

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 (first hearing) is a pre-trial, except in cases typically concluded at the initial hearing, e.g., Physical Exam, Disfigurement, Challenge Petitions, and uncomplicated Penalty Petitions, if possible. The pre-trial is conducted on the assumption that the attorneys have already spoken to one another about the case. Within this context, the attorneys are expected to be fully prepared and able to present relevant issues. Procedure/time for presentation of evidence is set, e.g., live/deposition testimony, one-day/serial hearings/time for closure of case, etc. Mediation is addressed as required. Raising matters after the pre-trial, which properly should have been presented at the pre-trial, will be deemed waived, absent special circumstances.

a. List any documents required at the first event:

Generally, no special documents required to be filed, except if petition is expected to be disposed of at the first listing, e.g., Compromise & Release hearings, in which case all relevant documents are to be uploaded prior to the hearing. Likewise, if a petition seeks a supersedeas, both parties must file their respective documents pro and contra supersedeas by the first hearing (pre-trial) date. To assure this is done, moving party must forward supersedeas documents to other side upon assignment of petition. Additional time to file supersedeas documents is rare. See compromise & release and supersedeas sections below.

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

Except for supersedeas documents, and C&R Agreements, i.e., exhibits necessary for a disposition of matters at the first listing (pre-trial or otherwise), should be uploaded as exhibits prior to hearing; other exhibits are filed after being admitted at a hearing, which will usually be the last hearing at which documents are marked as exhibits and the evidentiary record closed. Unless letters are relevant evidence, they will not be accepted for admission as exhibits.

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

Essentially one day, one trial, with serial hearings where more appropriate.

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

Will consider for good cause.

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

Special credibility concerns; virus conditions. For most part, virtual hearings are sufficient.

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

Where credibility involved, audio with video to be employed in virtual hearings.

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

Action taken dependent on circumstances and nature of petition, e.g., petition granted/denied (physical examination petition); supersedeas granted/denied.

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

No, but will seek to accommodate reasonable requests.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

See first event procedures above. The notice scheduling the first hearing (pre-trial) requires the employer/carrier to forward documents relied upon in support of supersedeas to counsel and claimant (if unrepresented). Accordingly, both parties are expected to have supersedeas documents (pro and con) at the pre-trial. Except in unusual situations, claimants' attorneys are not expected to ask for additional time to submit documents contra to the supersedeas request. Written orders granting/denying supersedeas are made and may contain other directions as relevant to the situation.

a. Will testimony be heard?

Claimant's position regarding a supersedeas request is by Affidavit. Exceptions are made where a claimant is unrepresented by counsel, or special circumstances are presented.

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

See important notice in first paragraph above regarding supersedeas procedure - Except in unusual situations, claimants' attorneys are not expected to ask for additional time to submit documents contra the supersedeas request; in like manner, as to defense counsel. In sum, most important that each party submit their respective supersedeas documents at the first listing.

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

Material changes in situation/status since order denying/granting supersedeas, e.g., surgery, return to work, etc. Also, as conditions stated in supersedeas order may require or be deemed appropriate for reconsideration of initial order.

d. Do you generally use written orders for denials?

Yes, with exception where only a "protective" supersedeas is filed, e.g., during claim petition proceedings, or where only medical liability is involved without special circumstances existing. See procedures above.

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

Recovery of benefits for client and submission of fee agreement - for the most part, attorney fees have been approved on a denial of supersedeas.

f. Describe any other procedures for supersedeas hearings:

N/A

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

N/A

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

Party testifying be prepared prior to hearing, and attorney be prepared and keep within time frame of hearing, and issues relevant to case.

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

Depositions and virtual hearings are currently employed and working well.

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

Good cause which would preclude depositions and virtual hearings.

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? Advised at pre-trial, thereafter as soon as possible to assure proper scheduling; if notice of hearing already sent, rescheduling may be required.

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

Unless good cause is shown otherwise, party with burden of proof proceeds first. This is usually the party filing the first petition.

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

Parties to file relevant documents as exhibits.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? See above procedures as to first event, C&R Agreements and supersedeas evidence. Exhibits which will dispose of case at first hearing, are filed prior to hearing; other evidentiary documents are filed to WCAIS only after admission on record. If before, how far in advance of the hearing must they be uploaded? As early as possible prior to hearing; see specific instructions as to C&R Agreements and supersedeas evidence.

8. When will you rule on objections to exhibits?

At hearing when exhibit offered – waiver of objection if not presented at that time for decision.

9. What is your procedure for handling discovery disputes? Rare, and usually decided at hearing or by instructions to parties placed in WCAIS, or in rare circumstances, for good cause, by conference.

- 10. What is the last day to file written preservations of deposition objections?** Objections are to be initially noted at time of deposition; waived if not preserved. Thereafter, written objections, if initially properly preserved, are presented prior to hearing at which deposition is to be admitted as evidence – objections heard at hearing and ruled upon; if not properly raised at hearing, deemed waived.

COMPROMISE & RELEASES (C&Rs)

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

C&R Agreements (both redacted and unredacted) must be submitted at least two business days before the hearing date.

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 allowed.

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?

See. above. Do not want “draft,” but rather completely executed documents. which will be attached to decision if C&R approved.

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

Before hearing, see above. All relevant documents, including fee agreement, Act 109 documents, etc. are to be uploaded as one exhibit – redacted version will be attached to decision if C&R approved.

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

No, make part of final document. See above.

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

Yes, as related to redacted documents.

f. Will you sign bench orders?

No, except in the most unusual circumstance.

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

Use readable sized font; check carefully to assure no conflicting/ambiguous clauses; check math; do not duplicate clauses; place responses in paragraphs where they belong; try to keep provisions within spacing provided in form without need to attach additional clauses.

STIPULATIONS RESOLVING DISPUTES

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

Follow Judges’ Rules relating to Stipulations; remember, stipulations are not mini-C&R Agreements, rather all terms, as to payments, etc. must comply with terms of Act, e.g., payment of interest, etc.

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

Attached to Stipulation.

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

Attached to Stipulation, properly redacted.

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

Documents specifically relevant to understand stipulation.

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

Attached to Stipulation.

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

In all redacted copies of stipulation – i.e., in stipulation which will be attached to decision.

7. Describe any other procedures you have for stipulations: N/A

BRIEFS AND PROPOSED FINDINGS

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

Final hearing required, absent special circumstances.

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

Time requirements set at final hearing; depending on circumstances, matters may be disposed of without further notice if time requirements not met. Will allow extensions for appropriate reasons on request.

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

Aside from usual proposed Findings, etc., each attorney prepares a certified neutral Summary of Evidence, accurate and without any advocacy, which can be relied upon; currently filed as separate exhibit; best attached to Decision. Instruction sheet available from Assistant.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

Virtual Mediations currently -- live at Malvern Office when it becomes appropriate in future.

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

Virtual has worked well.

3. **What factors will you consider in deciding whether to conduct a virtual mandatory mediation by audio only or by audio with video?** Visual preferred, but audio as circumstances warrant.
4. **Are you willing to allow counsel or a party to participate virtually in an in-person mandatory mediation? If so, under what circumstances?**

Virtual mediations only being conducted at this time.

5. **Do you require a Mediation Statement? Yes. If yes:**

- a. **What information do you require in that Statement?**

Nature of outstanding proceedings, brief history, e.g., occupation, injury date, nature of work incident; nature of injury, medical treatment, return to work. AWW/RATE, status of current proceedings; demand/offer (how each calculated), settlement requirements, current level of negotiations.

- 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 three (3) business days.

6. **If there is a request to postpone a mandatory mediation, will it be rescheduled? Depends on reason advanced for rescheduling– usually requires special circumstance. If so, how long until it is rescheduled? Parties to advise – will accommodate depending on scheduling commitments.**

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

Yes, in proper case.

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

Absent an emergency, as soon as possible; absent a special situation, within 10 days of mediation date. Requests to continue/postpone a scheduled mandatory mediation are to be forwarded to the mediating judge; in turn, requests to cancel mandatory mediation proceedings completely are to be directed to the judge assigned to adjudicate the petition.

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

Confer with one another to resolve independently and to be certain as to respective requirements for settlement.

VOLUNTARY MEDIATIONS

1. **Do you conduct Voluntary Mediations?**

Yes, but only as scheduling and other commitments allow.

2. How should the parties request a Voluntary Mediation?

E-Mail to Assistant.

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

If conducted, would be in Malvern, and only virtual currently.

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

Yes, see above. Eastern, Southeastern

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:

No

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

Virtual only – see above.

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

Inability of individual to conduct audio with video.

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

See above – Virtual only.

10. Do you require a Mediation Statement? Yes If yes:

a. What information do you require in that Statement?

See Mandatory Mediations above.

b. What documents, if any, must accompany the Statement?

See Mandatory Mediations above.

c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

See Mandatory Mediations above.

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

If accepted, as commitments allow.

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

As circumstances warrant.

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?

Mediating Judge

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

See Mandatory Mediations above.

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

See Mandatory Mediations 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?

As early as possible, except in emergency situations, preferably, within 10 days of scheduled time.

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

Rarely, except in emergency situations.

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

Only when all other available means fail.

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

Yes, except as special circumstances may warrant.

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

Contact through Assistant.

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.)?

Look for notices in WCAIS, also Malvern Office phone announcements.

Please see the Teams/Virtual Events Tips & Training tile on our [Website](#) for more information on how to use Microsoft Teams for WCOA Hearings and Mediations.