

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 event will typically be a brief status hearing to address preliminary issues such as a mandatory trial schedule, mandatory mediation and any atypical issues. Testimony will NOT be taken at the first hearing without advance approval from the WCJ.

a. List any documents required at the first event:

All pertinent bureau documents and prior WCJ decisions.

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

Exhibits.

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

Most cases will be litigated in a serial hearing format. A typical schedule would be a first hearing, an interim hearing and then a final hearing. Hearings are typically scheduled 60-90 days apart.

Typically, all hearings will be scheduled as VIRTUAL hearings using Microsoft Teams. The parties are expected to join via Teams and use the video capabilities. Audio only attendance is not preferred and only should be used as a back-up method.

This Judge typically holds hearings on Mondays and Thursdays.

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

Yes, for good cause.

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

The purpose of the hearing (live testimony, scar viewing, etc.), medical concerns of the parties (documentation may be required) and other pertinent reasons. Joint requests for in-person hearings will likely be approved if permitted under current Commonwealth rules. If the COVID pandemic continues to recede, this Judge will schedule all testimonial hearings as LIVE in person events. All other status hearings will remain VIRTUAL.

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

This Judge STRONGLY prefers all parties to participate in all virtual hearings by VIDEO. Audio participation will be permitted as a backup when it is the only viable option. Prior to any event, all parties should test the Teams link and practice with any clients. If a party does not have a Teams link before a virtual hearing, the party should request same from their opponent or the Judge's office.

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

Typically, this Judge will document a party's failure to attend a hearing on the record and relist the case for another hearing in about 30 days.

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

No.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

The parties should upload all supersedeas evidence as a WCAIS exhibit prior to the hearing.

a. Will testimony be heard?

No absent good cause.

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

Typically, this Judge will grant the Claimant an additional 14 days to submit evidence in opposition to supersedeas.

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

If new evidence is discovered.

d. Do you generally use written orders for denials?

This Judge typically issues a written Interlocutory Order.

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

A fully executed contingent fee agreeable.

f. Describe any other procedures for supersedeas hearings:

None.

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

No difference.

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

All testimony must be approved in advance by the Judge and then a testimony hearing will be scheduled. Typically, this Judge will reserve 1 hour for a testimonial hearing.

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

Determined on a case by case basis. However, medical experts may be taken by deposition as well as discovery depositions of the Claimant.

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

Good cause.

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? 30 days at a minimum.

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

Typically, the party who filed the first petition will be expected to take their evidence first.

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

Typically, this Judge will admit the bureau documents prior to the first hearing in the case. However, counsel should be familiar with all pertinent bureau documents and ensure that all documents are made a part of the evidentiary record.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Before when possible. If before, how far in advance of the hearing must they be uploaded? The day before is sufficient.

8. When will you rule on objections to exhibits?

Typically, on the record at a hearing when the exhibit is offered.

9. What is your procedure for handling discovery disputes?

Conference call or special hearing.

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

Prior to closure of the evidentiary record.

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

Agreements will be reviewed for legal sufficiency.

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?

Amending petitions is permitted in most cases.

b. Are parties required to provide a draft of the C&R Agreement before the hearing? If yes, how far in advance of the hearing do you need to receive it?

Yes, at least the day before the hearing.

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

Before.

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

No.

e. Should Social Security numbers and other confidential information be redacted from the C&R Agreement and Act 109 documents?

Yes. The parties should upload a redacted and unredacted version of the C&R Agreement as two separate exhibits.

f. Will you sign bench orders?

Yes.

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

None.

STIPULATIONS RESOLVING DISPUTES

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

Stipulations should be uploaded to WCAIS as an exhibit.

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

Part of exhibit.

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

Part of exhibit.

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

Typically, nothing.

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

Any documents related to the stipulation should be uploaded as one single exhibit.

6. When should Social Security numbers and other confidential information be redacted from the stipulation and Act 109 documents?

Yes.

7. 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?

Final hearing is required.

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

This Judge will issue a briefing schedule to the parties. Once a briefing schedule expires, this Judge may issue a final decision without briefs. This Judge will NOT contact the parties to remind them of a briefing schedule. All briefing schedules are issued on the record at the final hearing and are viewable in WCAIS. Upon request and good cause, this Judge will typically approve extension requests for the filing of briefs.

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

None, but this Judge strongly prefers briefs contain analysis (i.e., explain why a witness is or is not credible) as opposed to lengthy summaries of the evidence. Also, briefs should be brief in most cases to be most persuasive.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

Philadelphia.

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

Health and safety concerns of the parties and the convenience of the parties. Currently, this Judge intends to conduct mediations virtually absent good cause for an in-person event.

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

This Judge prefers all parties participate by VIDEO when possible. Also, all parties should join the mediation via the Teams link so break out rooms can be utilized.

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

Yes, but only for good cause.

5. Do you require a Mediation Statement? No, but it can be helpful. **If yes:**

a. What information do you require in that Statement?

Basic information about the case (petitions, TTD rate, unpaid medical bills, etc.) is most helpful.

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 day before is helpful, but not required.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? No. If so, how long until it is rescheduled? The parties can request a voluntary mediation

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

Yes for good cause.

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

No rule, but the sooner the better.

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

The parties should discuss settlement PRIOR to the mediation to avoid any surprises and to be prepared at the mediation.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes.

2. How should the parties request a Voluntary Mediation?

The parties should directly e-mail the Judge at tbulman@pa.gov. This Judge will furnish the parties with available dates and times for the mediation. After this Judge approves conducting the mediation he will instruct the parties to submit a WCAIS request formally requesting the mediation. This Judge will next approve the WCAIS request and send Microsoft Teams invitations to all parties.

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

Philadelphia. Other locations may be possible upon request (Springfield, Malvern)

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

Yes and for all districts.

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. No special procedures.

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

The preference of the parties will be the biggest factor, but health and safety issues will also be considered.

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

This Judge strongly prefers all parties at a mediation to participate by VIDEO when possible.

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

Yes upon good cause.

10. Do you require a Mediation Statement? No, but it can be helpful. If yes:

a. What information do you require in that Statement?

Basic information about the case (petitions, TTD rate, unpaid medical bills, etc.) is most helpful.

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?

A day before is helpful.

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

It varies, but typically within 30-60 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?

This Judge.

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

No hard rule, but sooner is better. Professionalism is always expected of the parties.

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

This Judge conducts voluntary mediation to help the parties. So, the parties should contact the Judge before a mediation if they have any special requests or concerns. Also, it is imperative that the parties discuss settlement prior to the mediation to narrow issues and identify problems. For example, does the Employer require a resignation and a full settlement of the claim? How will outstanding medical bills be handled? Are any petitions being left open for a decision? Will it be a “no admission” of liability settlement?

REQUESTS/MISCELLANEOUS

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

2 days in advance is preferable.

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

Not preferred, but a case-by-case determination will be made.

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

Only to schedule a voluntary mediation unless there is an emergency situation. All other communication from counsel should be made via WCAIS.

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

No.

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

E-mail at tbulman@pa.gov or WCAIS

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.)?

The Philadelphia Office follows the Philadelphia School District for in-person events. Virtual events would not be canceled.