teams.

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

The first time a party fails to appear at an event, I will generally note their failure to appear on the record, circulate an appropriate Interlocutory Order, and relist for a second hearing in approximately 30 days. When a party fails to appear on multiple occasions, I will entertain and grant appropriate motions for dismissal, closure of the record, etc.

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

No.

**SUPERSEDEAS PROCEDURES**

**1. What are your procedures for supersedeas hearings?**

The moving party should be prepared to offer the relevant Bureau Documents, explain the basis for the relief they are seeking, identify anticipated evidence and witnesses, and offer documents in support of the supersedeas request. The responding party should be prepared to identify the disputed allegations, identify anticipated evidence and witnesses, and offer documents in opposition to supersedeas. The parties should discuss the issues involved in the Petition prior to the supersedeas hearing, so that all issues not in dispute can be identified and the scope of the litigation can be properly narrowed. I will set a trial schedule. Mediation will be discussed.

**a. Will testimony be heard?**

I will not hear testimony at the supersedeas hearing. Affidavits will be accepted in lieu of testimony in support or in opposition to the supersedeas request.

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

**Yes. 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 and if the party seeking reconsideration specifically requests reconsideration of supersedeas on the record at a hearing or through a WCAIS request.**

**d. Do you generally use written orders for denials?**

**Yes.**

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

**A fee agreement executed by the claimant must be submitted as an exhibit in WCAIS.**

**f. Describe any other procedures for supersedeas hearings:**

**N/A**

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

**N/A**

**WITNESSES/EXHIBITS**

**1. What are your rules regarding taking testimony?**

**I generally expect testimony from the Claimant at the second hearing with testimony from additional lay witnesses at subsequent hearings. In certain circumstances, it may be appropriate for another lay witness to testify before the Claimant. In certain circumstances, it may be appropriate for multiple lay witnesses, including the Claimant, to testify at the same hearing. I allow updated and rebuttal testimony from the Claimant at the final hearing.**

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

**Expert witnesses may almost always testify by deposition. Lay witnesses testifying primarily to authenticate documents may also testify by deposition. Lay witnesses testifying regarding specific disputed events or other issues which render their credibility critical to the outcome of the case should generally testify during a video or in-person hearing.**

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

**I will consider altering the requirements for presentation of testimony upon joint request by the parties. If the parties do not unanimously agree to a change in the requirements for presentation of testimony, I will entertain argument in support of and in opposition to the requested change and then decide accordingly.**

**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? If the testimony was not discussed and planned for at a prior hearing, notice of intent to present a witness at a hearing should be provided by filing a request in WCAIS as soon as possible, as it is quite likely that a new hearing will need to be scheduled.**

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

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

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

The moving party should upload the relevant Bureau and WCOA document as exhibits.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Counsel should upload exhibits to WCAIS prior to the hearing. If before, how far in advance of the hearing must they be uploaded? Ideally exhibits would be uploaded far enough in advance of the hearing to ensure opposing counsel can review the uploaded exhibit and determine if there are any objections to the same.

8. When will you rule on objections to exhibits?

I will rule on objections when the exhibits are discussed during the hearing. If the record is closing after the final hearing, I will issue written rulings on objections in the final Order.

9. What is your procedure for handling discovery disputes?

I generally address discovery disputes during hearings or by conference call, although in some circumstances I may also address those disputes through e-mail.

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

Written preservations of deposition objections may be submitted up to and including the date upon which Proposed Findings of Fact and Conclusions of Law are filed. The preserved objections should be uploaded to WCAIS as an exhibit.

### **COMPROMISE & RELEASES (C&Rs)**

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

The parties should submit the fully executed C&R Agreement and any other associated documents as exhibits in WCAIS prior to the hearing. Following amendments to any pending petitions and admission of any evidence, the parties should present testimony from the claimant establishing the claimant understands the full legal significance of the C&R Agreement.

- 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?

Existing petitions may be amended to be Petitions to Seek Approval of a Compromise and Release Agreement. If the parties are seeking a decision on the merits of a pending petition after approval of the C&R Agreement and there are no other pending petitions, a separate Petition to Seek Approval of C&R Agreement will need to be filed.

- b. Are parties required to provide a draft of the C&R Agreement before the hearing? I do not require a draft of the C&R Agreement. If yes, how far in advance of the hearing do you need to receive it?

N/A

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

The signed C&R Agreement with attachments and any other exhibits relevant to the C&R Agreement should be uploaded prior to the hearing.

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

The child support documents should be uploaded as a separate exhibit.

- e. Should Social Security numbers 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 uploaded to WCAIS.

- f. Will you sign bench orders?

I will sign bench orders.

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

If the parties are seeking a decision on the merits of a pending petition after approval of a C&R Agreement, both parties should be prepared to identify how long they will need to submit any additional evidence and written argument.

### **STIPULATIONS RESOLVING DISPUTES**

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

Stipulations should be uploaded to WCAIS as exhibits, and a request seeking an Order approving the Stipulation should be submitted in WCAIS. I will review the Stipulation and circulate a Decision adopting the Stipulation if I am satisfied it fully complies 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.

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

The fee agreement should be uploaded as part of the Stipulation.

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

The child support documents should be a separate exhibit.

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

Any other documents specifically referenced as being attached to the Stipulation should be uploaded to WCAIS as part of the Stipulation.

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

Other documents specifically referenced as being attached to the Stipulation should be uploaded as part of the Stipulation.

6. When should Social Security numbers 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 uploaded to WCAIS.

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?

I am willing to close a case via WCAIS submission after a final hearing.

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

I will establish a briefing schedule on the record at a final hearing, or I will circulate a written briefing schedule for disputes in which the record closes via WCAIS after the final hearing. The moving party's brief is generally due first, with the responding party's brief due 15 days thereafter. When there are cross petitions, the briefs are generally due simultaneously. Reasonable extensions of the briefing schedule will be granted upon agreement of the parties and submission of a request in WCAIS. If 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 the responsibility of each party to submit briefs timely.

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

I prefer to receive Proposed Findings of Fact and Conclusions of Law that closely adhere to the format I use in my Decision. A separate, short letter brief addressing specific legal issues or highlighting key facts may also be submitted.

### **MANDATORY MEDIATIONS**

1. List the offices where you conduct mandatory mediations:

Harrisburg

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

I believe most mediations can be conducted virtually. I will conduct mediation in person upon receipt of a joint request from the Parties. I will also consider conducting mediations in person if a claimant is unable to participate virtually due to technological limitations or other issues.

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

Virtual mediations should be conducted through Teams with both audio and video.

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

If a mediation has been scheduled in person, my preference is for both counsel and the claimant to appear in person. I will consider virtual participation in a mediation by counsel or the claimant if there are circumstances that make it unusually difficult for counsel or the claimant to appear for an in-person mediation.

5. Do you require a Mediation Statement? Yes If yes:

- 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 at least 24 hours in advance of the mediation.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? The mandatory mediation will be rescheduled if that is what the parties request. If so, how long until it is rescheduled? I strive to schedule mediations as quickly as possible once a request is received. Generally, mediations can be scheduled within 60 days.

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?

The day prior to mediation.

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

The parties should be sure to obtain settlement authority and secure their client's ability to participate in the mediation, even if only virtually.

### **VOLUNTARY MEDIATIONS**

**1. Do you conduct Voluntary Mediations?**

**Yes**

**2. How should the parties request a Voluntary Mediation?**

**The parties should submit a request for voluntary mediation in WCAIS and contact my assistant to schedule the voluntary mediation.**

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

**Harrisburg**

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

**I am willing to conduct virtual voluntary mediations from any WCOA District.**

**5. Do you mediate Disputes assigned to you for hearing and decision?**

**Yes. In limited circumstances, upon request and agreement of all parties, I will agree to mediate a case assigned to me for hearing and decision. I will ask the parties to complete a Voluntary Mediation/Settlement Conference Agreement.**

**6. Do you mediate Disputes in which one or both parties are unrepresented? If yes, describe any special procedures you have for such cases:**

**I will mediate disputes in which one or both parties are unrepresented.**

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

**I believe most mediations can be conducted virtually. I will conduct mediation in person upon receipt of a joint request from the Parties. I will also consider conducting mediations in person if a claimant is unable to participate virtually due to technological limitations or other issues.**

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

**Virtual mediations should be conducted through Teams with both audio and video.**

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

**If a mediation has been scheduled in person, my preference is for both counsel and the claimant to appear in person. I will consider virtual participation in a mediation by counsel or the claimant if there are circumstances that make it unusually difficult for counsel or the claimant to appear for an in-person mediation.**

**10. Do you require a Mediation Statement? Yes. If yes:**

**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 that 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 at least 24 hours in advance of the mediation.

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

I strive to schedule mediations as quickly as possible once a request is received. Generally, mediations can be scheduled within 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?**

A party seeking cancellation or postponement of a voluntary mediation should contact the mediating Judge.

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

The day prior to the mediation.

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

The parties should be sure to obtain settlement authority and secure their client's ability to participate in the mediation, even if only virtually.

**REQUESTS/MISCELLANEOUS**

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

Such requests should be uploaded as soon as possible but may be uploaded to WCAIS at any time if there is no objection from opposing counsel.

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

I conduct off the record conference calls at the request of the parties. I will also schedule an off the record conference call if I receive a request or an objection from a party that I believe warrants a discussion amongst all of the parties in a short period of time.

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

**If all parties are copied on the e-mail, I accept e-mails from the parties. However, most correspondence, requests, objections, etc., related to the dispute should be submitted through WCAIS. Unless I have already e-mailed you regarding a specific issue on a dispute, e-mail should only be utilized in special circumstances.**

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

**No. I am willing to go beyond the time allotted for hearings and mediations when my schedule allows.**

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

**Contact my assistant by telephone and e-mail.**

**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.)?**

**In-person hearings and mediations will be cancelled (or conducted virtually) whenever there is a cancellation for employees under the Governor's jurisdiction in the Harrisburg Capitol Complex. If in-person hearings are not cancelled on that basis, I may still cancel (or conduct virtually) in-person hearings and mediations based upon weather conditions. If I do not cancel but weather conditions are expected to be poor, I will freely grant requests to continue in-person hearings and mediations or conduct those hearings and mediations virtually. Virtual events do not need to be cancelled due to weather conditions.**