

Welcome Back to Court or Not?

A Judge's perspective on holding hearings and mediations in 2021

Judge Seelig
Judge Craig
Judge Drinkwine

*Disclaimer: The opinions and views expressed by the judges on this panel are their own and are not the opinions of the Workers' Compensation Office of Administration.

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WCJ Hearing Considerations

- Regulations Section 131.54 provides:

(a) The judge will conduct fair and impartial hearings and maintain order. At the discretion of the judge, the hearings may be conducted by telephone or other electronic means if the parties do not object. Disregard by participants or counsel of record of the rulings of the judge shall be noted on the record, and if the judge deems it appropriate, will be made the subject of a written report to the Bureau's Director of Adjudication together with recommendations.

(b) If the participants or counsel are guilty of disrespectful, disorderly, or contumacious language or conduct in connection with a hearing, the judge may suspend the hearing or take other action as the judge deems appropriate, including the submission of a written report to the Bureau's Director of Adjudication together with recommendations.

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Judge Procedural Questionnaire

Procedural Questionnaires for all Workers' Compensation Judges in the Commonwealth can be found online. These have been recently updated and also include contact information for the judge's secretary.

The website for Procedural Questionnaires can also be accessed via WCAIS. On the WCAIS Dashboard, the Procedural Questionnaires can be accessed in the Quick Links. Also, in the relevant dispute, under the General Information tab, the assigned Judge's name is a hyperlink to the website for the Questionnaires.

[https://www.dli.pa.gov/Individuals/Workers-Compensation/wcoa/judge/Pages/Individual-WCOA-Judges'-Questionnaire-\(Practice--Procedure\).aspx](https://www.dli.pa.gov/Individuals/Workers-Compensation/wcoa/judge/Pages/Individual-WCOA-Judges'-Questionnaire-(Practice--Procedure).aspx)

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Tips from the Bench

- Judges have updated their Judges' Procedural Questionnaire. The parties should review and follow the rules for the assigned Judge.
- Use of Teams for virtual hearings and mediations.
- The preference and often the Judge's rule is that the parties join via the link with video and not simply call in for hearings and mediations.
- The parties should make sure that they are able to use the link provided and ensure that their clients can also use the technology appropriately.

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Tips (continued)

- Have your office practice for 5 minutes with your client before the hearing if testimony is involved.
- Have all exhibits exchanged with opposing counsel and potentially uploaded into WCAIS before the hearing depending on the Judge's preference.
- C&R hearings: Make sure your client has the C&R Agreement to view during the hearing (preferably hard copy).
- Ensure that the Judge's rules are followed for submission and uploading of the C&R Agreement.
- DVDs/Physical Evidence: Ensure that you are following the current guidelines for submission of physical evidence.

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In person hearings

- In-person hearings will be held only in limited circumstances.
- Current restrictions and the Philadelphia mask mandate
- Parties or their counsel can make a request to present in-person testimony. However, the WCJ will determine whether, in his/her discretion, in-person testimony is necessary. Parties making such a request should include a justification and the position of the opposing party on the request.
- Each individual who enters the office has a personal responsibility to follow the current CDC and DOH guidelines for handwashing, social distancing, wearing masks, and staying home if sick.

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Etiquette for the Virtual Practice

- Continue to practice as though everything you say and do can be heard and seen regardless of mute and whether your webcam is on.
- Download all programs WELL in advance, if you don't already have them.
- Test your audio and visual equipment in advance.
- Have your staff practice with a witness.

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Etiquette (continued)

- Follow the Judge's procedural rules.
- Mute yourself as necessary as some Judges use same call-in number/link for multiple hearings.
- Be considerate of others.
- Be aware of your background and attire
 - We see you in bed, your car, or on vacation...

***** It is still Court and professionalism will rule even though you may be in your home. Would you do this at a live hearing?*****

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Reminders

- The Malvern WCOA cannot accept mail at this time. Surveillance evidence must continue to be sent to the Petitions Unit for forwarding to the adjudicating Malvern WCJ until further notice.
- Phone numbers and e-mail addresses for the clerical support staff in the WCOA Judges offices, have been posted in the Judges' Procedural Questionnaires. This contact information should only be utilized for administrative issues and emergencies.
- The Disaster Declaration statutory suspension of Section 449 of the Act requiring attestation of Claimant's signature by two witness OR notarization of claimant's signature is still in effect and will expire on September 30, 2021. After that date, parties will be required to comply with either two witness attestations or notarization of the claimant's signature on the C&R Agreement.

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Questions or comments

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[REDACTED]

Claim and Review Petition

INTERLOCUTORY ORDER

Currently pending is Claimant's Claim Petition which has been pending for over one year. This Judge scheduled the case for a final hearing on [REDACTED]. By notice of hearing through WCAIS and e-mail sent by this Judge on [REDACTED] to Claimant's counsel's e-mail address registered with WCAIS, this Court alerted Claimant's counsel that the final hearing would be held virtually by video hearing using Microsoft TEAMS. The Workers' Compensation Office of Adjudication has notified attorneys for over 6 months with announcements on WCAIS of Judges using Microsoft TEAMS for virtual hearings during the COVID pandemic. The Workers' Compensation Office of Adjudication (WCOA) has online training available on its website at: <https://www.dli.pa.gov/Individuals/Workers-Compensation>. Lastly, the WCOA has a helpline at 844-237-6316. At the [REDACTED] hearing, Claimant's counsel indicated he did not receive the e-mail and was not prepared to participate by video on Microsoft TEAMS. Accordingly, the following is ordered:

AND NOW, this day as noted on the circulation page, this case is scheduled for a final hearing to be held by video on Microsoft TEAMS on [REDACTED].

FAILURE OF COUNSEL TO NOTIFY THIS COURT 7 DAYS BEFORE THE HEARING OF ANY ISSUES WITH JOINING BY VIDEO FOR THE HEARING MAY RESULT IN THE CASE BEING CLOSED WITHOUT ANY FUTURE EVIDENCE TO BE CONSIDERED.

This hearing is ONLY for Claimant's testimony and no other testimony will be permitted. Any other testimony should be done by deposition before the final hearing. Counsel is reminded of the Pennsylvania Rules of Professional Conduct governing attorneys, Rule 1.1 addressing an attorney's obligation to be competent in the area of technology that a Court or agency is using for legal matters. An e-mail with a link to the Microsoft TEAMS hearing will be e-mailed out a week before the hearing and/or the parties may simply use the below web address to join Microsoft TEAMS by video on [REDACTED] at [REDACTED] p.m. by going to: [https://\[REDACTED\]](https://[REDACTED])

TODD B. SEELIG
WORKERS' COMPENSATION JUDGE
PHILADELPHIA DISTRICT OFFICE