

United States of America
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
U.S. Custom House
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DENVER OSHRC STANDARD PRACTICES GOVERNING SETTLEMENT

Purpose

The purpose of the Denver Regional Office of the Occupational Safety and Health Review Commission (“Denver OSHRC”) Standard Practices Governing Settlement (“Settlement Practices”) is to establish standards for timely notification to Denver OSHRC when the parties have settled a case in which a trial date has been established.

Authority

These Settlement Practices are enacted pursuant to the authority set forth in Commission Rules 51(b) and 67, as well as Fed. R. Civ. P. 16.

Impact on Operations

Last minute settlements have the following adverse impact on OSHRC operations:

- Lost expenditure of staff time to locate a courtroom;
- Lost expenditure of staff time in arranging for a court reporter;
- Lost expenditure of staff time in making the Judge’s travel arrangements;
- An adverse impact on our relationships with the federal and state courts that permit us to use their courtroom facilities. With advanced notice, local federal and state courts can use the previously reserved courtroom for other proceedings;
- Lost judicial time which the Judge could have spent on other matters, as opposed to traveling to a trial location only to be informed that a case has settled;
- Unnecessary expenditure of OSHRC funds to pay for needless travel by the Judge and court reporter.

Professional courtesy and respect for the judicial process require Parties to diligently pursue settlement within timeframes that do not adversely impact the efficient operation and external relationships of the Court.

Settlement Practices for Denver OSHRC

While we recognize that cases can, and sometimes do, settle “on the courthouse steps”, such settlements should be extremely rare.

Denver OSHRC Judges have adopted these Settlement Practices, which will result in better docket management and enable Denver OSHRC to preserve its limited resources for those cases in which an actual trial is necessary. The Settlement Practices are as follows:

1. Parties are to provide the Court, **at least three (3) days in advance of trial**, notice of whether a case has settled. If the case has not settled, but the Parties are still engaged in settlement discussions, they should contact the Judge to discuss ongoing protocol;
2. If a case has settled, but the Judge was not timely informed as required herein and is already in travel status, the Parties will appear at the trial location (unless otherwise ordered) to provide an on the record explanation of why the timeframes in these Settlement Practices were not followed, and to memorialize the settlement on the record.

The Solicitor is requested to share this document with opposing counsel and union counsel in each case, so that all parties are knowledgeable of these Settlement Practices. The responsibility for avoiding “night-before-trial-settlements” lies with all parties. In a few cases, we acknowledge that it is truly unavoidable. However, it is our view that in the vast majority of cases, all settlement possibilities can be clearly determined and exhausted within three days of the scheduled trial.

We are continuously impressed by the quality representation demonstrated by party representatives on all sides in the cases pending before us. It is because of this high level of professionalism, that we know you will assist us by providing advanced notice when trial dates can, and should, be canceled.

FOR THE COURT:

/s/ Patrick B. Augustine
Judge Patrick B. Augustine – First Judge

/s/ John H. Schumacher
Judge John H. Schumacher

/s/ Brian A. Duncan
Judge Brian A. Duncan

/s/ Peggy S. Ball
Judge Peggy S. Ball

Entered this 30th day of September, 2013 in Denver, Colorado.