



**UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

IN RE:

CASES ASSIGNED TO  
JUDGE JOHN B. GATTO

**STANDING ORDER**

(Effective August 5, 2025)<sup>[1](#)</sup>

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<sup>1</sup> This *Standing Order* replaces all previous procedures and practices and any previous version of this *Standing Order*. The applicable provisions of this *Standing Order* apply in all current cases and will govern unless the Court adopts alternative provisions proposed by the parties. See n. [2](#) *infra*.

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**GENERAL PROVISIONS**

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## **I. Preamble**

This case has been assigned to Judge John B. Gatto. The purpose of this *Standing Order* is to inform the parties and their counsel of the Court’s policies, practices, and procedures. It is issued to secure the just, speedy, and inexpensive determination of the case. The *General Provisions* apply in all cases. The *Remote Provisions* apply whenever a proceeding is scheduled to be conducted remotely. In addition, another provision (*Conventional Proceedings*, *Simplified Proceedings*, or *Settlement Proceedings*) will apply based upon the case track assignment.<sup>1</sup> The parties and their counsel are responsible for reviewing and complying with all applicable provisions of this *Standing Order*.

The Occupational Safety and Health Act of 1970 mandates that unless the Commission has adopted a different rule, its proceedings shall be in accordance with the [Federal Rules of Civil Procedure](#). See 29 U.S.C. § 661(g). Therefore, unless otherwise indicated, any rule referenced in this *Standing Order* is to the Federal Rules of Civil Procedure. Any reference to a Commission Rule means the Commission’s [Rules of Procedure](#). See 29 C.F.R. Part 2200.

This *Standing Order*, in combination with the Commission’s Rules, the Federal Rules of Civil Procedure, and the [Federal Rules of Evidence](#),<sup>2</sup> shall govern this case. All motions shall be accompanied by a proposed order that would grant the relief requested in the motion. See 29 C.F.R. § 2200.40(e). Unless otherwise indicated, any reference to “counsel” or “attorney” also includes a non-attorney representative or a party or intervenor that is representing itself. Any reference to “party” also includes “intervenor.” Any forms referenced in this *Standing Order* and attached in Word format.

## **II. Contacting Chambers (Amended)**

The Court’s Legal Assistant is **Ashley Black**, and Ms. Black is the primary point of contact on matters. Ms. Black may be reached by e-mail at [ablack@oshrc.gov](mailto:ablack@oshrc.gov) or by telephone

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<sup>1</sup> The Notice of Assignment in your case will indicate your case track assignment. *Conventional Proceedings* apply if the case is assigned to Conventional Proceedings. *Simplified Proceedings* apply if the case is assigned to Simplified Proceedings (Commission Rules 200-211) or is a Late Notice of Contest. *Settlement Proceedings* apply if the case is assigned to Mandatory or Voluntary Settlement Proceedings (Commission Rule 120).

<sup>2</sup> In Simplified Proceedings, except as to matters that are protected by evidentiary privilege, the admission of evidence is not controlled by the Federal Rules of Evidence, but the Court encourages the parties to stipulate in writing that the Federal Rules of Evidence shall apply. See 29 C.F.R. § 2200.209(c).

at (202) 606- 5405, Ext. 239. Subpoenas may be requested *ex parte* through Ms. Black by email (subpoenas **cannot** be requested by telephone). *See* 29 C.F.R. § 2200.65(a). Under no circumstances may any party or counsel communicate *ex parte* with Ms. Black, except to request subpoenas. Ms. Black has no authority to render legal advice or grant continuances or any other relief.

### **III. Official Record; Mandatory Electronic Filing; Serving Documents**

**A. Official Record.** The official record is the file maintained in the Commission's electronic case management system, i.e., the Commission's E-File System, which can be accessed on the Commission's web page at <https://www.oshrc.gov>. The Commission's E-File System is used for (1) for accepting case documents for filing; (2) for entering and issuing orders, notices, and decisions; and (3) for electronic case docket management. On the rare occasion a party is granted an exemption from electronic filing and files documents in paper form, Court staff will scan and upload the paper copy into the Commission's E-File System and will thereafter discard the paper copy.

**B. Mandatory Electronic Filing.** **ALL** parties must register and file documents electronically in the Commission's E-File System unless a written request for an exemption is filed explaining specifically how and why it would be an undue burden to comply with the registration and electronic filing requirements and the Court grants the requesting party an exemption. **If a party has not yet registered, and has not been granted an exemption, the party must immediately register and notify the Court's Legal Assistant when registration has been completed. Unless a party has been granted an exemption, the party will not receive any future Court orders/notices until the party registers and notifies the Court's Legal Assistant of the registration.**<sup>3</sup> If a party has not registered but included an email address in the first submission, that party *may* receive by email a *one-time courtesy* copy of the Court's

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<sup>3</sup> When an exemption from electronic filing has been granted, submissions may be filed in compliance with Commission Rule 8(d)(1) by postage-prepaid first class or higher class U.S. Mail, commercial delivery service, or personal delivery to One Lafayette Centre, 1120 20th Street, N.W., Room 990, Washington, D.C. 20036-3457, or by facsimile transmission at (202) 606-5409. Filing is deemed completed upon depositing the submission in the U.S. Mail or if filing is by any other means (e.g., personal delivery, commercial delivery service, or facsimile transmission) then filing is deemed completed upon receipt by the Commission.

first Order issued after the case track assignment.

**C. User Registration and Electronic Filing.** User registration and electronic filing are accomplished on the Commission's web page at <https://www.oshrc.gov> by accessing the "E-Filing" tab next to the "Resources" tab. All parties are responsible for reviewing and complying with the Commission's [E-File User Guide](#) and the [Electronic Filing Tutorial Video](#). Failure to comply with the User Guide and Tutorial Video may result in the rejection of a filing submission. The parties may also file electronically using the [E-Filing Login](#) tab located above the E-Filing tab.

**D. Serving Documents.** Documents filed electronically must be served by *email* attachment on all other parties and intervenors. The document submitted for filing to the Commission E-File System case file will be rejected if a Certificate of Service certifying simultaneous email service of the document to the other parties and intervenors in the case is not included with the document submitted. The Certificate of Service **must** be included as **the final page** of the document.

**IV. [Joint Scheduling Proposals](#).** As soon as practicable after the case track assignment, the Court will issue an *Initial Scheduling Order*. Thereafter, within **14 days** from the date of the Court's *Initial Scheduling Order*, and depending on your case track assignment, you will be required to file either a *Joint Preliminary Report and Discovery Plan* (Conventional Proceedings), *Joint Trial Stipulations* (Simplified Proceedings or a Late Notice of Contest), or a *Joint Preliminary Settlement Plan* (Mandatory or Voluntary Settlement Proceedings). If you fail to timely file the required joint submission, you will forfeit the opportunity to make pretrial or pre-settlement conference proposals, including the date, time, location, and length of the trial or settlement conference.

Please note that since the Court's trial calendar is often filled up to 10 months in advance, the parties should provide multiple proposed settlement conference or trial dates. Further, if the Court concludes the conference or trial will last one day or less, the Court reserves the right to schedule the conference or trial remotely rather than in-person in order to conserve judicial resources and tax dollars, regardless of whether the parties consent to a remote conference or trial. Likewise, if the Court already has other cases scheduled the same week in a venue that is reasonably close to the parties' proposed venue, in order to conserve judicial resources and tax

dollars, the Court may select the already scheduled venue in lieu of the parties' proposed venue.

**V. [Witness Lists; Exhibit Lists](#)**

**A. Witness Lists.** Within **14 days** before trial, each party must file with the Court and serve on the court reporter and opposing parties a witness list. The list must designate the witnesses whom the party **will** have present at trial and those witnesses whom the party **may** have present at trial. Expert witnesses (any witness who might express an opinion under Rule 702) must be included and separately identified. Impeachment and rebuttal witnesses whose use as a witness can be reasonably anticipated must also be included. Witnesses who are not included on the witness list (including expert, impeachment, and rebuttal witnesses whose use should have been reasonably anticipated) will not be permitted to testify, unless expressly authorized by Court order based upon a showing that the failure to comply was justified. All parties may rely upon a representation by a designated party that a witness **will** be present unless notice to the contrary is given **7 days** prior to trial to allow the other party(s) to subpoena the witness or to obtain the witness' testimony by other means.

**B. Exhibit Lists.** Within **14 days** before trial, each party must file with the Court and serve on the court reporter and opposing parties an exhibit list. Learned treatises that are expected to be used at trial shall not be admitted as exhibits. Counsel are required, however, to identify all such treatises under a separate heading on the party's exhibit list and comply with the Court's [Hyperlinks](#) requirements in the *General Provisions*. The parties shall also comply with the [Trial Exhibits](#) requirements in the *General Provisions*. Each party's exhibit list must be submitted in the following format, *and with the first two columns completed*:

☐ Complainant's Exhibit List ☐ Respondent's Exhibit List

Docket No. \_\_\_\_\_

Secretary of Labor v. \_\_\_\_\_

Page No. \_\_\_\_ of \_\_\_\_

EX. #	DESCRIPTION	TENDERED	WITHDRAWN	ADMITTED	REJECTED

**VI. [Trial Exhibits](#)**

**A. General Requirements.** The official exhibits are the electronic version maintained by the Commission in the Commission's E-File System, which shall be presented to the court reporter in Adobe Portable Document Format (.pdf). The parties shall have a joint duty to

consolidate duplicate exhibits using a joint common numbering system for such exhibits to the extent feasible (the Court will not admit a duplicate exhibit from one party that has already been admitted by another party). Counsel shall familiarize themselves with all exhibits (and the numbering thereof) prior to trial. Counsel will not be afforded time during the trial to examine exhibits that are or should have been listed.

**B. Marking Exhibits.** Prior to trial, each party shall number their exhibits using exhibit stickers, marked with the docket number, with a designation identifying the party offering the exhibit, and numbered consecutively. Each page of each exhibit shall be numbered consecutively, preferably with a Bates stamp. Exhibits shall not include alphabetical or numerical subparts (e.g., A, B, C, I, ii, iii etc.). If subparts are necessary, separate exhibits must be identified.

**C. Objections.** Specific objections to another party's exhibits must be typed on a separate page and must be attached to the exhibit list of the party against whom the objections are raised. Objections as to authenticity, privilege, competency, and, to the extent possible, relevancy of the exhibits shall be included. Any listed document to which an objection is not raised shall be deemed to have been stipulated as to authenticity, privilege, competency, and, to the extent possible, relevancy by the parties and shall be admitted at trial without such further proof.

**D. Presenting Exhibits.** No later than **14 days** before trial a copy of each exhibit shall be provided in electronic format (Adobe Portable Document Format (.pdf)) by email attachment to the:

1. opposing party,
2. Court's Legal Assistant,
3. court reporter,
4. if the trial is held remotely, the party calling a witness shall also provide to that witness the specific exhibits to be addressed by that witness, and
5. if the trial is held in-person, each party's original paper exhibits shall also be presented in a notebook to the court reporter at the beginning of the trial for use by the witnesses and a courtesy copy presented to the Court. Each exhibit must be separated by a tab labeled with the exhibit number.

*The electronic pdf version of each exhibit must mirror the original paper version in all*

*respects, including clarity and color.* If a particular exhibit is too large to transmit by email, an electronic copy of the exhibits may be provided by mail on a CD or flash drive.

**E. Witness Statements.** The Court will not attempt to interpret a hand-written statement, including a witness statement taken by a compliance officer, and therefore will not admit a hand-written statement that is not accompanied by a typed version.

## **VII. Personally Identifiable Information**

A party filing a submission with the Court or tendering an exhibit at trial containing Personally Identifiable Information (PII) **shall** comply with Commission Rule 8(g), which sets out the redaction procedures for applicable types of PII and medical records.

## **VIII. Proposed Findings of Fact and Conclusions of Law and Briefs**

Each party represented by an attorney shall file written proposed findings of fact and conclusions of law and a separate post-trial brief within **30 days** after receipt of the electronic trial transcript. A self-represented party or a party represented by a non-attorney may, but shall not be required, to comply with this filing requirement. *Reply briefs are not authorized without the prior approval of the Court.*

## **IX. Status Report**

The parties shall file a joint status report of their intent to proceed to trial or to a settlement conference, or their intent to settle, or withdraw the citation or notice of contest no later than **14 days** before the scheduled trial or settlement conference. If the parties intend to settle, or a party intends to withdraw the citation or notice of contest, but the Court was not timely informed as required herein, the parties must appear at trial or the settlement conference, unless otherwise ordered, to memorialize the settlement or withdrawal announcement on the record.

## **X. Hyperlinks (New)** (See also, [Witness Lists; Exhibit Lists Requirements](#))

All submissions (including but not limited to motions, briefs, and responses thereto) that include cited materials shall include a hyperlink to each cited material. The Court only has access to Westlaw, and therefore, you are not permitted to hyperlink to any other paid legal research



subscription (such as Lexis/Nexis, Bloomberg Law). The following are acceptable hyperlinks:

**A. Cases:** Westlaw, or for Commission decisions, to the published decision on the Commission's website at <https://www.oshrc.gov/decision-search/>, or if neither is available, the submission must include a copy of the cited case as an exhibit attachment, and the submission must indicate the attached exhibit number, and include a pinpoint citation to the exhibit,

**B. Federal Statutes:** Westlaw or the United States Code at <https://uscode.house.gov/>,

**C. Federal Regulations:** Westlaw or the Federal Regulations at <https://www.ecfr.gov/>,

**D. Commission's Rules:** Westlaw or the Commission's published rules at <https://www.oshrc.gov/rules-of-procedure>,

**E. Federal Rules of Civil Procedure:** Westlaw or <https://www.federalrulesofcivilprocedure.org/frcp/>,

**F. Federal Rules of Evidence:** Westlaw or <https://www.rulesofevidence.org/>,

**G. Federal Register:** Westlaw or <https://www.federalregister.gov/>,

**H. Industry Standards:** any official website if publicly available for free, or if not free, the submission must include a copy as an exhibit attachment, and the submission must indicate the attached exhibit number and include a pinpoint citation to the exhibit,

**I. Interpretative Rulings or Letters:** any official government website if publicly available for free containing the interpretative ruling or letter, or if not free, the submission must include a copy as an exhibit attachment, and the submission must indicate the attached exhibit number and include a pinpoint citation to the exhibit,

**J. Learned Treatises:** any official website if publicly available for free, or if not free, the submission must include a copy as an exhibit attachment, and the submission must indicate the attached exhibit number and include a pinpoint citation to the exhibit, and

**K. Other Cited Material:** any official website if publicly available for free, or if not free, the submission must include a copy as an exhibit attachment, and the submission must indicate the attached exhibit number and include a pinpoint citation to the exhibit.

Failure to comply with this hyperlink requirement may, within the Court's discretion, include the rejection of the submission, or if accepted for filing, the striking of the submission, or the denial or granting of the relief requested in the motion (depending on the relief sought), or the Court's refusal to consider the brief.

**SO ORDERED.**

  
/s/ \_\_\_\_\_  
JOHN B. GATTO, Judge

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**PROCEDURES IN  
CONVENTIONAL PROCEEDINGS**

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## **I. Pleadings; Corporate Disclosure**

**A. Complaint.** If the Secretary has not filed a complaint, the Secretary shall do so within **21 days** from the date of the Court’s *Initial Scheduling Order* (or *Order Removing Case From Simplified Proceedings*).

**B. Answer.** If the Respondent has not filed an answer, Respondent shall do so within **21 days** from the date of the Court’s *Initial Scheduling Order* or *Order Removing Case From Simplified Proceedings*, or service of the complaint, whichever is later.

**C. Sample Pleadings Forms.** A sample Complaint and a sample Answer are available on the Commission’s web page under the [Sample Documents](#) tab.

**D. Corporate Disclosure.** Respondent’s answer shall not be accepted for filing, or if it has been filed it shall be stricken from the record, unless Respondent complies with Commission Rule 35’s corporate disclosure requirements. *Respondent may be held in default pursuant to Commission Rule 35(b) and (d) if it fails to file an adequate disclosure declaration or an amended disclosure.* The following is a sample corporate disclosure:

*Disclosure of Corporate Parents, Subsidiaries, and Affiliates*

Respondent hereby declares that:

☐ the corporation has no parents, subsidiaries, or affiliates.

OR

☐ the following are all parents, subsidiaries, and affiliates of the corporation:

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## **II. Rule 26(f) Early Planning Conference; Joint Preliminary Report and Discovery Plan**

**A. Rule 26(f) Early Planning Conference.** Lead Counsel are required to confer in an effort to settle the case, discuss discovery, limit issues, and discuss other matters addressed in the *Joint Preliminary Report and Discovery Plan* at a Rule 26(f) conference.<sup>1</sup> Counsel are jointly responsible for arranging the conference. Counsel are required to inform the parties promptly of

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<sup>1</sup> Although Rule 30 does not require leave of the Court for 10 or fewer depositions, the Commission has adopted Commission Rule 56(a), which provides that depositions “shall be allowed *only by agreement of all the parties, or on order*” of the Court “following the filing of a motion of a party stating good and just reasons.” (Emphasis added). Therefore, consideration should be given to the stipulation of the taking of depositions at the Rule 26(f) planning conference.

all offers of settlement proposed at the conference.

**B. Joint Preliminary Report and Discovery Plan.** For all cases not settled at the Rule 26(f) Conference, the parties are required to file a *Joint Preliminary Report and Discovery Plan* within **14 days** from the date of the Court’s *Initial Scheduling Order* (or *Order Removing Case from Simplified Proceedings* or *Order Requiring Supplemental Joint Preliminary Report and Discovery Plan*), which shall state the parties’ views and proposals required by Rule 26(f)(3)(B)-(F), and in addition:

1. whether expert testimony will be used in this case, and if so the date by which expert designations must be served by the Secretary and by Respondent,
2. the date expert reports from retained experts must be served by the Secretary and by Respondent,
3. the date expert designations and reports by any rebuttal experts must be served by the Secretary and by Respondent,
4. the date any objections to such designations must be served by the Secretary and by Respondent (all designations and reports must be completed and served within the discovery period),
5. the estimated total number of trial days and separately estimated number of days for each party to present their case,
6. **all** available trial date(s),
7. a proposed trial city/state with a federal courthouse and a national or international (*not local or regional*) airport, or you may jointly propose that the trial be conducted remotely via Zoom video conference,
8. whether all parties consent to the taking of depositions, and if not, whether any party intends to move to compel such depositions,
9. any request for Language Access Services and the scope of such services,<sup>2</sup>
10. the location of Respondent’s principal place of business, and
11. any other matters appropriate to the circumstances of the case.

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<sup>2</sup> Subject to the availability of funds, the Court will secure Language Access Services required for any parties and/or witnesses **if** the parties file a joint stipulation at least **14 days** before trial indicating the **specific** type of services needed. If requested and funds are not available, the cost of Language Access Services shall be apportioned among the parties.

### **III. [Discovery](#) (Amended)**

**A. Scope and Limits of Discovery.** The Court has established discovery and disclosure time limits in these procedures that it has determined are appropriate and necessary for most conventional cases. However, the parties may propose changes to those time limits in their *Joint Preliminary Report and Discovery Plan*, which if approved by the Court, shall govern the case. Direct and informal communication between counsel is encouraged to facilitate discovery and resolve disputes.

The Commission has adopted its own discovery rule, Commission Rule 52. Therefore, Rule 26(b) relating to the scope and limits of discovery does not apply. Commission Rule 52(b) places within the scope of discovery “any matter that is not privileged and that is relevant to the subject matter involved in the pending case” and “proportional to the needs of the case, considering the importance of the issues at stake, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.”

**B. Commencement.** Commission Rule 52(a)(2) provides a party may initiate all forms of discovery in conformity with the Commission’s Rules at any time after the filing of the first responsive pleading or motion that delays the filing of an answer, such as a motion to dismiss.

**C. Length (Amended).** Unless otherwise ordered, all discovery shall be completed within **4 months** from the date of the Court’s *Final Scheduling Order*.<sup>3</sup> All discovery requests must be served early enough so that the response period is within **30 days** before the close of the discovery period, or within **30 days** after service of the discovery requests, whichever occurs first. **Since the summary judgment process, which is tied to the close of discovery, requires at least 60 days to complete, the parties may not propose that discovery be completed less than 60 days before trial.** See [Paragraph VII](#) *infra* (motions for summary judgment shall be filed no later than 30 days after the close of discovery, responses to motions for summary judgment shall be filed within 14 days of service of the motion, and responses to statements of additional disputed material facts shall be filed within 7 days from the date of service of the

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<sup>3</sup> See Commission Rule 52(a)(2) (“Discovery shall be initiated early enough to permit completion of discovery no later than **14 days** prior to the date set for hearing, *unless the [Court] orders otherwise*”).

statement).

**D. Filing of Discovery and Disclosures Prohibited.** Commission Rule 8(a)(2) mandates that discovery documents “shall not be filed” with the Court “and retention of such discovery documents shall comply with [Commission Rule] 52(i) and (j).” 29 C.F.R. § 2200.8(a)(2). Similarly, Commission Rule 52(j) also mandates that discovery documents “shall not be filed” with the Court. The party responsible for service of the discovery material shall retain the original and become the custodian.” 29 C.F.R. § 2200.52(j). **Exception:** If the discovery documents are to be used at the trial or are necessary to a pretrial motion that might result in a final order on any claim, the portions to be used shall be filed with the Court at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated. *See* 29 C.F.R. § 2200.52(l). If the exception is applied, the submitting party must include with the submission a notation indicating how the exception applies.

**E. Adjustments to Discovery Period.** The Court may, in its discretion, shorten or lengthen the time for discovery. Motions requesting extensions of time for discovery must be made **prior** to expiration of the existing discovery period and will be granted only in exceptional cases where the circumstances on which the request is based did not exist or the attorney or attorneys could not have anticipated that such circumstances would arise when the parties filed their *Joint Preliminary Report and Discovery Plan*.

**F. General.** Counsel should be guided by courtesy, candor, and common sense. The Court does not allow evidence at trial that was requested and not revealed during the discovery period. The Court will not enforce the private agreements between parties to conduct discovery beyond conclusion of the discovery period and will not compel responses to discovery requests that were not served in time for responses to be made before the discovery period ended.

**G. Depositions.** If the parties do not stipulate to taking depositions at their Rule 26(f) planning meeting, any motions to take depositions shall be filed early enough so that the depositions can be completed prior to the expiration of the discovery period. **Prior to using a deposition** or any portion thereof at trial, the proponent must first establish by a properly supported motion filed no later than **30 days** before trial, that the deposition meets all the requirements of Federal Rule of Civil Procedure 32(a).

**H. Initial Disclosure.** Although Commission Rule 52(a)(1)(v) provides that the “required disclosures” requirements of Rule 26(a) do not apply in Commission proceedings, “[t]his exception does not preclude” any pretrial “disclosures (including disclosure of expert testimony and written reports) directed in a scheduling order.” 29 CFR § 2200. 52(a)(1)(v). Therefore, within **14 days** after the parties’ Rule 26(f) conference, unless a different time is set by stipulation or Court order, each party must, without awaiting a discovery request, provide to the other parties:

1. the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment; and

2. a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party’s disclosures or because another party has not made its disclosures.

**I. Disclosure of Expert Testimony.** Within **90 days** before the date set for trial or for the case to be ready for trial, in addition to the disclosures required above, a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703, or 705. The proponent of the expert testimony has the burden of establishing the admissibility requirements by a preponderance of the evidence. Any party who does not comply with this provision shall not be permitted to offer the testimony of the party’s expert.

1. **Witnesses Who Must Provide a Written Report.** Unless otherwise or ordered by the Court, the expert witness disclosure must be accompanied by a written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide



opinion testimony in the case or one whose duties as the party's employee regularly involve<sup>4</sup> giving opinion testimony—which must contain:

- a. a complete statement of all opinions the witness will express and the basis and reasons for them;
- b. the facts or data considered by the witness in forming them;
- c. any exhibits that will be used to summarize or support them;
- d. the witness's qualifications, including a list of all publications authored in the previous 10 years;
- e. a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and
- f. a statement of the compensation to be paid for the study and testimony in the case.

Any party who does not comply with this provision shall not be permitted to offer the testimony of the party's expert.

**2. Witnesses Who Do Need to Provide a Written Report.** Unless otherwise ordered by the Court, if the witness is not retained or specially employed to provide expert testimony in the case or whose duties as the party's employee do not regularly involve giving opinion testimony, in lieu of a written report, the expert designation must include:

- a. a statement of the subject matter on which the witness is expected to present evidence under Federal Rule of Evidence 702, 703, or 705; and
- b. a summary of the facts and opinions to which the witness is expected to testify.

Any party who does not comply with this provision shall not be permitted to offer the testimony of the party's expert.

**3. Failure to Timely Disclose Expert Testimony.** Any party who does not disclose timely shall not be permitted to offer the testimony of the party's expert, unless expressly authorized by Court order based upon a showing that the failure to comply was justified. The proponent of the expert testimony has the burden of establishing the admissibility requirements by a preponderance of the evidence. Any party objecting to an expert's testimony shall file an

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<sup>4</sup> The Court presumes that a Compliance Safety and Health Officer's duties regularly involve giving opinion testimony.

objection within **14 days** of the disclosure. Otherwise, such objections will be waived, unless expressly authorized by Court order based upon a showing that the failure to comply was justified.

**J. Lay Witness Opinion Testimony.** The Court shall not permit any lay witness (non-expert) to provide opinions or inferences in their testimony, including a Compliance Safety and Health Officer, unless the testimony meets the requirements of Federal Rule of Evidence 701, i.e., that is:

1. rationally based on the witness's perception, i.e., what they saw, heard, or otherwise sensed,
2. helpful to a clear understanding of the witness's testimony or the determination of a fact in issue, and
3. not based on scientific, technical, or other specialized knowledge within the scope of Rule 702. This prohibition includes both the opinion testimony of the lay witness and any written documents containing the lay witness's opinions or inferences.

**K. Pretrial Disclosures.**

**1. In General.** In addition to the disclosures required by Rule 26(a)(1) and (2), a party must provide to the other parties and promptly file the following information about the evidence that it may present at trial other than solely for impeachment:

a. if not previously disclosed, the name, address, and telephone number of each witness—separately identifying those the party expects to present and those it may call if the need arises;

b. if not previously disclosed, the designation of those witnesses whose testimony the party expects to present by deposition and, if not taken stenographically, a transcript of the pertinent parts of the deposition; and

c. if not previously disclosed, an identification of each document or other exhibit, including summaries of other evidence—separately identifying those items the party expects to offer and those it may offer if the need arises (*in order to use a deposition or any portion thereof at trial, the proponent must first establish by a properly supported motion filed at least 30 days before trial that the deposition meets all of the requirements of Rule 32(a)*).

**2. Time for Pretrial Disclosures; Objections.** Unless the Court orders otherwise, these disclosures must be made at least **30 days** before trial. Within **14 days** after they are made,

unless the Court sets a different time, a party may serve and promptly file a list of the following objections: any objections, together with the grounds for it, to the use under Rule 32(a) of a deposition designated by another party under Rule 26(a)(3)(A)(ii); and any objection, together with the grounds for it, that may be made to the admissibility of materials identified under Rule 26(a)(3)(A)(iii). An objection not so made— except for one under Federal Rule of Evidence 402 or 403—is waived unless excused by the Court for good cause.

**L. Form of Disclosures.** Unless the Court orders otherwise, all disclosures under Rule 26(a) must be in writing, signed, and served.

**M. *Daubert* Motions.** A *Daubert* motion to exclude scientific or expert testimony or evidence shall be filed within **14 days** after disclosure of the witness or report. Otherwise, such objections will be waived, unless expressly authorized by Court order based upon a showing that the untimeliness of the motion was justified. Both the motion and any response thereto shall indicate whether a (remote) hearing to present oral argument is requested.

#### **IV. [Discovery Disputes](#)**

**A. Motion to Compel.** A motion to compel may be filed within **14 days** after a discovery dispute occurs, which shall:

1. quote verbatim each discovery request;
2. state the specific objection;
3. state the grounds assigned for the objection (if not apparent from the objection);
4. cite authority and include a discussion of the reasons assigned as supporting the motion;
5. shall be arranged so that the objection, grounds, authority, and supporting reasons follow the verbatim statement of each specific discovery request to which an objection is raised; and
6. copies of the portions of the discovery request or responses in dispute shall be filed with the Court contemporaneously with the motion.

**B. Response.** A response to a motion to compel must be filed within **14 days** of service of the motion to compel, which shall also be arranged so that the discovery request is quoted verbatim followed by the specific objection, rationale, authority, and the reasons supporting the response to the objection.

**C. Boilerplate and General Objections Prohibited.** Boilerplate and generalized objections are legally improper, inadequate, and tantamount to not making any objection at all. Therefore, parties are prohibited from invoking the usual litany of rote objections, i.e., attorney-client privilege, work-product immunity from discovery, overly broad/unduly burdensome, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence **without taking the next step to explain why**. Otherwise, it is impossible for the Court or the party upon whom the discovery response is served to know exactly what objections have been asserted to each individual request. For example, Counsel shall not include in a response to a discovery request a “Preamble” or a “General Objections” section stating an objection to the discovery request “to the extent that” it violates some rule pertaining to discovery; e.g., the attorney-client privilege, work product immunity from discovery, the requirement that discovery requests be reasonably calculated to lead to the discovery of admissible evidence, and the prohibition against discovery requests that are vague, ambiguous, overly broad, or unduly burdensome, without taking the next step to explain why. *All such general objections shall be disregarded by the Court and deemed an objection waiver.*

Each individual discovery request must be met with every specific objection thereto – but only those objections that apply to that request, which must at a minimum:

1. specify how the discovery request is deficient, and
2. specify how the objecting party would be harmed if it were forced to respond to the request.

Finally, a party who objects to a discovery request but then responds to the request must indicate whether the response is complete, i.e., whether additional information or documents would have been provided but for the objection(s). For example, in response to an interrogatory, a party is not permitted to raise objections and then state, “Subject to these objections and without waiving them, the response is as follows . . .” unless the party expressly indicates whether additional information would have been included in the response but for the objection(s).<sup>5</sup> *Such a response will be deemed an objection waiver.*

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<sup>5</sup> Rule 26(g)(3) specifically gives courts the power to sanction lawyers whose discovery objections do not comport with Rule 26(g)(1)’s requirements.

**V. Summary Judgment (Amended) (See New Paragraph F)**

Because of the voluminous factual materials which are frequently submitted with motions for summary judgment and responses thereto, all Rule 56 motions and responses must comply with the following requirements:

**A. Motion for Summary Judgment.** Motions for summary judgment shall be filed in accordance with the provisions of Fed. R. Civ. P. 56 as soon as possible, but, unless otherwise ordered by the Court, not later than **30 days** after the close of discovery, as established by the expiration of the original or extended discovery period or by written notice of all counsel, filed with the Court, indicating that discovery was completed earlier.

**1. Brief in Support.** A movant for summary judgment shall file a separate brief in support of the motion.

**2. Statement of Undisputed Material Facts.** The movant shall also file a separate, concise, statement of undisputed material facts that the movant contends there is no genuine issue to be tried. Each undisputed material fact must be numbered separately and supported by a pinpoint citation to evidence proving such fact.

**B. Response to Motion.** Within **14 days** of service of the motion, a responding party shall file response to the motion.

**1. Brief in Support.** The responding party file a separate brief in support of the response.

**2. Statement of Disputed Material Facts.** The responding party shall also file a separate, concise, nonargumentative, statement of disputed material facts, **corresponding to each** of the movant's numbered undisputed material facts, to which the responding party contends there is a genuine issue to be tried. Each disputed material fact must be numbered separately and supported by a pinpoint citation to evidence proving such fact.

**3. Statement of Additional Disputed Material Facts.** The responding party may also file a separate, concise, statement of additional disputed material facts to which the responding party contends present a genuine material issue for trial. Each additional dispute material fact must be numbered separately and supported by a citation to evidence proving such fact.

**C. Response to Statement of Additional Disputed Material Facts.** Within **7 days** from the date of service of the statement of additional disputed material facts, the movant shall

file a separate, concise, nonargumentative statement of additional undisputed material undisputed facts, **corresponding to each** of the responding party's numbered additional disputed material facts, to which the movant contends there is no genuine issue to be tried. Each additional undisputed material fact must be numbered separately and supported by a pinpoint citation to evidence proving such fact.

**D. Court Treatment of Assertions and Citations to Authority.**

**1. Assertions.** The Court will deem each party's material facts as admitted unless the opposing party:

**a.** directly refutes **each** of the opposing party's material facts with concise responses, with **specific** pinpoint citations to evidence (including page or paragraph number);

**b.** states a valid objection to the admissibility of the opposing party's material fact; or

**c.** points out that the opposing party's citation does not support the opposing party's material fact or that the opposing party's material fact is not material or otherwise has failed to comply with the provisions set out *infra*.

**2. Citations to Authority.** The Court will deem each party's pinpoint citations supportive of that party's material facts unless the opposing party specifically informs the Court to the contrary in each response. The response that a party has insufficient knowledge to admit or deny is not an acceptable response unless that party has complied with the provisions of Fed. R. Civ. P. 56(d).

**3. The Court will not consider any fact:**

**a.** not supported by a **specific** pinpoint citation to evidence (including page or paragraph number);

**b.** supported by a citation to a pleading rather than to evidence;

**c.** stated as an issue or legal conclusion; or

**d.** set out only in the motion/response and/or brief and not in the party's statement(s).

**E. Exhibits.** The parties must file as exhibits to their briefs the originals of any affidavits relied upon in their motion, brief, and statements, and copies of those excerpts of depositions or other discovery materials that are referenced therein. In addition, when a portion of a deposition is referenced and submitted, then the party in custody of the original deposition

may file the entire deposition.

**F. Legal arguments.** The sole purpose of the statements of undisputed or disputed material facts or statements of additional undisputed or disputed material facts are to establish facts and determine which of them are in dispute. **Legal** argument is **not permitted** in these statements and should be reserved for separate portions of the briefs. If, for example, a party believes that an established fact is immaterial, that belief should be expressed in the part of the brief devoted to legal argument, and the fact should be admitted. If, on the other hand, a party believes that the reference to materials in the record does not support the claimed fact, that fact may be denied and a **factual** argument may appropriately be made in the statement.

## **VI. [Joint Proposed Pretrial Order](#)**

Within **30 days** after the close of discovery, or entry of the Court's ruling on any pending motions for summary judgment, whichever is later, the parties shall file a [Joint Proposed Pretrial Order](#) (see attachment). A Pretrial Order, when entered by the Court, shall supersede the pleadings and shall govern the issues to be tried.



**UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

IN RE:

CASES ASSIGNED TO  
JUDGE JOHN B. GATTO

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**PROCEDURES IN  
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## **I. Pleadings; Corporate Disclosure**

**A. Pleadings.** Once a case is assigned to Simplified Proceedings, the complaint and answer requirements are suspended. Even if the Secretary has filed a complaint, the Respondent is not required to file an answer.

**B. Corporate Disclosure.** If the Respondent did not file a Commission Rule 35 corporate disclosure with its notice of contest, it shall immediately file a separate declaration listing all parents, subsidiaries, and affiliates of that corporation or stating that the corporation has no parents, subsidiaries, or affiliates, whichever is applicable. *Respondent may be held in default pursuant to Commission Rule 35(b) and (d) if it fails to file an adequate disclosure declaration or an amended disclosure.*

## **II. Early Planning Conference; Joint Trial Stipulations**

**A. Early Planning Conference.** Lead Counsel are required to confer in a conference in an effort to settle the case, discuss discovery, limit issues, and discuss other matters addressed in the *Joint Trial Stipulations* and the *Joint Pretrial Statement*. Counsel are jointly responsible for arranging the conference.

**B. Joint Trial Stipulations.** For all cases not settled at the Early Planning Conference, the parties are required to file *Joint Trial Stipulations* within **14 days** from the date of the Court's *Initial Scheduling Order* (or *Order Assigning Case to Simplified Proceedings* or *Order Requiring Supplemental Joint Trial Stipulations*), which shall include:

1. all available trial dates,
2. trial city/state with a Federal courthouse and a national or international airport (not local or regional airport), or you may jointly propose that the trial be conducted remotely via Zoom video conference,
3. the total number of days needed to complete the trial,
4. the location of Respondent's principal place of business, and
5. whether the parties agree to apply the Federal Rules of Evidence at trial.

**III. Joint Pretrial Statement.** No later than **14 days** before trial, the parties shall jointly file a *Joint Pretrial Statement* with a list of stipulations covering each of the following topics:

1. Settlement of the case;

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2. Narrowing of issues;
3. Agreed issues and agreed facts (e.g., jurisdiction; Respondent engages in a business affecting commerce; Respondent's workplace; applicability of cited standards; cited standards were violated; employee exposure to the hazard; employer knowledge; whether violation was serious; appropriateness of penalty etc.);
4. Affirmative Defenses;
5. Motions (pending or future);
6. Need for Language Access Services, if any (subject to the availability of funds), which indicates the **specific** type of services needed;
7. Whether the parties agree to apply the Federal Rules of Evidence at trial;
8. Whether any of the Commission Rule 202(a) factors disqualify this case from Simplified Proceedings;
9. Location of Respondent's principal place of business; and
10. Any other pertinent issues.

*Except under extraordinary circumstances, any affirmative defenses not raised in the Stipulations may not be raised at trial.* In addition to filing the mandatory stipulations, the parties may also request a telephone conference, if necessary.

## **IV. Discovery**

**A. Discovery.** Discovery, including requests for admissions, will only be allowed under the conditions and time limits set by the Court. Any party may file a motion requesting limited discovery.

**B. Pretrial Disclosures.** Any party that fails to timely disclose as required herein shall be prohibited from using the document, photograph, videotape, or defense at trial that is not timely disclosed. The Court shall act expeditiously on any claim by a party that the opposing party improperly withheld or improperly redacted any portion of documents, photographs, or videotapes.

Within **30 days** after a case is assigned to Simplified Proceedings:

1. The Secretary shall provide the employer, free of charge, with:
  - a. copies of the narrative (Form OSHA 1-A) and the worksheet (Form OSHA 1-B), or their equivalents;

b. reproductions of any photographs or videotapes that the Secretary anticipates using at the hearing; and

c. any exculpatory evidence in the Secretary's possession.

2. The Respondent shall disclose to the Secretary all relevant documents supporting each affirmative defense it raises in the Stipulations.

**SO ORDERED.**

  
/s/ \_\_\_\_\_  
JOHN B. GATTO, Judge

**UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

IN RE:

CASES ASSIGNED TO  
JUDGE JOHN B. GATTO

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**PROCEDURES IN  
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**I. Pleadings; Corporate Disclosure**

**A. Complaint.** If the Secretary has not filed a complaint, the Secretary shall do so within **21 days** from the date of the Court's *Initial Scheduling Order*.

**B. Answer.** If the Respondent has not filed an answer, Respondent shall do so within **21 days** from the date of the Court's *Initial Scheduling Order*, or service of the complaint, whichever is later.

**C. Sample Pleadings Forms.** A sample Complaint and a sample Answer are available on the Commission's web page under the [Sample Documents](#) tab.

**D. Corporate Disclosure.** Respondent's answer shall not be accepted for filing, or if it has been filed it shall be stricken from the record, unless Respondent complies with Commission Rule 35's corporate disclosure requirements. *Respondent may be held in default pursuant to Commission Rule 35(b) and (d) if it fails to file an adequate disclosure declaration or an amended disclosure.*

**II. Joint Preliminary Settlement Plan.** The parties are required to file a *Joint Preliminary Settlement Plan* within **14 days** from the date of the *Initial Scheduling Order* (or *Order Requiring Supplemental Joint Settlement Plan*), which shall include the following:

**A.** The date the Secretary has or shall provide to Respondent a copy of the complete, redacted, OSHA investigative files, including OSHA Forms 1-A and 1-B, documents, photographs, videos, and any exculpatory evidence,

**B.** The date the Respondent has or shall notify the Secretary if Respondent is claiming a financial inability to pay the proposed penalty. If so, the date the Secretary shall notify Respondent regarding the financial documents that the Secretary will need to receive and review prior to the settlement proceedings, regarding the claim of financial distress,

**C.** The date the Respondent has or shall provide to the Secretary,

**1.** Documents supporting Respondent's defenses and affirmative defenses, including photographs and videos,

**2.** Any proof of abatement documentation regarding the citations issued in these cases, and

**3.** If Respondent is claiming a financial inability to pay the proposed penalties,

the date Respondent will provide to the Secretary the requested financial documents regarding Respondent's claimed financial distress,

D. The date prior to the settlement conference that any additional discovery will be completed, if needed, to intelligently evaluate settlement options,

E. A proposed trial city/state with a federal courthouse and a national or international airport (not local or regional airport) airport, or you may jointly propose that the trial be conducted remotely via Zoom video conference,<sup>1</sup> and

F. The date the parties propose the settlement conference shall take place,<sup>2</sup> which shall be no later than **75 days** from the date the case was assigned to **voluntary** settlement proceedings or **120 days** from the date the case was assigned to **mandatory** settlement proceedings. *See* Commission Rules 120(a)(2) and 120(b)(3)(iv).

### III. **Ex Parte Confidential Memorandum**

A. All statements made and information presented during the settlement proceedings are **confidential** and shall not be divulged to the opposing party or outside of the settlement proceedings except with the advance permission of the parties. Commission Rule 120(c)(d)(e). The parties' *ex parte* confidential memorandum shall **NOT** be electronically filed or served. Rather, within **14 days** before the conference, each party shall prepare and submit to the Court's Legal Assistant an *ex parte* Confidential Memorandum, which shall be marked "CONFIDENTIAL" and sent to the Court's Legal Assistant, Ms. Black, by e-mail at [ablack@oshrc.gov](mailto:ablack@oshrc.gov) with the following in the subject line: Docket No. [Docket#] Complainant or Respondent's *Ex parte* Confidential Memorandum.

B. The *ex parte* confidential memoranda shall include:

1. Description of the circumstances that gave rise to the litigation, including an analysis of the factual and legal issues, a discussion of the factual predicate for the party's position on each issue, and any other information the party believes will be helpful to an

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<sup>1</sup> Although the *Joint Preliminary Settlement Plan* includes proposals for an in-person settlement conference, the parties may jointly propose that the conference be conducted remotely via Zoom video conference.

<sup>2</sup> The Court only schedules one day for settlement conferences but maybe available for one additional consecutive day if the parties include that request in their *Joint Preliminary Settlement Plan*, and the Court agrees an additional day is warranted.

understanding of its position,

2. Description of any matters pending in any related litigation,
3. Description of any recent developments that may affect the resolution of the case,
4. Description of the important factors (factual, legal, and practical) you believe affect the terms and conditions upon which the case may be settled,
5. Description of any efforts to settle the issues, including offers or demands before and since the citation(s) were issued,
6. Provide a candid assessment of the strengths and weaknesses of the major points of error of each party's case,
7. Description of the necessary terms in any settlement (i.e., confidentiality, date by which settlement must close, scope of release, disposition of related litigation, etc.),
8. Description of any additional information your client or the other party needs to settle the case and whether it is needed before the settlement conference,
9. State whether you and your parties will participate in the settlement conference in good faith with the intention of using your best efforts to settle the case and explain if "no" as to any party,
10. State whether you and your parties will maintain confidentiality with respect to settlement communications made and received during and after the settlement conference and explain if "no" as to any party,
11. If the settlement proceedings are not successful, describe the realistic range of outcomes upon further trial or disposition, including monetary remedies, and
12. A copy of all settlement offers and counter offers made by each party prior to the scheduled conference (an offer/counter offer is made by a party after the submission of the *ex parte* Confidential Memorandum, that party must submit a copy of the offer to the Court's legal Assistant, Ms. Black, by e-mail at [ablack@oshrc.gov](mailto:ablack@oshrc.gov)).

**IV. [Citation Settlement Offers Chart](#).** A completed [Settlement Offers Chart](#) (see attachment) must be submitted by each party with their *ex parte* Confidential Memorandum.

**V. [Settlement Offers](#)**

**A.** The Respondent is required to make at least one **reasonable** settlement offer **prior** to the settlement conference related to the citation(s) at issue (a reasonable offer **is not** the vacation of all or most citation items and proposed penalties or the reclassification of all citation items).

**B.** The Secretary is required to make at least one **reasonable** counter settlement offer **prior** to the settlement conference related to Respondent's offer (a reasonable counter offer **is not** the affirmance of all or most citation items, classifications, and proposed penalties).

**C.** Each party shall include a copy of their last offer/counter offer with the *ex parte* Confidential Memorandum. If an offer/counter offer is made by a party after the submission of the *ex parte* Confidential Memorandum, that party must submit a copy of the offer to the Court's legal Assistant by email.

**D. If either party fails to make a reasonable offer, the Court shall deem further negotiations to be fruitless and terminate the settlement proceedings.**

**VI. [Participation Form](#)**

Within **14 days** before the conference, the parties must jointly complete and file with the Court a [Participation Form](#) (see attachment). If the conference is being held remotely, all participants and non-participants should become familiar and comply with the Court's Remote Protocols, which are available in the Court's [Remote Provisions](#).

**SO ORDERED.**

  
/s/ \_\_\_\_\_  
JOHN B. GATTO, Judge



**UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

IN RE:

CASES ASSIGNED TO  
JUDGE JOHN B. GATTO

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**REMOTE PROVISIONS**

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**I. [Zoom Familiarity](#).** Parties, witnesses, participants, and non-participants (collectively referred to as “Participants”) should become familiar with the capabilities of Zoom as it is not the Court’s responsibility to train. Participants shall have sufficient hardware and bandwidth to ensure a continuous and smooth transmission of the conference or trial. Parties shall provide adequate instruction to witnesses, participants, and non-participants they intend to have present. Parties may request a “dry run” to allow witnesses, participants and non-participants experience accessing the conference or trial, to ensure connection, and test other capabilities of Zoom by contacting the Court’s Legal Assistant.

**II. [Equipment](#).** Participants are required to join the conference or trial with a computer or laptop with a camera and microphone for transmitting both video and audio. **Smart phone or tablet connections are not permitted.** Join the conference or trial at least five minutes before it is scheduled to start. Participants will automatically be placed in a waiting room until admitted to the conference or trial. Only those individuals who have been authorized and designated by the parties will be permitted to join.

**III. [Courtroom Decorum](#).** Proper courtroom decorum is required of all Participants. Participants are reminded to act and dress in the same professional manner as you would when appearing in person in a courtroom.

**IV. [Background Noise](#).** Eliminate all background noise. To avoid feedback or echo do not have multiple computers or phones connected to the conference or trial in the same room. Remain on mute when not speaking. Participants shall take steps to prevent other people, animals or other distractions becoming visible during the conference or trial.

**V. [Remote Backgrounds](#).** Use of Remote backgrounds is prohibited, except for the “blur” function.

**VI. [Recording](#).** Participants are prohibited from videotaping, broadcasting, televising, audio recording, or taking photographs during the conference or trial.

**VII. [Interruption](#).** Non-participants may not speak or interrupt the conference or trial and if this mandate is violated, they will be disconnected from the proceeding. When the conference or trial begins, and unless the Court is in recess, all non-participants must turn their video off and must mute their microphone.

**VIII. [Witnesses](#).** Parties shall coordinate with each other as to when a witness will need to be available to log into the conference or trial. It is the responsibility of the lead attorney for each party

to provide the instructions on logging into the Remote conference or trial to their witnesses and to ensure their witnesses are available to testify when called. The party calling a witness must instruct the witness that he or she may not communicate with anyone during the examination other than the examining attorney or the Court and that he or she may not consult any written, printed, or electronic information during the examination other than documents provided during the examination. The witness must disable all electronic devices, including cell phones, except the device enabling participation during the examination. Any exchange of messages to the witness during his or her testimony is prohibited.

**[IX. Remote Instructions for Trial.](#)** All attorneys and non-attorney representatives will receive an email invitation from the court reporter with instructions on logging into the Remote trial. The court reporter is required to set up a separate breakout room for each party for their use as needed. The Court requires all witnesses to remain in the waiting room until the court reporter brings them in individually as they are called to testify. It is the responsibility of the lead attorney or non-attorney representative for each party to provide the instructions on logging into the Remote trial to the parties, witnesses, participants, and non-participants. No later than **14 days** before trial, the parties must jointly complete and file with the Court and the court reporter the [Participation Form](#) (see attachment).

**[X. Remote Instructions for Settlement Conference.](#)** All attorneys or non-attorney representatives will receive notice from the Court with instructions on logging into the Remote conference. The Court will set up a separate breakout room for each party for their use as needed. The Court will set up a waiting room and all participants should be initially admitted only into the waiting room. It is the responsibility of the lead attorney or non-attorney representative for each party to provide the instructions on logging into the Remote conference to the parties, witnesses, participants, and non-participants. Within **14 days** before conference, the parties must jointly complete and file with the Court the [Participation Form](#) (see attachment).