

JUDGE NAME: Abes, Eric

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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.

TEAMS POLICY

Most events, both hearings and mediations, will be conducted via Teams. It is expected and required that all participants attend by video. **ATTORNEYS** are responsible for working with clients, witnesses, and party representatives—**BEFORE THE EVENT**—to ensure their ability to access Teams and the Teams event. If a participant is unable to make Teams work, the event will be rescheduled.

If a participant does not have strong internet, or a computer, tablet, or smartphone, they may utilize the call-in phone number without prior approval of the Judge.

HEARING PROCEDURES

1. What is the first event (i.e., pretrial, hearing, conference call) and what will occur?

The first event will be a virtual hearing conducted by Teams. Testimony will be taken for Employee Challenge Petitions and C&Rs ONLY at the first hearing. All other petitions will be conducted as a pre-trial hearing.

Requests to hear testimony in person versus virtually via Teams should be made at this first hearing.

2. List any documents required at the first Event:

- a. Fee Agreement
- b. Statement of Wages
- c. If supersedeas has been requested, Claimant should submit an affidavit.

3. Should documents be uploaded as Exhibits or Letters to the Judge?

Exhibits

a. Should docs be uploaded before or after the first Event?

Before

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

I use serial hearings. A hearing will begin with an off the record discussion of pending issues, case status, and scheduling items. On the record, I will recap the off the record discussion, rule on exhibits, and then, if necessary, hear testimony.

5. Are you willing to change the hearing format upon request?

Yes, with good cause shown.

6. Live and Virtual Hearing considerations. What factors will you consider in deciding:

a. Whether to conduct a hearing in-person?

First hearings will always be virtual. At that hearing, we will discuss whether testimony should be live or virtual. All non-testimonial hearings will be conducted by Teams.

Requests to hear testimony in person versus virtually via Teams should be made at this first hearing.

If a hearing is conducted in person, all participants will attend in person.

b. Whether to conduct a virtual hearing by audio only or by audio with video?

When attending virtual hearings, it is expected that attendance will be by video via Teams. The only testimony I will hear without video will be for Compromise and Release hearings with the agreement of all parties.

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

I will write a letter to a party who does not show up giving them thirty days to respond and explaining what may happen if they fail to appear. I will relist the hearing as soon as possible.

8. Do you have special procedures for psychological injury cases?

No

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

Affidavits, fee agreements, and supersedeas exhibits should be uploaded before the first hearing.

2. Will testimony be heard?

Yes, if requested and necessary but not at the first hearing.

3. Is additional time generally granted to obtain medical evidence?

Yes, if requested without sustained objection.

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

If there is new and material evidence, that was not available or known at the time of the decision, supersedeas may be reconsidered.

5. Do you generally use written orders for denials?

Yes

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

A signed fee agreement and a denial of supersedeas.

7. Describe any other procedures for supersedeas hearings:

None.

8. **Describe procedures for special supersedeas hearings, if different:**
N/A

WITNESSES/EXHIBITS

1. **What are your rules regarding taking testimony?**
- a. **Do you require testimony at a virtual hearing, an in-person hearing, or by deposition?**
- Claimant's will testify before me, either live or by video
- Doctors and other experts may testify by deposition
- Lay witnesses may testify before me, either live or by video, or by deposition. This will be determined by agreement of the parties.
2. **Under what circumstances will you change your requirements for presentation of testimony?**
- With good cause shown.
3. **If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice?**
- Yes
- a. **If yes, how much notice do you require?**
- As soon as possible, but at least thirty days in advance to allow for adequate allocation of time for the hearing.
4. **What is your procedure regarding the order of expert medical testimony when cross petitions are filed?**
- The moving party of the first petition filed goes first.
5. **Do the parties need to upload the Bureau and WCOA documents as exhibits, or will you admit them electronically as Judge exhibits?**
- The Judge will upload Bureau Documents and WCOA decisions electronically as Judge exhibits.
6. **Do you require counsel to upload exhibits to WCAIS before or after the hearing?**
- Before
- a. **If before, how far in advance of the hearing must they be uploaded?**

Exhibits must be uploaded one day prior to the hearing. When uploading exhibits, or anything else, please convert them to a PDF, as opposed to scanning a hardcopy, where possible.

7. When will you rule on objections to exhibits?

At the hearing where the exhibit is offered unless time is scarce, in which case they will be ruled upon later. If there is a reason to rule on them without delay, please inform the Court.

8. What is your procedure for handling discovery disputes?

I will address these on a case-by-case basis, generally in a phone conference.

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

The day briefs are due.

COMPROMISE & RELEASES (C&Rs)

1. Describe your procedures regarding the review of C&R 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 C&R Agreement?

Amendments are fine.

b. Are parties required to provide a draft of the C&R Agreement before the hearing?

Yes, drafts must be provided at least two full business days prior to the hearing.

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

Exhibits are to be uploaded to WCAIS before the hearing.

i. Exhibit 1 should consist of the C&R Agreement, Fee Agreement, Bill of Costs, MSA documents, and medical bills.

a. The fully executed C&R agreement must be uploaded to WCAIS as an exhibit, prior to the hearing.

ii. Exhibit 2 should consist of the redacted Act 109 Documents.

a. Act 109 documents must be initialed and signed prior to the hearing.

- iii. Exhibit 3 should consist of the unredacted Act 109 documents.
 - a. This exhibit will be deleted once reviewed by the WCJ.
- iv. Redacted and unredacted copies of the Act 109 documents will be uploaded to WCAIS as exhibits prior to the hearing.
- v. Do NOT upload resignations or waivers of appeal.
- d. **When should SSNs and other confidential information be redacted from the C&R Agreement and Act 109 documents?**
Prior to upload to WCAIS.
- e. **Will you sign bench orders?**
Yes
- f. **Describe any other procedures you have for C&R Agreements:**
All C&R hearings will be conducted virtually via Teams with all participants appearing by video.
The agreements must be fully executed prior to upload.

STIPULATIONS RESOLVING DISPUTES

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

Once they are finalized and signed by all parties, they should be uploaded as an exhibit. It would also be a good idea to submit a Miscellaneous WCAIS request, so the exhibit is not missed. I will review them and issue an order.

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

Separate Exhibit

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

Yes

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

Any exhibits which are necessary for the Stipulations. For example, where the Stipulation says, "the attached medical bills will be paid by employer." It is necessary to attach said bills to the stipulation.

- a. **Should they be part of the stipulation or a separate exhibit?**

Part of the stipulation

- 5. When should SSNs and other confidential information be redacted from the stipulation and Act 109 documents?**

Prior to upload to WCAIS.

- 6. Describe any other procedures you have for stipulations:**

None.

BRIEFS AND PROPOSED FINDINGS

- 1. Will you close a case via WCAIS submission or is a final hearing required?**

WCAIS Submission

- 2. What are the time requirements for submissions and what procedures are taken when time requirements aren't met?**

I will typically grant forty-five days for the moving party's brief, with responding party's brief due two weeks later. Extensions will be granted liberally with good cause shown.

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

They should be done in the same format as my decisions. Brevity is supreme!

MANDATORY MEDIATIONS

- 1. List the offices where you conduct mandatory mediations:**

Pittsburgh and Uniontown

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

All mediations will be conducted virtually through Teams.

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

When attending virtual mediations, it is expected that attendance will be by video via Teams.

- 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 is scheduled live, all parties are expected to attend live.

5. Do you require a Mediation Statement?

YES

a. What information do you require in that Statement?

A complete picture of the case. A sample is attached to this document.

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?

One week, at a minimum.

6. Are you willing to conduct more than one mandatory mediation session per Dispute?

Yes

7. If there is a request to postpone a mandatory mediation, will it be rescheduled?

Yes, as the schedule permits

8. 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?

The mediating Judge is the final authority on all scheduling matters.

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

Twenty-four hours prior to mediation.

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

Come prepared and, if counsel is coming alone, with reasonable authority (\$) to resolve the case.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes

2. How should the parties request a Voluntary Mediation?

Via WCAIS

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

Pittsburgh

4. Will you conduct virtual voluntary mediations?

Yes

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

No

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

Yes, with no special procedures.

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

All mediations will be conducted virtually through Teams.

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

When attending virtual mediations, it is expected that attendance will be by video via Teams.

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 is scheduled live, all parties are expected to attend live.

10. Do you require a Mediation Statement?

Yes

a. What information do you require in that Statement?

A complete picture of the case. A sample is attached to this document.

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?

One week, at a minimum.

11. After you approve a Mediation Request, how long until it's scheduled?

Mediations will occur as schedule permits.

12. Are you willing to conduct more than one session per Dispute?

Yes

13. 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?

The mediating Judge is the final authority on all scheduling matters.

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

Twenty-four hours prior to the mediation.

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

Come prepared and, if counsel is coming alone, with reasonable authority (\$) to resolve the case.

REQUESTS/MISCELLANEOUS

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

As soon as a situation warranting it arises

2. Under what circumstances do you conduct conference calls?

Under limited circumstances, on a case-by-case basis

3. Under what circumstances do you accept faxes and e-mails from parties?

When I initiate such a conversation, email communications will be accepted. All replies should include the other party/counsel. All other communications should be through WCAIS.

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

Yes. Counsel should be mindful of the nature of the petition at bar (and the time allotted for the hearing) when planning their questioning. If you anticipate needing more time, make a WCAIS request for a longer hearing.

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

Call the office at 412-565-5277.

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

I follow the guidelines previously published by the WCOA.



Mediation
Disclosure Report.p
