



Work Comp Boot Camp 2023

Illinois Workers' Compensation Commission Arbitrators Panel

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About The Faculty

ARBITRATOR STEPHEN J. FRIEDMAN graduated from the University of Illinois with a BA with honors in 1972 and a JD with honors in 1975.

Steve was a practicing Workers Compensation defense attorney for almost 40 years. He was a founding partner and was managing partner of Rusin Maciorowski & Friedman handling cases statewide at Arbitration, Commission, Circuit Court and Appellate Court levels.

Steve was voted Leading Lawyer status based on a Law Bulletin Publishing Company survey of his peers from 2004-2015. He has been chosen as an Illinois Superlawyer for 2005-2014. He is AV Per rated by Martindale Hubbell and Bar Register of Preeminent Lawyers

He has been an Arbitrator at the Illinois Workers Compensation Commission since September 2014. He has been assigned to Chicago, the northern collar counties and is currently assigned to DuPage and Kane counties.

Over the years, Steve has spoken to and prepared written materials for many organizations on Workers Compensation issues including, Illinois Continuing Legal Education seminars, bar associations, and industry groups.

He has also participated as a judge for national law school competitions, judging multiple ABA Moot Court Competitions, the ABA Negotiation Competition, and the AAJ National Trial Advocacy Competition.

ARBITRATOR JEFFREY HUEBSCH graduated from Northern Central College with a BA with in 1980 and a JD with high honors in 1984. He has been an Arbitrator at the Illinois Workers Compensation Commission since 2013. Prior to being appointed to the Commission, Arbitrator Huebsch was a practicing Workers Compensation defense attorney for almost 30 years.

ARBITRATOR RACHAEL SINNEN has spent the last decade working almost exclusively in workers' compensation, first at Knell O'Connor Danielewicz representing Respondents and then joining the Petitioners bar at Elfenbaum Evers, and Zielinska. Arbitrator Sinnen sat as co-counsel for Petitioner on McAllister v. North Pond, an Illinois Supreme Court ruling on the issue of "arising out of." Arbitrator Sinnen previously served as vice chairwoman of the Young Lawyers' Section for the Workers' Compensation Lawyers Association and is a member of the Hispanic Lawyers Association of Illinois. Arbitrator Sinnen is also an adjunct professor at Chicago-Kent College of Law teaching evidence and trial skills.

PRE-TRIALS, DEPOSITIONS & PROPOSED DECISIONS



Arbitrators

Stephen Friedman, Jeffrey Huebsch & Rachael Sinnen



Illinois Workers' Compensation Commission

JB Pritzker, Governor
Michael J. Brennan, Chairman

IICLE Fall 2023

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Illinois Workers' Compensation Commission

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Resources

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Arbitration Procedures

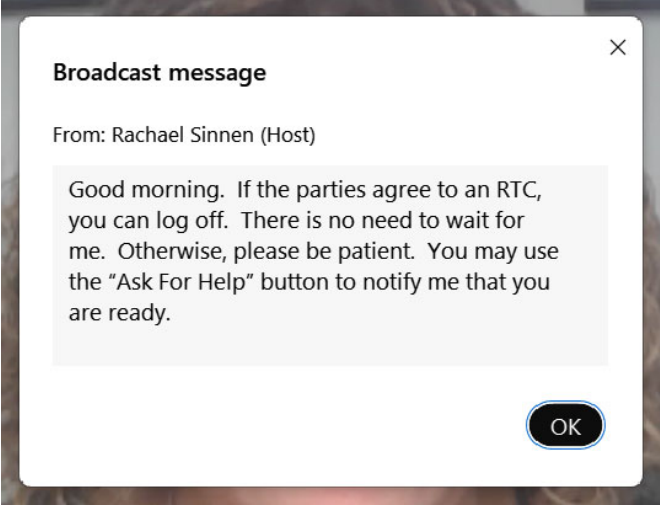
- [Arbitration WebEx Status Call and Pre-Trial Procedures](#)
- [Supplemental Arbitration Pre-Trial Procedures](#)
- [General Arbitration Procedures](#)
- [IWCC YouTube page](#) to access training videos.

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WebEx Procedures

- Pre-Trials begin at the top of each hour.
 - ❖ Example: If CompFile says your case is set for pre-trial at 9:12, then you need to appear at 9am.
- Parties must proceed to assigned breakout room upon entering the Webex meeting.
 - ❖ Sequence Number equals Room Number.
 - Know your room number!!!!
 - https://iwcc.dynamics365portals.us/call_sheets/
- The Arbitrator will advise when you can leave the breakout room.
 - ❖ Be on the lookout for Broadcast Messages.

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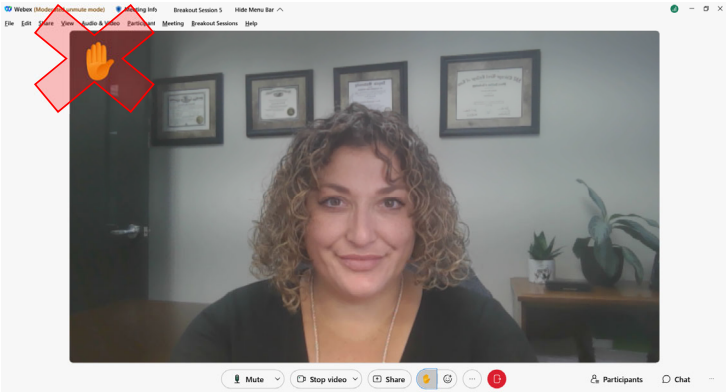
WebEx Tips

BROADCAST MESSAGE

Arbitrators can broadcast messages to attorneys in breakout sessions.

- Please read these before hitting “OK.”
 - Also pay attention to an arbitrator’s Auto Replies if an email was sent about a pre-trial.
- Remember that attorneys cannot respond to broadcast messages.
- Attorneys in the main meeting room or lobby cannot see broadcast messages.
- A message in Chat is only visible to those in the same room as the sender at the time the message is sent.

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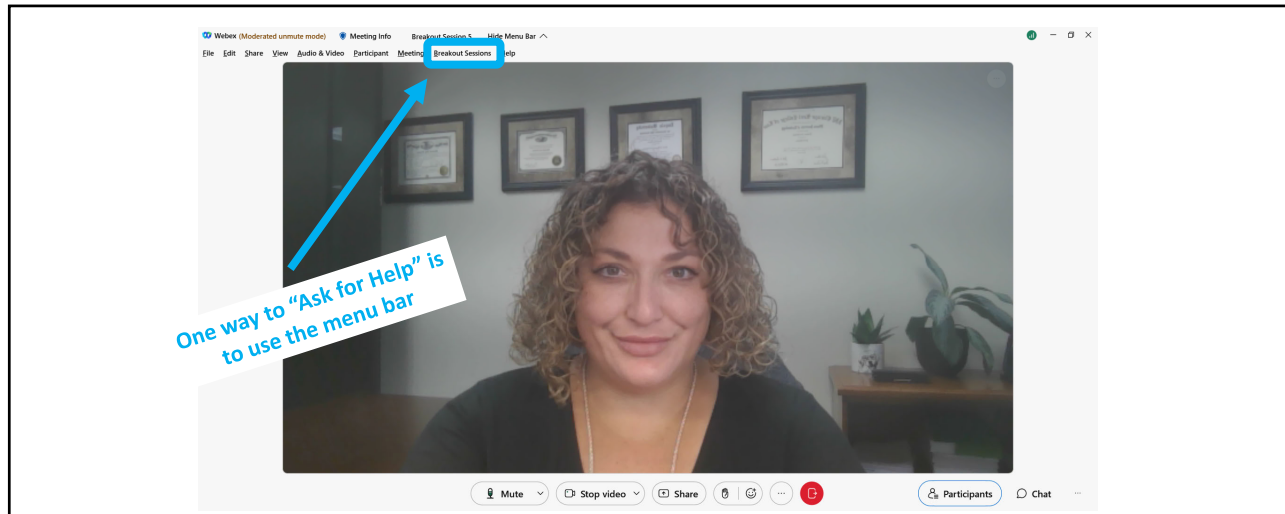


WebEx Tips

Do NOT “Raise Hand” to call for the Arbitrator.

The Arbitrator cannot see that your hand is raised unless they are already in the breakout room with you.

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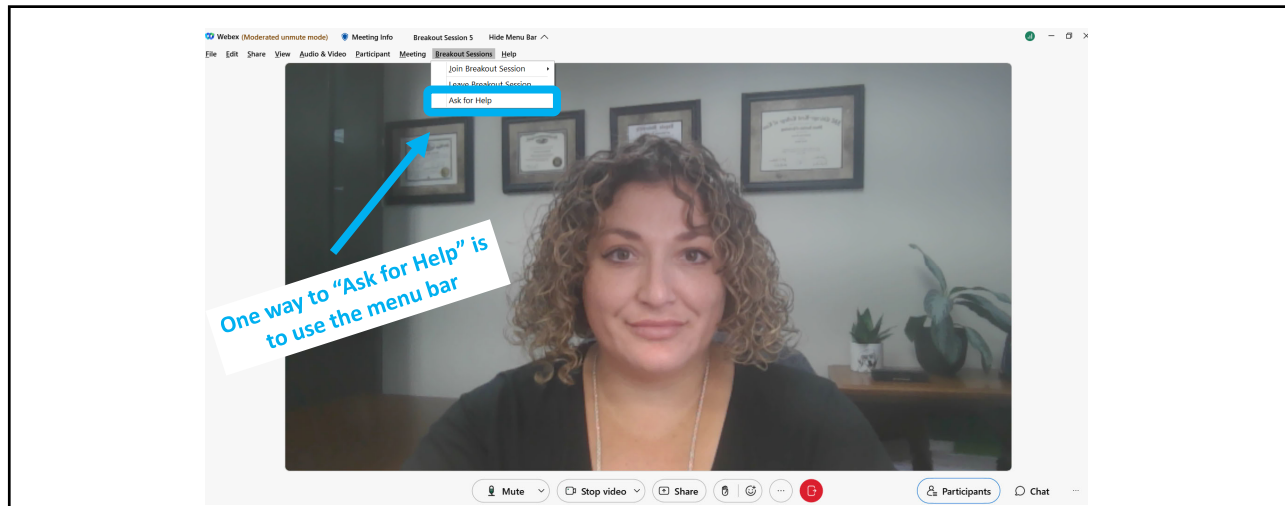


One way to "Ask for Help" is to use the menu bar

WebEx Tips

INSTEAD, "ASK FOR HELP"

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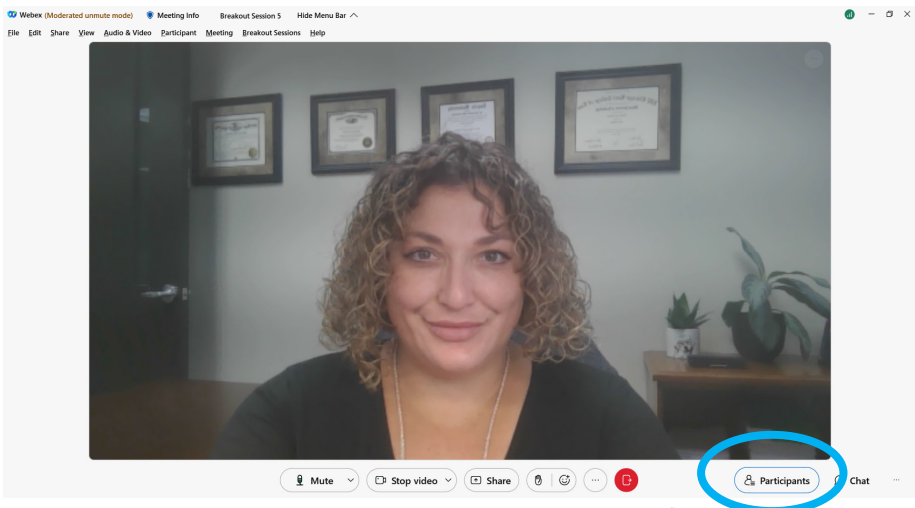


One way to "Ask for Help" is to use the menu bar

WebEx Tips

INSTEAD, "ASK FOR HELP"

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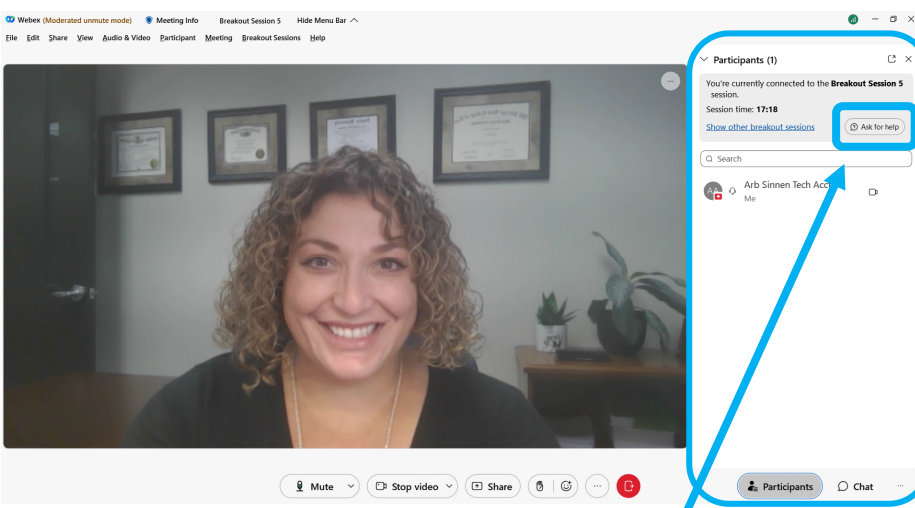
WebEx (Moderated unmute mode) Meeting Info Breakout Session 5 Hide Menu Bar ^
File Edit Share View Audio & Video Participant Meeting Breakout Sessions Help

Mute Stop video Share Participants Chat

WebEx Tips
INSTEAD, "ASK FOR HELP"

Another way to "Ask for Help" is to use the participants tab

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WebEx (Moderated unmute mode) Meeting Info Breakout Session 5 Hide Menu Bar ^
File Edit Share View Audio & Video Participant Meeting Breakout Sessions Help

Participants (1)
You're currently connected to the Breakout Session 5 session.
Session time: 17:18
Show other breakout sessions Ask for help

Search

Arb Sinnen Tech Acc Me

Mute Stop video Share Participants Chat

WebEx Tips
INSTEAD, "ASK FOR HELP"

Another way to "Ask for Help" is to use the participants tab

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Reasons to Set a Pre-Trial

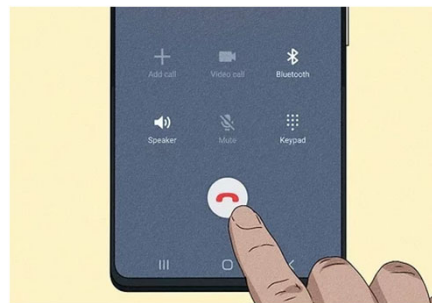
THE BEST REASONS TO SET A PRE-TRIAL ARE WHEN THE PARTIES NEED TO:

- ❑ Address a dispute on a point of law.
- ❑ Seek the arbitrator's assessment of case value.
- ❑ Seek an interim resolution of a current development [Usually a 19(b)].
- ❑ Seek an opinion on a reasonable compromise of a disputed matter.
- ❑ Confirm trial readiness and get a trial date.

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However, Most Pre-Trials are Set Because:

- ❑ The parties are seeking an updated response to:
 - a settlement demand or offer.
 - requests for current medical status, bills or records.
 - the scheduling of depositions or other trial preparation.
- ❑ Emails, phone calls, letters or faxes have been ignored.
- ❑ The filing attorney just needs to discuss a plan of action with their opponent.



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Pre-Trial Tips

Be Civil. Be Prepared. Be Efficient.

- The first thing you should tell the arbitrator is what is the purpose of the pre-trial.
 - If you are seeking a settlement:
 - Know the amounts of disputed medical and TTD.
 - Know the 5 factors of Section 8.1b(b) if applicable.
 - Know the strengths and weaknesses of your case.
 - If your opponent is resisting settlement, be prepared to detail what needs to be done to complete trial preparation.
 - If you are requesting a trial date, know if your witnesses are available.

Explore interim resolutions BEFORE pre-trial.

- There may be options for interim resolutions short of a trial.
 - PPD advancement
 - Put disputed treatment through group insurance
 - Obtain non occupational lost time benefits
- If there is a disputed surgery, explore with your client if they are insistent on treatment or are open to the option of a total compromise settlement.

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Pre-Trial Tips

Manage scheduling conflicts.

- Avoid multiple devices.
- If you are double booked or have a conflict, notify your opponent as soon as possible.
- If you anticipate a pre-trial needing more than 10 minutes, contact the arbitrator in advance.

Don't expect...

- Quick replies from arbitrators during pre-trials.
 - Emails to arbitrators should be for administrative purposes only.
 - Do not argue the case via email.
 - Read arbitrators' auto-reply messages.
- The arbitrator to tell a party to abandon a defensible position.
- The arbitrator to grant 30 day dates to "keep the pressure on."

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Depositions: When & How

Lay Witnesses: Evidence Deposition or Live at Hearing

If you have multiple occurrence witnesses (often coworkers), or foundational witnesses for documents, consider depositions prior to hearing.

Expert Witnesses: Deposition v. Report

Ask yourself:

- What is the purpose of forcing the deposition?
- Do you believe you can impeach the expert or change his opinion?
- Are you inadvertently providing the witness an opportunity to correct errors or improve his opinion?
- Why would you want to depose your own experts if there is no objection to the report?



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Depositions

Where objections

- Be specific!!!
 - Consider attaching the report for purposes of the objection, so that the Arbitrator can make a ruling.

Keep a clean record

- Skip the sniping or extraneous dialog.
- Beware of double negatives in your questions.
- Listen to the answer.
- On cross-examination, ask tight leading questions
 - Read Younger's 10 Commandments of Cross-Examination

Include Exhibits

- Don't forget the deposition exhibits when submitting the transcript into evidence.
- Arbitrators love when transcripts include a word search.

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Proposed Decisions

Do A Separate Decision for Each Consolidated Case:

- ❑ You can incorporate the statement of facts from the earliest case into the subsequent decision.
- ❑ Allocate Medical, TTD and Credits to the proper case as much as possible.

Be Efficient.

- ❑ Rarely will more than 10-15 pages be necessary.
- ❑ When summarizing medical treatment, hit the highlights.
 - ❑ A summary of every PT visit is unnecessary.
 - ❑ There is no need to recap the review of symptoms or physical examination findings when no changes are noted.

Look at Past Decisions.

- ❑ See how the arbitrator organizes their decisions.
- ❑ If the arbitrator offers you a template, consider using it.

Findings of Facts should be accurate and non-argumentative.

- ❑ Advocate your theory of the case in the Conclusions of Law.

Proofread the Proposed Decision.

- ❑ Real Example: "Following examination, she was diagnosed with Chevel Gia, cervical radiculopathy, myalgia, headache and contracture of the muscles."
 - ❑ Chevel Gia turned out to be cervicalgia. The Arbitrator was not impressed.



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Proposed Decisions

Cite to the record.

- ❑ Exhibits should be paginated
- ❑ Include PAGE NUMBERS in your citations
- ❑ A real attorney submitted this to an arbitrator:

Dr. Fletcher prescribed that Petitioner is to remain off work. "He is unable to work at this time. He needs additional treatment for his July 2008 work injury. (Pet. Ex. 18 pg. in between page 10 and 2...I apologize)

Do the math and show your work.

- ❑ Write out the math on AWW, bills, TTD and credits.

Be Complete.

- ❑ Address all issues in dispute in the Conclusions of Law
- ❑ If nature & extent is in issue, address the 5 Section 8.1b(b) factors.

Respondents: Argue in the Alternative.

- ❑ If the defense disposes the entire claim (e.g.: Employee/Employer; Jurisdiction; Accident; Statute of Limitations, etc.), then argue in the alternative regarding causation, TTD, medical and nature and extent.



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ANY QUESTIONS?

