

Ron Bailey
OSHRC
One Lafayette Centre
1120 20th Street, NW
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Washington, DC 20036-3457

Re: Advanced Notice of Proposed Rulemaking, Part 2200

Dear Mr. Bailey:

Please enter my submission in response to the Commission's request for suggestions on what revisions ought to be made to the OSHRC Rules of Procedure.

The Commission has stated that it is especially interested in hearing from those who practice before it. Please note that I am a non-attorney who has served as "employer representative" in over 2,000 OSHRC cases since 1987. I have appeared before many of the Commission's administrative law judges and I have argued cases on review before the Commission.

I am addressing two of the Commission's concerns: (1). Mandatory electronic filing; and (2). Citing decisions as posted on the Commission's website.

(1). With respect to mandatory electronic filing, I note that Section 5 of OSHRC's "Instructions for Electronic Filing" cautions against experimentation and demands proficiency. Moreover, the Commission candidly admits that it lacks ability to assist E-Filing parties. In other words, if an E-Filing party experiences technical difficulties when deadlines are looming, that party is simply out of luck.

Not every practitioner has an IT department at the ready. The framers of the current E-Filing system were aware of this when they provided, also at Section 5, that a party has the ability to use first class mail, fax, overnight delivery service and personal delivery. Please note that I have used all of these options as well as E-Filing.

To deprive parties from this array of options, however, would serve no purpose other than some bureaucratic goal of 100% electronic filing. In my view, removal of options constricts a party's ability to have full access to adjudication before the Commission and its judges.

I recommend that the current non-mandatory E-Filing system remain.

(2). With respect to citing to Commission decisions posted on the OSHRC website, I note that to prohibit such citing would be nothing less than forfeiture of a resource which is indisputably accurate, official, remotely accessible and free of charge. Cui bono? Only private sector reporting services.

I recommend that citing decisions to the OSHRC website be permitted.

Respectfully submitted,

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