

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 conducted virtually and will be a pretrial to discuss the pending petitions and how the parties will proceed. No testimony will be taken absent extenuating circumstances. A scheduling order will be provided. On cases where Claimant is the moving party, Claimant will testify by deposition in 30 days, Defendant's IME to be scheduled within 45 days thereafter. Mandatory mediation will be scheduled unless this WCJ believes same to be futile. The dispute will be relisted in 90 days for receipt of moving party's evidence and for status. For cases where Defendant is the moving party, supersedeas evidence will be accepted, the trial schedule will be issued and mediation, if not futile, will be scheduled.

a. List any documents required at the first event:

The controlling Bureau document and supersedeas exhibits, if applicable, should be uploaded into WCAIS at least 24 hours prior to the scheduled hearing.

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

Only documents expected to be used as Exhibits should be uploaded as Exhibits. Otherwise, they should be forwarded to the Court as attachments to a letter to the WCJ. Pretrial submissions are not required.

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

Serial hearings will be scheduled. There will be a first hearing (pretrial) at which the trial schedule will be given, an interim hearing scheduled and final hearing with Claimant's testimony expected. The scheduling may change if additional petitions are filed during pending litigation.

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

Yes, depending on the nature of the request and the position of opposing counsel

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

All non-testimony hearings will be conducted virtually including C&R hearings. At the present time, all testimonial hearings will be scheduled virtually by default. A request for an in-person hearing or objection to a virtual hearing for testimony must be made timely to avoid confusion or undue delay in the proceedings.

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

All parties are required to be on video for virtual hearings. Exceptions will be made if there are technical difficulties and video access is not possible. Please advise if this is the case prior to the hearing.

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

If the party is represented, I will first try to locate counsel. If I cannot locate counsel, a record will be made, and I will request that opposing counsel contact the attorney who did not appear and advise them as to what transpired. If the party is not represented, I will send them a letter advising them of the proceedings, that a hearing took place and provide them with the information for the next hearing which would be scheduled in about 30 days. Consideration will also be given to issue an interlocutory order advising of the consequences of further failures to appear.

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

No.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

The moving party is expected to upload supersedeas evidence and controlling documents prior to the hearing. Responding parties are encouraged to upload supersedeas evidence prior to the first hearing but may be granted up to 14 days to submit evidence in opposition to the supersedeas request.

a. Will testimony be heard?

No.

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

Yes. Claimant may have 14 days from the first hearing to submit their documents in opposition.

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

Parties requesting reconsideration of supersedeas should have new evidence or some other compelling reason. They should also make a WCAIS request for reconsideration.

d. Do you generally use written orders for denials?

Yes.

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

Claimant's counsel must merely upload an executed copy of the fee agreement as part of their supersedeas submissions.

f. Describe any other procedures for supersedeas hearings:

None.

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

N/A

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

Claimant should testify by deposition within 30 days of the first hearing and by way of update at a final hearing. Fact witnesses can testify by deposition or at a hearing upon timely request. All non-testimony hearings will be conducted virtually including C&R hearings. Testimony will be virtual unless an in-person hearing is requested prior to the interim status hearing. Any objection will be ruled upon on a case-by-case basis. Hearings for disfigurement will be in-person. Video participation is required in all virtual hearings. These are all the types of things that will be discussed at the first listing of the case.

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

See above No. 1

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

A standard scheduling order can be modified for good cause shown and within the Judge's sound discretion.

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?

Absent extenuating circumstances, the court should be advised of the identity and manner of presentation not later than the interim listing for a hearing (generally, 90 days from the first hearing). Moving and responding parties' intentions to present witnesses are expected at the first hearing.

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

Whoever filed the first petition goes first unless the parties agree to a different order.

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

The parties should upload the Bureau and WCOA documents (as Exhibits) prior to the first hearing at which time they will be admitted as Judge Exhibits.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Exhibits should be uploaded prior to the hearing at which they will be submitted as evidence.

If before, how far in advance of the hearing must they be uploaded? Exhibits should be uploaded as they are developed and at least two business day prior to the hearing. Please check to make sure that all attachments are included with the exhibit.

8. When will you rule on objections to exhibits?

Objections to exhibits will be entertained and ruled upon during the hearing at which such exhibit is offered.

9. What is your procedure for handling discovery disputes?

Counsel should make a WCAIS request attaching a letter outlining the dispute and their position. Opposing counsel should upload a response in letter form. A ruling will be made at a hearing or by interlocutory order. A conference call may be held depending on the timing and the issue which will be memorialized on the record at the next scheduled hearing.

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

Objections to deposition testimony, if preserved in the transcript, may be preserved for a ruling in a separate writing attached to the objector's Brief.

COMPROMISE & RELEASES (C&Rs)

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

A redacted and unredacted version of the C&R documents, including the contingent fee agreement, child support documents and any other attachments, must be uploaded into WCAIS at least one business day prior to the hearing to Approve the C&R. The C & R documents may all be uploaded as a single exhibit.

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?

An existing petition can be amended at the hearing.

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?

No draft of the C& R agreement is required. A fully executed unredacted copy and a fully executed redacted copy of the C&R agreement, including the fee agreement, child support documentation and any other attachments must be uploaded at least one business 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?

Yes. At least one business day prior to the hearing, the parties should upload a redacted and unredacted fully executed C&R agreement including the fee agreement and child support documentation and any other attachments. They may be uploaded as a single exhibit, and not separately.

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?

See "c" above.

f. Will you sign bench orders?

No.

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

Compromise and Release hearings for the foreseeable future will be conducted virtually. All parties must be on video unless other arrangements are made prior to the hearing. Claimant should have a copy of the fully executed, unredacted

version of the C&R Agreement in front of them during the hearing. Claimant's counsel should share their screen showing the fully executed, unredacted version of the C&R Agreement during the hearing.

STIPULATIONS RESOLVING DISPUTES

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

The parties must make a WCAIS request requesting approval of the Stipulation and stating whether one or all petitions are being resolved. Stipulations must be uploaded into WCAIS as an exhibit. Redacted and unredacted child support documentation and Fee Agreement (where applicable) should be uploaded as separate exhibits.

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

If the fee agreement has already been uploaded as an exhibit, then no. If not, the fee agreement should be uploaded as a separate exhibit and not submitted as part of the stipulation.

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

Yes. The child support documentation and fee agreement should be uploaded as separate exhibits. The social security number and date of birth must be redacted from the uploaded Stipulation packet and an unredacted version of the child support documentation should be uploaded as a separate exhibit.

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

Other exhibits should be uploaded separately from the executed stipulation.

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

Exhibits referred to in the stipulation and necessary for a clear understanding of the stipulation should be uploaded as separate exhibits.

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

Stipulations must be uploaded into WCAIS as an exhibit. The child support documentation and fee agreement as well as other documentation attached to the stipulation must be uploaded as a separate exhibit.

7. Describe any other procedures you have for stipulations:

The Stipulation must state whether it resolves all petitions. If it does not, it must specify which one(s) it resolves and which one(s) remain pending.

BRIEFS AND PROPOSED FINDINGS

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

A final hearing is required where I will certify all evidence on the record and issue a Briefing schedule.

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

A briefing schedule will be set at the final hearing. Any request for extension of the briefing schedule must be made prior to the expiration of the briefing schedule and via the "Request Brief Extension" tab in WCAIS with a reason. The

position of opposing counsel must be noted in the extension request. This Judge will generally grant the request for good cause. Parties who do not file a timely brief or a timely request for a brief extension risk a decision being issued without that party's brief. The Responding Party's brief is due within the time specified per the briefing schedule regardless of when or whether the moving party's brief has been submitted unless an extension is expressly requested.

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

No particular format is required for brief submission. However, at a bare minimum, proposed findings of fact, conclusions of law and proposed order are required. If complex legal issues are implicated in the dispute, a memorandum of law is also strongly recommended. Evidence submitted with the brief that was not discussed at the final hearing will not be admitted into evidence or considered. This Judge prefers briefs that contain a summary of the evidence with an analysis as to credibility of witnesses and documentary evidence.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

Virtual mandatory mediations using TEAMS will be conducted for the Malvern office.

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

By default, mediations will be conducted virtually using TEAMS. In-person mediations must specifically be requested with the position of the parties given. An in-person mediation will be considered based upon good cause shown as per the discretion of this Judge.

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

Mediations will be conducted via TEAMS video using break-out rooms. I will allow audio-only if there are technical difficulties.

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

No. Mediations will be conducted where parties are all virtual or all in-person.

5. Do you require a Mediation Statement? YES If yes: a. What information do you require in that Statement?

The Statement should not be more than 2 pages and should contain Claimant's age, date of hire, date of injury, date last worked, job title, assigned judge, aww and compensation rate, status of litigation, status of settlement discussion, outstanding medical bills, outstanding litigation costs, nature of injury, unemployment compensation information, status of third-party lien or other liens, status of SSD/Medicare, strengths, and weaknesses of your 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?

At least one business day.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? If so, how long until it is rescheduled?

If a request to postpone or reschedule a mandatory mediation is received, the mediation will be cancelled. The parties can request a voluntary mediation when they are ready.

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 request to cancel or postpone a mandatory mediation listed before me should be made least one business day prior.

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

Counsel must be prepared with all information pertinent to the mediation, with settlement authority and a representative with authority must be available during the mediation.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes. I will be opening a limited number of voluntary mediation slots which are to be requested and scheduled as directed in this section.

2. How should the parties request a Voluntary Mediation?

The parties should email or call my secretary for dates/ times and then make a WCAIS request for the agreed upon timeslot.

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

Malvern and Reading.

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

Malvern and Reading.

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

Yes, upon agreement of all parties as well as agreement of this adjudicating WCJ.

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. I have no special procedures for unrepresented parties except to take extra care to assure that they understand that they have the right to counsel, the role of the WCJ and that they understand the full legal significance of their decision to resolve the case.

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

By default, voluntary mediations will be conducted virtually using TEAMS. In-person mediations must specifically be requested with the position of the parties given. An in-person mediation will be considered based upon good cause shown as per the discretion of this Judge.

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

Mediations will be conducted via TEAMS video using break-out rooms or separate TEAMS invites depending upon whether all parties can appear by video. I will allow audio if there are technical difficulties.

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

At present, a “hybrid” system of mediation participation by parties and their counsel will not be permitted. Mediations must be all in-person or all virtual.

10. Do you require a Mediation Statement? Yes. Please see information under Mandatory Mediations above. If yes:

a. What information do you require in that Statement? Same as for mandatory mediations.

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?

Same as for mandatory mediations. At least one business day.

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

I try to accommodate the scheduling time frames of the parties.

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?

The mediating Judge.

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

Please provide as much notice as possible.

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

Counsel must be prepared with all information pertinent to the mediation. Defendant must have reasonable settlement authority or a representative with authority must be available during the mediation.

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

Strict compliance with Judges' Rules 131.12 and 131.13 is expected. Generally, however, a request to continue, reschedule or modify the time of a hearing should be made as a request in WCAIS as soon as the need arises. The request to continue a hearing must provide the status of the litigation to date, the reason the continuance is requested, the amount of time being requested including the date of any deposition scheduled beyond the current trial schedule and the position of opposing counsel.

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

Consideration to conduct a conference call will be made on a case-by-case basis at the Judge's discretion.

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

E-mail correspondence addressed directly to this Judge may be considered for emergencies only. For other inquiries including scheduling of mediations, contact my secretary via TEAMS or by e-mail. Opposing counsel must be copied. All other communication from counsel should be made via WCAIS.

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

Yes, although accommodation can be made if the schedules of the Judge and parties permit.

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

Although I frown upon e-mail communication from interested parties, if there is an emergency situation, I may be e-mailed at jderita@pa.gov. Also, my secretary may be called or 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.)?

Virtual events will be held regardless of weather-related closures. For in-person events, notification of in-person event cancellations will be given as soon as the Department announces office closures, delayed openings or early dismissals. Requests for continuances will be liberally granted in cases of weather delays.