

## **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 is a virtual Pre-trial conference. At the first hearing, all petitions, other than Challenge Petitions, will be listed for a (15) minute pretrial conference for the purposes of disclosing discovery by the Moving Party, identifying witnesses, setting a trial schedule, and reviewing any unique issues. No testimony will be taken. Discoverable information should be exchanged prior to the first hearing consistent with section 131.61 of the WCJ Rules. For a Challenge Petition, the matter will be listed for a first hearing, at which time brief testimony may be taken on the limited scope of the Petition.

##### **a. List any documents required at the first event:**

A First Hearing Filing containing the information outlined in 131.52(d) of the WCJ Rules is required to be filed by the Moving Party on or before the first hearing. Within 45 days after the first hearing the responding party shall submit a 45-day filing consistent with section 131.53 of the WCJ Rules.

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

First hearing and 45 day filings shall be submitted as a letter to the Judge. If a document is intended to be an exhibit, then it should be uploaded as an exhibit. A name not a number should be given to the exhibit. However, the uploading of an exhibit does not mean it is admitted into the record.

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

Serial hearings, if needed.

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

Depending on when the request is made and the circumstances.

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

Generally, I prefer all testimony where credibility is an issue to be completed in person with the exception of vocational and medical expert testimony which can be completed by deposition. I will consider the medical needs of a witness, party or counsel and will entertain requests for testimony to be taken live via video in the virtual format where circumstances dictate.

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

All virtual hearings, with rare exception, must be conducted with both audio and video.

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

I will reschedule once. If a party fails to appear a second time, I will entertain appropriate motions for failure to prosecute or defend.

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

No.

**SUPERSEDEAS PROCEDURES**

**1. What are your procedures for supersedeas hearings?**

Supersedeas hearings, in most instances, will be scheduled as virtual hearings. Supersedeas exhibits shall be uploaded prior to the hearing.

**a. Will testimony be heard?**

While testimony is not required and an affidavit would be sufficient, Claimant will be permitted to present brief testimony ONLY on Supersedeas and/or to authenticate the Fee Agreement.

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

Special exceptions or requests for additional time to submit medical evidence will be considered on a case by case basis.

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

If compelling evidence, developed after the supersedeas decision or otherwise unavailable prior to the supersedeas decision is presented, it will be taken into consideration. Parties must request a hearing for reconsideration of supersedeas.

**d. Do you generally use written orders for denials?**

Yes. Generally, a written Interlocutory Order regarding supersedeas will be issued. If no indemnity benefits are being paid, supersedeas may be denied from the bench.

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

Denial of supersedeas, timely submission of supersedeas exhibits and a Fee Agreement. The Fee Agreement must be authenticated to be admitted into the record either by affidavit or testimony from Claimant.

**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?**

Testimony where credibility is at issue shall be conducted in person absent circumstances as described previously. Expert testimony may be conducted via deposition. No lay witness testimony may be taken by deposition without prior approval.

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

See above.

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

I will consider changing the requirements stated above if compelling circumstances are presented.

**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?** Witnesses must be identified during a previous hearing, in a 45 Day Filing or via a written request to present witness testimony at least 45 days prior to the hearing. If proper notice is given to the adverse party with no objection and time permits, consideration of additional witness testimony will be given.

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

Generally, the party filing the first petition will be considered the moving party for purposes of the foregoing. In the event of a Claimant's Petition to Review the Description of Injury filed after Defendant's Petition, Defendant should attempt to ascertain as soon as possible whether an additional IME will be necessary. If an additional examination is necessary, Defendant shall schedule that examination within 45 days of the first hearing and the expert's deposition scheduled within 90 days of the first hearing so as not to delay litigation. Exceptions will be permitted on a case by case basis.

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

Parties should upload relevant Bureau and WCOA documents.

**7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Yes. If before, how far in advance of the hearing must they be uploaded?** All exhibits to be used at a hearing must be uploaded and served on all parties 48 hours in advance of the hearing.

**8. When will you rule on objections to exhibits?**

The exhibits will be discussed at hearing and rulings made at that time. Any exhibit uploaded after the hearing and not previously discussed at a hearing, must first be moved into evidence by the submitting party. Any objections to said exhibits will be handled on a case by case basis upon receipt of written objection to said exhibit.

**9. What is your procedure for handling discovery disputes?**

If there is a discovery dispute, each party shall submit their respective position in writing. If I am unable to rule upon same based upon the information provided, I will conduct a telephone conference with the parties. There are few circumstances requiring me to attend a deposition and would generally not consent to same. However, I may be available for conference call should a discovery dispute arise during the course of a deposition during normal business hours.

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

Preserved objections should be submitted as a separate exhibit prior to or at the time Proposed Findings of Fact are submitted.

### **COMPROMISE & RELEASES (C&Rs)**

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

I am willing to conduct a C&R hearing virtually if Claimant can participate with both audio and video. Otherwise, it will be conducted in person. If the hearing is to be conducted virtually, the parties must upload redacted and unredacted versions of the Agreement and Act 109 Documents into WCAIS at least 36 hours in advance of the hearing. Failure to do so could result in the hearing being rescheduled.

**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 acceptable.

**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.

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

See above.

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

A separate exhibit is not required.

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

For virtual hearings, the confidential information should be redacted on one version, but not on the unredacted version. For in person hearings, my office will redact the confidential information.

**f. Will you sign bench orders?**

No, unless there are exceptional circumstances.

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

N/A

### **STIPULATIONS RESOLVING DISPUTES**

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

Stipulations will be reviewed upon submission at hearings or via WCAIS and if said stipulation does, in fact, resolve all pending issues, I will approve same. If issues remain outstanding, a phone conference may be scheduled to address said issues.

**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?**

Separate exhibit

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

Any Exhibit the parties wish to be an Exhibit should be a separate Exhibit with the exception of medical bills that can be uploaded as one exhibit. All exhibits should be uploaded as separate exhibits, not attached to the Stipulation.

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

Separate exhibits

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

The social security numbers should be redacted prior to them being uploaded. A separate unredacted copy of the Act 109 documents should be uploaded for verification of the accuracy of the document. The unredacted documents will not be admitted into evidence.

**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?**

To the extent possible, all exhibits should be uploaded prior to the last hearing. At the last scheduled hearing, the exhibits will be reviewed, and any remaining/outstanding exhibits discussed can then be submitted via WCAIS.

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

The briefing schedule provides for Proposed Findings of Fact, Conclusions of Law and briefs to be submitted concurrently within 30 days. The parties are notified either from the bench or in writing of the scheduling of briefs and Proposed Findings. Should counsel fail to file briefs and Proposed Findings and also fail to successfully request an extension of time, the matter may be decided at any time after the filing date for briefs and Proposed Findings.

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

Post-trial submissions should include Proposed Findings of Fact, Proposed Conclusions of Law, and a Proposed Order. Proposed Findings of Fact should contain a specific cite to the record including page and line numbers from the transcripts. Parties are encouraged to always submit a supporting brief with appropriate case citations.

## MANDATORY MEDIATIONS

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

Allentown

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

I will consider the preference of the parties as well as any health and safety concerns of the participants.

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

Counsel should participate by video and are encouraged to have their clients do so also.

**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. If there are extenuating circumstances, they will be discussed on a case by case basis.

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

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

The parties should advise of the status of the current litigation, a synopsis of past/relevant litigation, the wage information, status of any third party litigation, any potential social security or Medicare issues, any potential lien issues, the status of any unpaid medical bills, and finally the strengths and weaknesses of their respective cases.

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

No other documents are required but the parties may attach any documents they believe may be helpful for mediation.

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

72 hours

**6. If there is a request to postpone a mandatory mediation, will it be rescheduled? Yes If so, how long until it is rescheduled?** The parties will be provided available dates but there is not a set time.

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

Yes, particularly on difficult or complicated cases. I may require; however, that the parties verify a willingness to compromise further from their final positions at an earlier mediation before I will reschedule.

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

48 hours.

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

It is helpful if the parties have started negotiations and exchanged at least one settlement demand and offer. The adjuster and/or supervisor must be available for the mediations.

### **VOLUNTARY MEDIATIONS**

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

Yes

**2. How should the parties request a Voluntary Mediation?**

Contact my assistant, Cheryl Najda-Kull, at cnajda-kul@pa.gov for availability. Then submit a WCAIS request for the date and time.

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

Allentown

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

Yes. I will conduct voluntary mediations for any WCOA District.

**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. I do not have any special procedures for such cases.

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

I will consider the preference of the parties as well as any health and safety concerns of the participants.

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

All parties and counsel should appear via video absent extenuating circumstances.

**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, depending on the circumstances.

**10. Do you require a Mediation Statement? Yes, see Mandatory Mediation response #5. If yes:**

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

Yes, see Mandatory Mediation response #5.

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

Yes, see Mandatory Mediation response #5.

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

Yes, see Mandatory Mediation response #5.

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

Voluntary mediations are on a first come first served basis. See #2 above.

**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?**

48 hours

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

It is helpful if the parties have started negotiations and exchanged at least one settlement demand and offer. The adjuster and/or supervisor must be available for the mediations.

## REQUESTS/MISCELLANEOUS

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

Requests for continuances and extensions must be made, and will be decided, in accordance with Rule 131.13 and Rule 131.12, respectively. I am willing to accommodate requests for changes in hearing times if the schedule permits.

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

Conference calls will be considered on a case by case basis. A letter explaining the specific issue to be addressed and the respective parties' positions should be uploaded as a request in WCAIS.

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

All communications should be conducted through WCAIS via the Request or Correspondence tabs. In limited situations, emails may be sent to my assistant, Cheryl Najda-Kull, at [cnajda-kul@pa.gov](mailto:cnajda-kul@pa.gov). All emails should be copied to all other parties and/or counsel.

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

Yes.

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

Email to my 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.)?**

In case of inclement weather, check WCAIS to see if the event will be converted from an in person event to a virtual event. Virtual events will remain as scheduled. It is imperative that the parties check WCAIS and/or their emails for the latest updates during inclement weather. Non-weather related emergency cancellations will be addressed on a case by case basis. The WCAIS Dashboard is the best source for such information.