

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, 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.

[CLICK HERE TO VIEW THE JUDGE'S SPECIAL PROCEDURES DURING THE GOVERNOR'S EMERGENCY DECLARATION DUE TO COVID-19.](#)**FIRST EVENTS**

1. **What is the first event (i.e. pretrial, hearing, conference call) and what will occur?** A pretrial hearing will be conducted. A thorough review of the factual, legal, medical, and procedural issues involved in the case will be undertaken. Documents and information will be exchanged to facilitate the litigation. The claimant is expected to be present at the pretrial hearing unless there are good reasons for claimant's non-attendance.
2. **List any documents required at the first Event:** A First Hearing Filing and Stipulation of Undisputed Facts should be produced. Please use the attached forms: [MOVING PARTY FILING](#), [RESPONDING PARTY FILING](#), and [STIPULATION OF UNDISPUTED FACTS](#). Hard copies of Notices of Temporary Compensation Payable, Notices of Workers' Compensation Denial, Notices of Compensation Payable, Statements of Wages, Notices Stopping Temporary Compensation, etc., prior workers' compensation judge (WCJ) decisions, compromise and release (C&R) decisions and stipulations, i.e., the documents necessary to establish the procedural history of the case, are to be produced at the pretrial hearing. Counsel should contact the bureau immediately upon filing the petition or receiving the file for litigation to obtain the documents.
 - a. **Should docs be uploaded as Exhibits or Letters to the Judge?** Letter to Judge. A First Hearing Filing should be uploaded as a Document before the first hearing. The Stipulation of Undisputed Facts will probably be completed at the hearing and my staff will upload this document. My office will upload Bureau Documents, but counsel should bring hard copies of the Bureau documents to the hearing so they may be identified and discussed while all counsel and the WCJ are present.
 - b. **Should docs be uploaded before or after the first Event?** Before [Click or tap here to enter text.](#)

SUPERSEDEAS PROCEDURES

1. **What are your procedures for supersedeas hearings?** [Click or tap here to enter text.](#)
 - a. **Will testimony be heard?** No. Fee agreements should be submitted if interim fees are being sought. Generally, supersedeas evidence must be submitted by documents. Additional time will generally be granted to obtain additional medical or other evidence. Written orders will generally be issued. Motions to reconsider may be filed during the litigation to consider changes of circumstance. Testimony may be taken in special circumstances. Special supersedeas hearings: Consistent with the Commonwealth Court's statement that "...we view with disfavor oral amendments in special supersedeas cases, and we encourage WCJ's to require written petitions to memorialize issues beyond those expressly excused from formal pleadings by statute." *Hinkle v. WCAB (General Electric)*, 808 A.2d 1036, 1040 (Pa. Cmwlth. 2002), it is my practice to limit the evidence presented at a special supersedeas hearing scheduled pursuant to an Employee Challenge solely to the very narrow issues dealing with the suspension or modification pursuant to section 413 of the Workers' Compensation Act (Act). However, if an employer has already filed a Petition to Modify or Suspend prior to the time of the hearing on the Employee Challenge, I will conduct a regular pre-trial on the Modification/Suspension Petition reviewing the legal, factual, medical, and procedural issues therein and receive supersedeas exhibits in the normal course.

- b. **Is additional time generally granted to obtain medical evidence?** Yes. Reasonable requests will generally be granted.
- c. **Under what circumstances will you reconsider a supersedeas order?** Change of circumstances, error, new evidence
- d. **Do you generally use written orders for denials?** Yes [Click or tap here to enter text.](#)
- e. **What is required for employee's counsel to obtain interim fee approval?** Submit a written fee agreement, request approval of the fee, obtain a positive result for the claimant.
- f. **Describe any other procedures for supersedeas hearings:** [Click or tap here to enter text.](#)
- g. **Describe procedures for special supersedeas hearings, if different:** See above.

HEARINGS

1. **Describe the structure of your hearings and whether you are willing to change your hearing format:** I conduct serial hearings except as the parties may otherwise agree with approval of the WCJ. In general, the claimant's testimony and lay witness testimony will be presented at separate hearings. If the parties believe that all the testimony can be completed at one hearing, this may be considered. Lay witness testimony may be presented by deposition, depending on the circumstances. Expert testimony will generally be presented by deposition, but if a party wishes to present an expert's testimony at a hearing, arrangements will be discussed as to how it will be presented. The parties are expected to reveal the identities of witnesses to each other prior to hearings as soon as possible and according to the Rules.
 - a. **Are you willing to change the hearing format upon request?** Choose an item. [Click or tap here to enter text.](#)
2. **Are you willing to allow counsel to participate by telephone?** Yes. I will allow telephone participation by counsel upon good cause with the agreement of opposing counsel and the WCJ with the understanding that counsel will be as prepared for a telephone hearing as they would be if counsel was present in person. Telephone participation where testimony is taken will be rare.
3. **What procedure do you follow if a party fails to appear at a hearing?** It depends on the circumstances. If a party fails to appear without good cause, I may dispose of the petition on the basis of the evidence received or dismiss the petition as I deem appropriate.
4. **Do you have special procedures for psychological injury cases?** Yes. At the pretrial hearing, a more detailed discussion may take place as to the method of proceeding with lay and expert testimony and the differing burdens of proof in psychological injury cases. Depending on the case, all lay testimony from the claimant and the defendant may be taken before the depositions of the doctors are taken.

WITNESSES/EXHIBITS

1. **What are your rules regarding taking testimony?** [Click or tap here to enter text.](#)
 - a. **Do you prefer testimony at a hearing or by deposition?** Hearing [Click or tap here to enter text.](#)
 - b. **If a counsel wishes to bring a witness to a hearing, do you require prior notice?** Yes **If yes:**
 - i. **How much notice do you require?** In general, the claimant's testimony and lay witness testimony are to be presented at hearings. Lay witness testimony may be presented by deposition, depending on the circumstances. Expert testimony will generally be presented by deposition, but if a party wishes to present an expert's testimony at a hearing, arrangements will be discussed as to how it will be presented. The parties are expected to reveal the identities of witnesses to each other prior to hearings as soon as possible and according to the Rules.
2. **Under what circumstances will you permit a party or witness (including an expert witness) to testify by deposition, phone, or videoconference, rather than appear at the hearing?** As noted above in #8b Further

explanation, experts will generally testify by deposition based on the wishes of the parties. In cases where in-person testimony of a party or lay witness is very difficult to arrange, telephone testimony or deposition testimony will be discussed.

3. **What is your procedure regarding the order of testimony with respect to submission of medical evidence, particularly when cross petitions are filed?** In general, the moving party will schedule its depositions first pursuant to the Rules or orders from the bench. These matters will generally be discussed at the pretrial hearing or subsequent hearings as necessary.
4. **Do the parties need to upload the Bureau and WCOA documents as exhibits or will you admit them electronically as Judge exhibits?** Choose an item. [Click or tap here to enter text.](#)
5. **Do you require counsel to upload exhibits to WCAIS before or after the hearing?** After **If before:**
 - a. **What is the latest day before the hearing that they may be uploaded?** [Click or tap here to enter text.](#)
6. **Do you require counsel to bring exhibit hard copies to the hearing?** Yes. Counsel are to bring hard copies of exhibits to the hearing. I will number them, name them, and hopefully rule on admissibility at that time. I will then ask counsel to upload those exhibits as I have numbered and named them into WCAIS after the hearing so that all parties are on the same page with regard to the identity and content of the exhibits. My staff will upload the Bureau documents.
7. **When will you rule on objections to exhibits?** As soon as possible, hopefully at the hearing.
8. **What is your procedure for handling discovery disputes, e.g. do you employ telephone conferences, do you prefer to attend certain depositions, etc.?** Telephone conference calls or telephone hearings on discovery and any other issues needing the WCJ's involvement may be requested. If there is enough time, a telephone hearing will probably be convened. The WCJ will generally not attend depositions.
9. **What is the last day to file written preservations of deposition objections?** Briefing on the merits of the case. In fact, this is encouraged so that all such objections are located in one place in the file as opposed to receiving them piece-meal through the litigation.

COMPROMISE & RELEASES (C&Rs)

1. **Describe your procedures regarding the review of C&R Agreements:** [Click or tap here to enter text.](#)
 - 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?** Amendments. There will be times when a separate C&R petition will need to be filed, but those situations will be discussed in advance.
 - b. **Are parties required to provide a draft of the C&R Agreement before the hearing?** No **If yes:**
 - i. **How far in advance of the hearing do you need to receive it?** [Click or tap here to enter text.](#)
 - c. **Should the parties upload the C&R Agreement, including the fee agreement and any other attachments, before or after the hearing?** My staff will upload the C&R Agreement and attendant documents that have been presented at the hearing to ensure that SSN's are properly redacted and that the C&R Agreement is composed of the documents reviewed at the hearing by the WCJ on the record.
 - d. **Should child support docs be uploaded as a separate exhibit?** No. My staff will upload them as separate exhibits with the SSN's redacted.
 - e. **What other exhibits should be uploaded as part of the C&R Agreement or as separate exhibits (i.e., waiver of appeal, medical bills, etc.?)** The documents that are necessary to implement the C&R Agreement will all be a part of the C&R without being given separate exhibit numbers and should NOT be uploaded before the hearing. I will identify each document on the record as being a component part of the C&R and my staff will upload the entire document as described at the hearing.
 - f. **Should they be a part of the C&R Agreement or separate exhibits?** [Click or tap here to enter text.](#)

- g. When should SSNs and other confidential information be redacted from the C&R Agreement and Act 109 documents?** My staff will do this.
- h. Will you sign bench orders?** Yes. On extremely rare occasions where truly dire, exigent circumstances exist.
- i. Describe any other procedures you have for C&R Agreements:** Completely and properly executed Compromise & Release (C&R) Agreements are required. I require a signature of a representative of the “Fund/Employer/Insurer/Third Party Administrator” on the certification page. The signature of defense counsel on the third line of the form is not sufficient unless defense counsel is, in fact, an employee of the “Fund/Employer/Insurer/Third Party Administrator.” Section 449 (b) of the Act requires that the C&R be signed by both parties and Section 449 (d) directs the Department of Labor and Industry to prepare the form. The C&R form has a separate line for the parties and their counsel. A separate fee agreement should be presented with the C&R at the C&R hearing. It is expected that the claimant’s counsel will present a thorough review of the terms of the C&R with the claimant through direct examination at the hearing and that the claimant’s testimony will show that the claimant understands the full legal significance of the document. Claimant’s counsel should review with the claimant on the record the nature and extent of all the benefits available to the claimant under the Act including total disability benefits, partial disability benefits, specific loss benefits, scarring benefits, and medical benefits because these are the rights and benefits the claimant is giving up. The full legal significance of Medicare Set-Asides dealing with the problems that may arise, which may include but not be limited to the out of pocket costs that the claimant may incur in the future and risks of Medicare finding non-compliance with the Medicare Set-Aside in the future must be discussed on the record.

STIPULATIONS (STIPs) RESOLVING DISPUTES

- 1. What are your usual procedures regarding the submission, review, and adoption?** Stipulations should be in writing with the hard copy sent to me and uploaded into WCAIS by the party submitting the Stipulation. The claimant’s SSN should NOT appear in the Stipulation. The Child Support documents should NOT be uploaded into WCAIS but should be sent to me as separate documents. All Stipulations will be subject to review and approval by the WCJ.
- 2. Should the fee agreement be part of the stip or separate exhibit?** Part of Stipulation [Click or tap here to enter text.](#)
- 3. Should child support documents be uploaded as a separate exhibit?** No. The child support documents should be sent as separate documents to my office along with the Stipulation fully completed and executed. My staff will redact the SSN’s and upload the child support documents into WCAIS.
- 4. What other exhibits should be uploaded (i.e. medical bills, etc.)?** The Stipulation should stand on its own with all the information necessary to enforce the agreement of the parties contained within the Stipulation. Hopefully, the Stipulations will embody the understandings of the parties without needing include voluminous attachments.
 - a. Should they be part of the stip or a separate exhibit?** [Click or tap here to enter text.](#)
- 5. When should SSNs and other confidential information be redacted from the stip and Act 109 documents?** No. My staff will redact the SSN’s before they are uploaded.
- 6. Describe any other procedures you have for stip:** The claimant should sign the Stipulation personally. Counsel’s signature, alone, is not sufficient.

BRIEFS AND POST-HEARING SUBMISSIONS

- 1. Will you close a case via WCAIS submission or is a final hearing required?** WCAIS Submission. I require that a hard copy of the briefs be sent to me and uploaded into WCAIS. I do not require a final hearing to close the record in terms of submitting final exhibits. The final exhibits, generally doctor depositions, should be sent by mail and uploaded into WCAIS by the submitting party, although a telephone hearing may be conducted to make sure the record is complete.

2. **What are the time requirements for submissions and what procedures are taken when time requirements aren't met?** A briefing letter will be issued setting the time limits. Litigation costs, objection preservations, and Act 109 documents may be submitted with the briefs. If post-hearing submissions are not timely submitted, the case may be decided without them.
3. **Describe any preferences regarding the format and content of submissions:** Certification of record: hearings, witnesses, and exhibits. Procedural history, Proposed Findings of Fact, Conclusions of Law, and Proposed Order. The Proposed Findings/Conclusions should be in a format consistent with that of a decision. The specific relief being requested should be presented with as much detail as possible: dates of suspension, modification, termination, dates of partial disability/total disability, etc. An accompanying brief/legal argument is helpful, with appropriate case-specific citations, knowing that these cases are fact specific. The WCJ appreciates learning from each party why one witness should be credited versus another witness. The rationale for making credibility determinations should be presented to the WCJ from each party.

MANDATORY MEDIATIONS

1. **List the offices where you conduct mandatory mediations:** Williamsport
2. **Do you require all participants to attend in-person?** No
 - a. **Under what circumstances do you permit attendance by phone?** Adjustors and employer representatives who have control over settlement are required to be available by phone. Counsel and the claimant are required to be present, although there have been rare occasions when claimants have participated by telephone.
3. **Do you require a Mediation Statement? Yes If yes:**
 - a. **What information do you require in that Statement?** Enough information to give me a handle on the case regarding the legal, factual, medical, and procedural issues involved and to show that the parties have, in fact, given thought and preparation for the mediation
 - b. **What documents, if any, must accompany the Statement?** Click or tap here to enter text.
 - c. **How far in advance of the mediation must the parties submit the Statement and accompanying documents?** Three to four days is desirable.
4. **After you approve a Mediation Request, how long until it's scheduled?** Thirty to forty five days.
5. **Are you willing to conduct more than one session per Dispute?** Yes Click or tap here to enter text.
6. **If the party wants to request cancellation or postponement of a mediation on a Dispute assigned to you, should they contact you or the mediating Judge? Both If you:**
 - a. **What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?** Two to three days
7. **What else should the parties know or do before the mediation?** The parties are to be prepared in the same way they would be prepared for a Common Pleas or Federal Court settlement conference. The claimant should have a clear understanding of the process of the mediation and the issues that will be discussed because the claimant's lawyer has had a meaningful discussion of the mediation process and the issues involved well in advance of the mediation. Social Security consequences, retirement plan consequences, future medical treatment needs and bills should all be well known so that a meaningful discussion can occur.

VOLUNTARY MEDIATIONS

1. **Do you conduct Voluntary Mediations?** Yes Click or tap here to enter text.
2. **List the offices where you conduct voluntary mediations:** Williamsport

3. **Do you mediate Disputes assigned to you for hearing and decision?** Yes. The parties must agree on the record or via a Voluntary Mediation Agreement that it is acceptable that I conduct the mediation and remain the adjudicating judge.
4. **Do you mediate Disputes in which one or both parties are unrepresented?** Yes **If yes:**
 - a. **Describe any special procedures:** I would not mediate one of my own cases with an unrepresented party.
5. **Do you require parties to execute an agreement to mediation?** Yes **If yes:**
 - a. **Describe the matters addressed by the agreement:** Only in cases that are assigned to me. Please use the attached form. **VOLUNTARY MEDIATION AGREEMENT**.
6. **Do you require all participants to attend in-person?** No
 - a. **Under what circumstances do you permit attendance by phone?** See above.
7. **Do you require a Mediation Statement?** Yes **If yes:**
 - a. **What information do you require in that Statement?** See above.
 - b. **What documents, if any, must accompany the Statement?** See above.
 - c. **How far in advance of the mediation must the parties submit the Statement and accompanying documents?** See above.
8. **After you approve a Mediation Request, how long until it's scheduled?** See above.
9. **Are you willing to conduct more than one session per Dispute?** Yes [Click or tap here to enter text.](#)
10. **If the party wants to request cancellation or postponement of a mediation on a Dispute assigned to you, should they contact you or the mediating Judge?** Both **If you:**
 - a. **What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?** would like to be contacted two to three days in advance of the mediation, but I am aware that discussions sometimes break down the night before the mediation. I expect counsel to be responsible to each other, their clients, and the tribunal and avoid last minute cancellations whenever possible.
11. **What else should the parties know or do before the mediation?** See above.

REQUESTS/MISCELLANEOUS

1. **How far in advance do you require Requests for continuances, changes in hearing times, and extensions to be uploaded into WCAIS?** Communications with me should be in writing by fax or regular mail, not both. The correspondence should indicate on its face that it has been sent via fax and WCAIS, regular mail and WCAIS, or "CC:WCAIS" at the bottom of the correspondence. The correspondence should include the Confirmation of Submission showing that correspondence has been uploaded into WCAIS. As noted in the Rules, Requests for continuances of hearings are discouraged, but are granted for good cause shown. The Rules should be consulted, especially with regard to continuance requests made ten days or less before the hearing. Under certain circumstances, pre-trial hearings may be conducted by mail if a thorough review of the issues is undertaken by both parties. I will also conduct pre-trial hearings and status hearings by telephone when necessary. I have prepared a Request for Continuance form asking for particular information underlying the continuance request. The form should be fully completed. The form is attached or may be obtained from my office. (Insert link to Kenneth P. Walsh Form - Request For Continuance or Postponement here) It is my expectation that a sincere effort will be made to avoid the continuance, and an explanation of that effort should be set forth in the request. Changes in hearing times on a particular day will be considered to avoid the continuance. Counsel should review their time problems with each other prior to contacting my office to see if another time on that day can be arranged. Continuances and extensions are to be requested in accordance with the Rules. They should be submitted in writing in a hard copy by fax or regular mail, not both, and uploaded into WCAIS.

2. **Under what circumstances do you conduct conference calls?** I will conduct conference calls. Generally, these will take the form of telephone hearings when possible.
3. **Under what circumstances do you accept faxes and e-mails from parties?** E-mails: NO. Faxes, yes, with the Confirmation of Submission to WCAIS attached to the fax.
4. **Do you adhere strictly to duration listed for a Hearing or Mediation?** try to be reasonable. Hearings or mediations may be extended depending on the circumstances and schedule.
5. **What is the best way to contact you in an urgent situation?** Contact my office by telephone, 570-327-3735
6. **What is your snow/emergency cancellation policy (i.e., do you follow a specific school district closing schedule, etc.)?** I do not follow a specific school district closing schedule and I deal with weather problems on a day to day basis. If an attorney wants a continuance, contact opposing counsel and contact my office as soon as possible, with a standard continuance request if there is enough time.