

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 will be the initial hearing, scheduled for one-half hour. At that time, the trial schedule will be discussed, and any issues and exhibits will be addressed. It is expected that the claimant will testify at the initial hearing. Other witnesses may be heard if time permits.

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:

N/A

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

Exhibits **Documents**

Further explanation:

First hearing filings are not necessary. If a party feels the need to file one, it should be uploaded as an Exhibit.

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

Before **After**

Further explanation:

N/A

3. What are your procedures for supersedeas hearings?

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

Further explanation:

It is expected that Claimant will testify at the first hearing. In addition, when uploading exhibits, the parties should simply upload them as any other exhibit for the case-in-chief. I do not mark exhibits as supersedeas exhibits.

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

Further explanation:

Yes, if requested.

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

I will entertain a request to reconsider a supersedeas order any time additional relevant evidence is acquired or developed.

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

Further explanation:

N/A

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

The fee agreement must be offered into evidence.

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

Further explanation:

N/A

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

Further explanation:

N/A

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 typically use serial hearings. The claimant will testify at the first hearing. Within 30 days of the first hearing, the parties should advise me of any other additional lay witness testimony that is needed, and whether that testimony must be presented before the parties proceed to mediation. I will then scheduled hearings accordingly to present that testimony.

Generally, I allow the parties to explore mediation before having to take expert depositions. In claimant-driven petitions, I typically give the employer 45 days to get any necessary medical examinations, with mediation scheduled 4-6 weeks after the IME. In employer-driven petitions, assuming all parties are ready to mediate, mediation is scheduled for the next realistic date.

After mediation is conducted, the moving party will have 60 days to complete its case, with an additional 60 day thereafter provided for the responding party to complete its case.

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

Further explanation:

I generally discourage counsel from attending hearings by phone, especially if testimony will be presented. However, I will permit it on a hearing-by-hearing basis. If counsel is attending by phone, counsel must provide a good phone number and cannot be driving when the hearing is taking place.

Permission to attend by phone is freely granted if counsel feels that travel would be treacherous due to weather.

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

I go on the record to recount the details of the hearing occurring and the notice given to the absent party. I then write to the absent party to advise of the hearing, and ask that the party let me know in writing whether there is a contest to the petition. I will schedule another hearing in 45 -60 days. If I do not hear from the absent party, and the party fails to appear for the second hearing, I will receive any evidence and entertain motions to dismiss the petition or close the record, as the case may be.

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

Further explanation:

N/A

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:

The parties should let me know about any lay witnesses other than Claimant within 30 days of the initial hearing, the expected time needed for the testimony, and whether it must be presented before the mediation. I will then schedule a hearing accordingly for the testimony.

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 can always testify by deposition.

A witness that is geographically remote from the hearing site can attend by telephone if agreed upon by the parties.

If a witness simply cannot attend a hearing due to a medical condition, I would entertain a request to attend that person's testimony at a location other than a hearing office.

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

This is addressed on a case-by-case basis, and will be clearly reflected in the trial schedule formulated after discussion with counsel. Consideration is given to allowing the parties to develop all necessary evidence to engage in a meaningful mediation as early as practicable, and to minimize the need for unnecessary litigation expenses.

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:

Exhibits should be uploaded any time prior to the hearing so their admissibility can be addressed. Last minute uploads are discouraged, simply because opposing counsel may not have an opportunity to review them prior to the hearing. If a party has an exhibit that has not been uploaded prior to the hearing, it will be marked and its admissibility will be addressed on the record. The exhibit will be returned to counsel for later upload to WCAIS.

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

Further explanation:

N/A

14. When will you rule on objections to exhibits?

I rule on the admissibility of exhibits during the hearings. In the event that I permit the parties to complete the evidentiary record by a date after the final hearing, any objections must be lodged in writing within 10 days of any exhibits being uploaded. If no objection is lodged, the exhibit is marked and admitted. If an objection is lodged, I will rule on it either by letter or by entering my ruling in WCAIS.

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

Discovery disputes are addressed on a case-by-case basis, depending on the issue and the parties' needs.

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

The parties may file written preservations of deposition objections along with submission of their post-hearing briefs.

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:

N/A

- 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:

A draft of the Compromise and Release Agreement should be uploaded to WCAIS as correspondence two days before the hearing.

- 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:

I ask that counsel upload any exhibits used during the Compromise and Release Agreement to WCAIS after the hearing. Counsel should redact the social security numbers from the exhibits prior to upload.

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

Further explanation:

N/A

- 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.

The only items that I require for a Compromise and Release Agreement is the Agreement with the fee agreement attached. I also require the Act 109 documents, to be uploaded as a separate exhibit. The parties are free to offer any other documents they desire, but they should be uploaded as separate exhibits.

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

Prior to uploading to WCAIS.

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

Further explanation:

N/A

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

Further explanation:

Extensive last-minute handwritten revisions to the Agreement are strongly discouraged.

If a Claimant is attending by phone due to geographic constraints, I must have the original Agreement and the Claimant's signature must be notarized.

DHS (formerly DPW) liens, Medicare liens, and applicable domestic relations orders must be addressed prior to the hearing. Paperwork reflecting the parties' consideration of these items must be included in the settlement papers.

The parties' attorneys can serve as witnesses to a Compromise and Release Agreement if they so choose.

Pro se Claimants should have the settlement papers well in advance of the hearing, so they have time to review the terms and have the opportunity to consult with counsel if they desire.

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?

The Stipulation should be uploaded to WCAIS as an exhibit. I will then mark and admit it as a Joint Exhibit. Counsel should write to me (through WCAIS) advising of the Stipulation and whether the Stipulation resolves all issues in the pending litigation.

I will then write a Decision approving and adopting the Stipulation, if appropriate.

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

Further explanation:

N/A

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

Further explanation:

N/A

- 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.

I leave that up to the parties.

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

There is no need for a social security number being on a Stipulation. It should be redacted prior to uploading to WCAIS.

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

Further explanation:

N/A

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:

I generally use a final hearing to close a case. However, if there are a few small items that still need to be developed (e.g., acquiring the transcript of a recently deposed physician, preparing an uncontested Statement of Wages, submission of updated costs, etc.), I will set a deadline for submission of any additional items through WCAIS at the final hearing. Any objections to those items must be lodged in writing within 10 days; otherwise, they will be marked and admitted.

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?

Typically, briefs are due from both parties 30 days after the close of the evidentiary record. Additional time will be given if testimony was offered at the final hearing so the parties can acquire the transcript before drafting their briefs.

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

The brief should simply consist of the party's argument as to why that party should prevail, with appropriate citation to critical evidence and legal authority. The brief need not be lengthy. While I recognize that there will be discussion of the evidence, there is no need for a formal summary of the evidence.

Proposed findings may be submitted, but are not required.

Mandatory Mediations

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

Johnstown

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:

N/A

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:

I expect the claimant and counsel to personally attend the mediation. While the claims adjustor does not need to be personally present, he or she must be readily available by telephone, with ultimate settlement authority.

That said, I encourage claims adjustors to attend the mediations. My experience is that mediations are far more productive when the person with ultimate settlement authority personally attends the mediation.

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

If so:

a. What information do you require in that Statement?

A mediation Statement should contain a summary the critical background information of the case (Bureau documents, status of claim, wage calculations, pending petitions), a brief summary of the evidence and issues involved, a recitation of the negotiation history, and most significantly, a meaningful discussion of the strengths and weaknesses of each side's case.

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?

The parties should upload their Mediation Statements to WCAIS at least two days before the mediation. There is no need to send me a paper copy of the Mediation Statement.

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

Depending on availability, 2-4 weeks

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

Further explanation:

N/A

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?

Any request to cancel or postpone a mediation in which I am the adjudicating judge should be sent to me, with a copy to the mediating judge. Any such request should include the reason for the request and the position of opposing counsel.

- 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?

It depends on the circumstances.

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

Yes **No**

Further explanation:

Employer counsel should ensure that a person with ultimate settlement authority is available during the mediation.

Voluntary Mediations:

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

Further explanation:

N/A

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

Johnstown and Pittsburgh

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

Yes No

Further explanation:

N/A

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:

N/A

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:

See Answer to Question No. 24.

36. Do you require a Mediation Statement? Yes No

Further explanation:

See Answer to Question No. 25.

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?

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

4 weeks

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

Further explanation:

N/A

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?

See Answer to Question No. 28.

- 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?

It depends on the circumstances.

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

Yes **No**

Further explanation:

N/A

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?

10 days before the scheduled event.

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

Further explanation:

I am always available for a conference call unless I am in hearings or in a mediation. Parties should be aware that I will not take a phone call unless all counsel are on the line.

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

Yes No

Further explanation:

I accept faxes, although correspondence should come through WCAIS. I regularly check WCAIS throughout the day for any recent correspondence.

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 beyond the allotted time for hearings if there is flexibility in my hearing schedule. If there is not, then I will end the hearing and ask the parties when they need to have it rescheduled and for how long.

For mediations, I do not end the mediation as long as the parties are still discussing matters. However, if I have another mediation scheduled later, I will start that mediation and continue mediating the first one during breaks.

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

Call the Johnstown hearing office.

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

I do not have a set policy. If there is strong possibility of severe weather the next day, I may cancel the hearings or mediations beforehand. If a hearing is not cancelled, but the parties or counsel fear traveling in potentially treacherous conditions, they make request a cancellation and I would give the request consideration. I freely allow parties and counsel to attend by phone if they are concerned about driving conditions.

Emergency cancellations are addressed on a case-by-case basis.