

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 a pre-trial hearing. All hearings will be virtual by default. A mandatory trial schedule will be set, whereby Claimant will testify by deposition on direct or as-on-cross within 30 days for the first hearing. Mandatory mediation will also be discussed, with the parties specifying the month they wish to have the mediation conducted. On a Defendant-driven petition, the Defendant's supersedeas exhibit is to be uploaded to WCAIS in advance of the hearing, if the same is being requested.

a. List any documents required at the first event:

The moving party should upload the controlling document to WCAIS before the hearings. If it is a supersedeas hearing, Employer is expected to have its supersedeas evidence uploaded prior to the first hearing.

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

Anything a party would like considered as evidence, including stipulations of fact, should be uploaded as an Exhibit.

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

Serial hearings will be conducted including a pre-trial hearing, interim listing, and a final hearing during which testimony of the Claimant is expected.

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

Yes, I will consider a request to change the hearing format upon a showing of good cause by the parties. Requests for format change should be submitted via WCAIS and the filing party must ascertain the position of all interested parties.

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

Consideration will be given to the specific facts of the case and position of the parties.

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

Video participation is preferred for all virtual hearings. If the hearing is for presentation of testimony, including Compromise and Release hearings, video participation is required. If there are extenuating circumstances, I will consider allowing testimony via audio only based on the specific facts of the case and position of the parties.

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

In most cases, a record will be made and a hearing will be scheduled in 30 days. Following the hearing, communication will be sent to the missing party advising them to participate in the next hearing or the Judge will entertain a motion to dispose of the matter.

7. Do you have special procedures for psychological injury cases? No.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

Employer is expected to have its supersedeas evidence uploaded prior to the first hearing. Claimant will be given 14 days in which to respond to Employer's evidence.

a. Will testimony be heard?

No. However, I will consider a request to present testimony at a supersedeas hearing. This request should be filed in advance of the hearing. If granted, the case will be scheduled for a hearing for testimony.

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

Yes, Claimant may be given up to 21 days to submit supersedeas if there are extenuating circumstances necessitating the extension.

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

Upon submission of new evidence.

d. Do you generally use written orders for denials?

Yes.

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

For Claimant's counsel to obtain interim fee approval, the fee agreement must be uploaded with an affidavit from Claimant confirming their understanding of the fee agreement and, specifically, their understanding that the attorney fee could be deducted should supersedeas be denied.

f. Describe any other procedures for supersedeas hearings:

None.

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

Claimant's evidence in opposition to Employer's request for supersedeas must be uploaded to WCAIS within 7 days of the supersedeas hearing. This timeframe can be modified only by agreement of the parties.

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

No testimony will be taken at the first hearing, as it is a pre-trial hearing. My preference is for Claimant to testify by deposition and then in an update fashion at the final hearing. The parties are permitted to take fact witness testimony by deposition. If properly requested, a virtual hearing can be scheduled for presentation of fact witness testimony. Video participation is required for all virtual hearings where testimony will be presented, including Compromise & Release hearings. If there are extenuating circumstances, I will consider allowing testimony via audio only based on the specific facts of the case and position of the parties.

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

Please see above. I will consider requests for testimony to be considered in an alternate fashion to what is outlined above only upon good cause shown, depending on the specific facts of the case and position of the parties.

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

Upon good cause shown.

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.

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

Generally, whoever filed the first petition goes first.

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 as exhibits the controlling Bureau and WCOA documents prior to the first hearing.

Do you require counsel to upload exhibits to WCAIS before or after the hearing?

Before the hearing at which they will be offered as evidence. When uploading exhibits, please note that the Exhibit Name should be the name of the document, i.e., “Dr. Smith’s Deposition” or “Notification of Suspension.”

a. If before, how far in advance of the hearing must they be uploaded? At least 24 hours.

7. When will you rule on objections to exhibits?

At the hearing during which they are offered into evidence.

8. What is your procedure for handling discovery disputes?

Discovery disputes will be handled on a case-by-case basis. If the matter is not raised at a hearing, Counsel should submit a WCAIS request outlining the dispute and the matter will then be scheduled for a hearing on the record.

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

The preservation of objections should be uploaded as an exhibit at least 24 hours prior to the final hearing.

COMPROMISE & RELEASES (C&Rs)

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

At least 24 hours prior to the hearing, the parties should upload an unredacted and a redacted copy of the fully executed C&R documents. The C&R documents should contain the C&R Agreement, Act 109 documents, fee agreement and alternative delivery form, if applicable. Video participation is required for all parties. If there are extenuating circumstances, I will consider allowing testimony via audio only.

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?

I allow amendments if the existing petition(s) are being resolved by the C&R Agreement.

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

At least 24 hours prior to the hearing, the parties should upload an unredacted and a redacted copy of the fully executed C&R documents. The C&R documents should contain the C&R Agreement, Act 109 documents, fee agreement and alternative delivery form, if applicable.

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?

Please upload one copy of the C&R documents with redactions and one without redactions.

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 must be uploaded into WCAIS as an exhibit with any necessary documentation, such as Act 109 documents and the fee agreement, attached. If Act 109 documents are applicable, the social security number and date of birth must be redacted. Once the stipulation is uploaded, please submit a miscellaneous WCAIS request seeking approval.

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

Part of the stipulation.

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

No.

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

None, unless the stipulation specifically references the same as being attached.

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

If additional items are to be attached to the stipulation, they should be uploaded as part of the stipulation.

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

Social security numbers and other confidential information should always be redacted prior to being uploaded to WCAIS.

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.

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

A briefing schedule is set at the final hearing. Typically, the moving party will be given 30 days to submit their brief, with 30 days thereafter for the responding party. Any request for extension of the briefing schedule must be made prior to the expiration of the briefing schedule. The position of opposing counsel must be noted in the extension request. Parties who do not file a timely brief or timely request an extension for filing their brief risk a decision being issued without the benefit of that party's brief.

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

No specific format is required. However, all briefs should contain a procedural history and an objective summary of the evidence, with proposed findings of fact and conclusions of law, including citations to the record. An effective brief is more than a summary of the evidence, but instead should explain to the WCJ why a party's evidence is credible or not. Specific reasons for the suggested credibility determinations should be provided. Evidence submitted with the brief that was not discussed at the final hearing will not be admitted into evidence or considered.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

Virtual mandatory mediations using TEAMS will be conducted for Philadelphia cases.

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

At the present time, all mandatory mediations will be scheduled virtually by default. However, I will consider a request for an in-person mandatory mediation. A request for an in-person mediation should be made at least 30 days in advance of the scheduled event via WCAIS Request, with opposing counsel's position noted. Factors to be considered include, but are not limited to, the following: the substance and noted reasons for the request, the facts of the case, good cause shown, objections to the request, agreement of the parties, and any potential impediments to virtual mediation, but ultimately within this Judge's discretion. Significant consideration will also be given to regional public health concerns, recommendations, and guidelines.

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

Video participation is required. Parties should utilize the Microsoft Teams link and only use the dial in number as a last resort. This is to allow access to the breakout rooms in Microsoft 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?

In-person mediation will only be scheduled if all parties are amenable. If an in-person mediation is scheduled, all parties are expected to appear in-person.

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

a. What information do you require in that Statement?

I prefer a one or two-page summary. This should contain as much of the following information as possible: Case name, submitting party, presiding judge, date of injury, accepted/alleged injury, petitions pending, average weekly wage and compensation rate, status of settlement negotiations, Claimant's age, Claimant's length of employment, medical experts, summary of medical treatment, status of litigation, Claimant's pre-injury title, mechanism of injury, the amount of outstanding medical expenses, the amount of potential credits (unemployment credit, short-term disability, long-term disability), whether Claimant is receiving/applied for Social Security Disability benefits and is a Medicare beneficiary, whether there is a 3rd party case, whether any Utilization Review Requests are outstanding, whether a resignation is required, and Claimant's litigation costs. Statements should be uploaded under the Mediation tab in WCAIS.

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 24 hours.

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

No, a mandatory mediation will not be rescheduled. The parties can request a voluntary mediation with a Judge of their choosing 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 day prior to the mediation, however, please provide as much notice as possible.

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

If the Employer does not have settlement authority as of the day prior to the mediation, that should be communicated to Claimant's counsel.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes.

2. How should the parties request a Voluntary Mediation?

Parties may email me directly at cassmartin@pa.gov to request voluntary mediation dates.

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

Philadelphia. At the present time, all mandatory mediations will be scheduled virtually by default. However, I will consider a request for an in-person mandatory mediation.

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

Yes. 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. I have no special procedures.

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

At the present time, all voluntary mediations will be scheduled virtually by default. However, I will consider a request for an in-person voluntary mediation. A request for an in-person mediation should be made at least 30 days in advance of scheduled event via WCAIS Request, with opposing counsel's position noted. Factors to be considered include but are not limited to the following: the substance and noted reasons for the request, the facts of the case, good cause shown, objections to the request, agreement of the parties, and any potential impediments to virtual

mediation, but ultimately within this Judge's discretion. Significant consideration will also be given to regional public health concerns, recommendations, and guidelines.

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

Video participation is required. Parties should utilize the Microsoft Teams link and only use the dial in number as a last resort. This is to allow access to the breakout rooms in Microsoft 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?

In-person mediation will only be scheduled if all parties are amenable. If an in-person mediation is scheduled, all parties are expected to appear in-person.

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

a. What information do you require in that Statement?

I prefer a one or two-page summary. This should contain as much of the following information as possible: Case name, submitting party, presiding judge, date of injury, accepted/alleged injury, petitions pending, average weekly wage and compensation rate, status of settlement negotiations, Claimant's age, Claimant's length of employment, medical experts, summary of medical treatment, status of litigation, Claimant's pre-injury title, mechanism of injury, the amount of outstanding medical expenses, the amount of potential credits (unemployment credit, short-term disability, long-term disability), whether Claimant is receiving/applied for Social Security Disability benefits and is a Medicare beneficiary, whether there is a 3rd party case, whether any Utilization Review Requests are outstanding, whether a resignation is required, and Claimant's litigation costs. Statements should be uploaded under the Mediation tab in WCAIS.

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 24 hours.

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

As the parties work with me directly to schedule the mediation, I try to accommodate the parties' requested timeframe for a voluntary mediation.

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?

The day prior to the mediation, however, please provide as much notice as possible.

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

If Employer's counsel does not have settlement authority for a voluntary mediation as of the day before the mediation, counsel should advise my office and Claimant's counsel.

REQUESTS/MISCELLANEOUS

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

For hearing continuances, requests should be made via WCAIS at least two business days prior to the scheduled event. Requests for continuances need to contain sufficient information in order for me to determine whether a continuance is appropriate. Continuance requests must include the status of litigation (i.e. what evidence has been completed to date), when the need for the continuance arose, why the continuance is needed, the opposing party's position regarding the request, and the length of time the requesting party is asking for the matter to be continued. The request may be denied if any of this information is not included. Requests for an extension of the trial schedule should be communicated via WCAIS once it becomes clear an extension is needed. Such requests should include the same information outlined above. Requests to extend the briefing schedule need to be made prior to the expiration of the briefing schedule. These requests are granted on a case-by-case basis and are dependent on a number of different variables, such as prior continuance/extension requests by the same party in the same matter.

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

I will entertain a request for a conference call upon good cause shown and within the Judge's discretion.

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

For voluntary mediation requests or for emergencies. All other communication should take place via WCAIS.

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

The time allotted for hearings is adhered to strictly, as hearings are slotted. Mediations will be allowed to go past the allotted time if it does not interfere with other events scheduled that day.

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

In a true emergency, you may email me at cassmartin@pa.gov.

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.)?

As a rule, virtual events will be held regardless of snow-related office closings. Emergency cancellation of virtual events will be communicated via email and/or WCAIS. For in-person events, info regarding emergency and snow cancellation is usually available on WCAIS or the Philadelphia Bar Association website under the Workers Compensation Section.