Judge Covette Rooney was born and raised in Philadelphia, PA. On March 14, 2011, Judge Covette Rooney was named Chief Administrative Law Judge of the U.S. Occupational Safety and Health Review Commission. Judge Rooney joined the Review Commission in 1996 and since then has distinguished herself through her adjudication of complex cases. She previously served as an Administrative Law Judge at the Social Security Administration in Hattiesburg, MS. Her prior work experience includes employment with the Philadelphia Regional Office of the Solicitor, U. S. Department of Labor from 1980 until 1994, where she served as Regional Counsel for the Mine Safety and Health Administration and Black Lung Program, and was a Senior Trial Attorney. Judge Rooney also served as a law clerk for The Honorable Paul A. Dandridge, First Judicial District of Pennsylvania, Court of Common Pleas, Philadelphia, PA.

After earning an undergraduate degree at Colgate University, Judge Rooney received her Juris Doctor at Temple University School of Law. She is admitted to the Pennsylvania Bar, U.S. District Court for the Eastern District of Pennsylvania, and U.S. Court of Appeals for the Third Circuit.

Correspondence with the Court

Judge Rooney permits correspondence with her office concerning administrative, scheduling, or other non-substantive routine matters, and to advise the Court that a case has been settled or dismissed (written verification must follow). Otherwise, all communications with the Court should be made by the filing of pleadings, motions, applications, briefs or legal memoranda. Under no circumstances may any party or counsel communicate *ex parte* with office staff, who have no authority to render legal advice or grant continuances or any other relief.

Preliminary General Matters

Each conventional case is assigned a trial date. Judge Rooney routinely starts at 9:30 a.m. and may sit until 5:00 p.m. or later.

Pretrial Procedures

Upon assignment of a case, Judge Rooney routinely issues an order requesting the parties to confer and forward recommends concerning scheduling deadlines. After review of said recommendations, a scheduling order will be issued setting forth deadlines for the completion of

discovery, the filing of dispositive motions, the filing of pretrial submissions and hearing date.

Continuances

Counsel should advise the Court immediately and before the date has run, of any *compelling* justifying an extension or continuance of any originally scheduled date. Requests for continuances of the scheduled trial date are infrequently granted and must be made no later than 21 days in advance.

Any requests for extension or continuance may be made by letter and set forth in detail the reason or basis for the request and noting the agreement or disagreement of all other counsel as well as the period of delay requested.

Since trial dates are set well in advance, Judge Rooney is extremely reluctant to grant continuances. Judge Rooney will permit extension of discovery deadlines upon a showing that such extension will not interfere with the trial date.

Electronic Case Filing

Judge Rooney finds electronic filing provides greater efficiency and timeliness in the filing of pleadings, automatic e-mail notice of case activity, as well as electronic storage of documents for remote access by the Court and the parties. Review Commission Rules on electronic filing can be found on the Review Commission website**.**

See: http://www.oshrc.gov/publications/instructions_elecfiling.html

Motions

Proposed orders should be attached to corresponding motions or memoranda of law.

APPENDIX A - Sample Scheduling Orders

SECRETARY OF LABOR, **Complainant,** **v** **Respondent.**	**OSHRC DOCKET NO.**

NOTICE OF HEARING AND ORDER FOR PARTIES TO CONFER AND SUBMIT PLANNING RECOMMENDATIONS

The Parties are notified that the hearing in this matter will be heard commencing at **[ ] a.m., [ ], in [ ].** Pursuant to 5 U.S.C. § 556 and Commission Rules of Procedure 51 and 67, 29 C.F.R. § § 2200.51 and .67, the parties are directed to confer with one another, and on or before **[ ],** jointly submit[1] recommendations for time limits on the following activities.[2]

A. The number of days needed to complete the hearing.

B. The date(s) by which the parties must submit in writing the names, organizational affiliations and subject matter areas of expertise of expert witnesses it may call at the hearing. The date(s) by which Reports prepared by the expert witnesses shall be completed and delivered to counsel who retained the expert(s), and exchanged with opposing counsel.[3]

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[1] Should the parties be unable to agree to dates for these events, they shall submit individual recommendations along with a certification that after reasonable efforts, they could not reach agreement.

[2] Throughout these orders, dates established for submission of pleadings and all other documents are the dates by which the materials must be **received** by the opposing party and the office of the administrative law judge.

[3] This disclosure shall be accompanied by a mandatory written report prepared and signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications

C. The date by which all discovery is to be completed.

D. The date on or before which motions to amend pleadings shall be received by the administrative law judge and served on all parties.

E. The date on or before which dispositive or partially dispositive pre-hearing motions shall be received by the administrative law judge and served on all parties.

F. The date by which responses to dispositive or partially dispositive pre-hearing motions shall be received by the administrative law judge and served on all parties.

G. The date (**at least 12 days prior to trial**) by which pre-hearing statements shall be received by the administrative law judge and served on all parties.

H. Any other time limits or deadlines the parties suggest as appropriate or necessary for the efficient management of the pre-trial and hearing activities.

The Commissions Rules of Procedure permit filing and service of pleadings and documents by **electronic means** at ***washdcoshrcjudges@oshrc.gov.*** The pertinent rules are Rule 7(c), 29 C.F.R. § 2200.7(c) (Service and notice - How accomplished) and Rule 8(g), 29 C.F.R. § 2200.8(g) (Filing - Electronic filing). **The parties are to determine whether they will electronically file and serve**, and then consult the agency website at ***http://www.oshrc.gov/publications/instructions_elecfiling.html*** for instructions for electronic filing.

Dated:

Washington, DC.

COVETTE ROONEY
Chief Judge, OSHRC

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of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

SECRETARY OF LABOR, **Complainant,** **v** **Respondent.**	**OSHRC DOCKET NO.**

NOTICE OF HEARING, SCHEDULING ORDER

AND SPECIAL NOTICES

The parties are hereby notified that the hearing in this matter is scheduled to commence at[**]a.m., on [ ] , in [ ] .** Having considered the recommendations of the parties as to scheduling matters, IT IS ORDERED THAT:

A. All discovery shall be completed in such a manner as to be completed on or before [**]** [4]. The parties have agreed upon the following dates for the completion of discovery tasks: - written discovery; - expert depositions.

B. Motions to amend pleadings shall be filed in such a manner as to be received by all parties and the administrative law judge no later than **[ ].** Responses to motions to amend pleadings shall be filed in such a manner as to be received by all parties and the administrative law judge no later than **[ ] .**

C. Dispositive pre-trial motions, including *motions in limine,* shall be filed in such a manner as to be received by all parties and the administrative law judge no later than **[ ] .** Responses to pre-trial motions shall be filed in such a manner as to be received by all parties and the administrative law judge no later than **[ ].**

FINAL PRETRIAL PROCEDURES

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[4] "Completed" means "propounded and answered", i.e. all discovery shall be served in sufficient time for the responses thereto to be served by this deadline. **Counsel must resolve all discovery disputes or bring them to the undersigned's attention in a timely manner so as to allow sufficient time for the completion of discovery within the time set.** The conduct of any discovery which would require a later due date shall be permitted only on the order of the administrative law judge or by filed stipulation of the parties, and only in cases that will not be delayed for trial thereby. The parties should be aware that a stipulation to the extension of time for discovery anticipates no discovery disputes and, therefore, the administrative law judge will not hear discovery disputes arising during any such extensions.

Required Pretrial Conference Between Parties

A. It is the responsibility of counsel for all parties to meet together or to confer by telephone no later than [**],** in a good faith effort to:

1. discuss the possibility of settlement;

2. stipulate to as many facts or issues as possible;

3. examine, mark and stipulate to the admissibility of as many as possible of the exhibits to be offered by any party at trial;

4. exchange the names and addresses of all witnesses and presently identifiable rebuttal witnesses; and

5. prepare a pretrial statement in accordance with section III.B of this Order.

B. The joint prehearing statement shall be filed in such a manner so as to be received by the administrative law judge no later than **3:00 p.m. on** [**],** and shall contain:

1. a list of all exhibits to be offered into evidence with notations of all objections thereto; **and a certification by counsel that all exhibits have been exchanged**;

2. a list of all witnesses, and presently identifiable rebuttal witnesses, who may be called at the hearing;

3. a list of all expert witnesses including, as to each such expert witness, a written report prepared and signed by the witness .

4. a concise statement of those facts which are admitted and will require no proof at the hearing, together with any reservations directed to such admissions;

5. a concise statement of applicable principles of law on which there is agreement;

6. a concise statement of those issues of fact which remain to be litigated (without incorporation by reference to prior pleadings or memoranda.);[5]

7. a concise statement of those issues of law which remain to be litigated (without incorporation by reference to prior pleadings or memoranda);[6]

8. a concise statement of any disagreement as to the application of the Federal Rules of Evidence or the Commission Rules of Procedure;

9. a list of all motions or other matters which require action by the administrative law

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[5] Note: A mere restatement of the general elements to be proven will be deemed to be insufficient.

[6] See Note 2, above.

judge;

10. an estimate of time each counsel anticipates will be needed to present its case; and

11. the signatures, telephone phone numbers, and email addresses of counsel for all parties.

SPECIAL NOTICES

A. **Motions**

1. All motions must state the basis of the request, identify authority in support of the request and be accompanied by an **order** prepared for the administrative law judge's signature.

2. Motions for extensions of time, motions for continuances of any kind, motions seeking to limit or compel discovery, and motions seeking to expand or limit the calling of witnesses or the introduction of evidence, will not be entertained unless accompanied by moving counsel's certification that the parties have discussed the matter and that there is either no objection to the motion or that the parties have made a good faith effort to settle the matter and have been unable to do so.

3. Motions which do not meet the requirements of A.1 and A.2, above, may be summarily denied. The Court will ignore correspondence, **e.g. letters**, from counsel that should properly be the subject of motion practice.

B. **Witnesses may not be permitted to testify and exhibits may not be accepted into evidence unless they have been identified in a timely pre-hearing exchange**. **At the commencement of the hearing all documents and exhibits exchanged by the parties together with an index and placed in a three-ring binder shall be submitted to the undersigned. Furthermore, each party shall provide the court reporter with an original or copy of each exhibit he/she introduces and is admitted into the record.**

C. The Complainant must disclose the names, organizational affiliations and subject matter areas of expertise of its expert witnesses, if any, no later than [**].** A report must be produced for each expert and shall be completed and delivered to opposing counsel no later than[**].** This written report shall be prepared and signed by the expert witness, and shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten

years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

D. The Respondent must disclose the names, organizational affiliations and subject matter areas of expertise of its expert witnesses, if any, no later than [**].** A report must be produced for each expert and shall be completed and delivered to opposing counsel no later than [ ]**.** This written report shall be prepared and signed by the expert witness, and shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

E. All parties must comply literally with all parts of the above order. Failure to do so may result in appropriate sanctions including dismissal of claim or defense.

F. The appearance of counsel on any pleading is deemed to be the appearance of every member of counsel's law firm and such appearance requires the presence of either the attorney who filed the pleading or a member of his/her law firm at the hearing on the matter.

G. **Documentary exhibits shall be marked with the case docket number, with a designation identifying the party offering the exhibit and numbered consecutively. Exhibits shall have each page numbered serially and identified as "Docket No. ____, Exhibit No._____, page ___ of ___ pages."**

The parties are instructed to not submit to my office during the course of these proceedings anything containing either personally identifiable information ("PII") or medical information relating to an employee involved in this matter. Documents containing such information may be submitted if the PII, or, in case of medical records, the name of the employee, is first deleted. Commission Rule 8, 29 C.F.R. § 2200.8, sets out the types of PII and medical records to which this instruction applies.

Trial Documents – In addition to hard copy submission of exhibits, each party shall provide to the Court an electronic copy of the exhibits (CD or flash drive) in one of the following electronic formats: Adobe Portable Document format (.pdf)(preferred) or Word

(read only) Document (.doc). Materials that cannot be converted to electronic form (e.g., videotape, audiotape, etc) should be submitted to the Court in original form. Over-size documents such as overheads, charts, graphs or demonstrative exhibits may be used during court proceedings but they shall be reduced, photocopied or otherwise produced so that they can be submitted as a paper exhibit and electronically. Electronic trial exhibits admitted in audio or video format must be in .mp3 (audio) or .mp4 (video) format. The electronic version of exhibits will be the official trial exhibits.

H. Any party desiring to use a videotape at the hearing shall be responsible for having appropriate playback equipment and a competent operator at the hearing. **An edited videotape, capable of continuous playback and purged of unnecessary portions must be prepared by the offering party**. **A copy of the edited tape and an accompanying log shall be made available to other parties at least 10 days before the commencement of the hearing. The parties are further advised that any portion of a videotape containing an audio component, such as employee interviews or other conversations, which a party intends to introduce into the record, must be fully transcribed and exchanged with other parties at least 10 days before the commencement of the hearing.** In addition, the unedited original tape(s) shall be available at the hearing.

Each videotape used at a hearing must be accompanied by a log containing references to counter numbers which identify each segment to be shown at the hearing in terms of the elapsed real time from the beginning of the unedited tape(s) from which the segment was taken.

I. **Any party desiring to offer excerpts of depositions at hearing must comply with Commission Rule 2200.55(f). 29 C.F.R. §2200.56(f).**

POST-TRIAL BRIEFS

Post-trial briefs should include a Table of Contents, Stipulations, Factual Background and Findings of Fact with citation references to the official transcript, Argument, Table of Authorities, and Conclusion. An original shall be filed in a PDF compatible format and a courtesy copy emailed to the undersigned at judgecr@oshrc.gov or on an electronic storage device..

Dated:

COVETTE ROONEY
Chief Judge, OSHRC

APPENDIX B

COURTROOM ETIQUETTE

PLEASE TAKE NOTICE:

General Procedures

All spectators, whether media, public, family or attorneys and or interns related to the offices of the parties observing the proceedings must be seated before the Court is in session and must remain in the courtroom (except for emergencies) until the next recess is called. No spectators will routinely be admitted while the court is in session.

Courtroom Demeanor

Persons in the courtroom must remain silent during all proceedings. There will be no talking, shaking of heads of approval or disapproval of any statements, actions, rulings, testimony or proceedings, or any other signals or signs of approval or disapproval of the proceedings.
There will be no reading of newspapers, magazines, books, or other materials during the court proceedings in the courtroom.
There will be no drinks, snacks, chewing gum, smoking or chewing, except for water provided by counsel to the witnesses or counsel with the permission of the presiding judge.

As in all cases, the atmosphere in the courtroom must be quiet, calm and deliberative. Evidence in the case may be complex, graphic, emotional, and sometimes very tedious. All persons attending the trial must be willing to commit to a serious attitude if attending this trial.

All cellphones and pagers must be turned off while proceedings are in progress. Computers, cameras, web cams, recorders or other equipment may be not be brought into the courtroom except as specifically permitted by the presiding judge.

No member of the media, family, students or public, attorneys and or interns will be allowed beyond the bar of the court at any time except as permitted by the judge.

Official Record

There is only one official court record of these proceedings - that record is the transcript of the original notes of the court reporter made in open court employed by the Review Commission

Dated:

COVETTE ROONEY
Chief Judge, OSHRC

APPENDIX C

SECRETARY OF LABOR, **Complainant,** **v** **Respondent.**	**OSHRC DOCKET NO.**

NOTICE OF PRECISE LOCATION OF HEARING

Please take notice that the hearing in this matter, which has already been scheduled to commence at **[ ] a.m. on [ ], will be held at** [**].** Please bring government issued identification with you for admission into the building. Any procedural questions regarding scheduling or facilities, or the like, shall be addressed to Ms Vivian Lassiter of this office.

Respondent's attention is again called to the requirement for service of a copy of this notice upon any representative of affected employees or in the absence of such representation, posting a copy at or near the place where the citation was required to be posted.

General Procedures

Civility is the foundation of Judge Rooney's courtroom procedures. The trial shall at all times be conducted in a dignified and formal manner. Counsel shall not raise their voices any louder than is necessary to be clearly heard by the Court and witnesses. All remarks should be addressed to the Court and counsel will rise when addressing the Court. Counsel should never act or speak disrespectfully to the Court or opposing counsel in any manner. Counsel's demeanor should be one of courtesy and professionalism. The rule on civility is absolute in addressing witnesses whether on direct or cross examination. Do not approach a witness without leave of court. Do not by facial expression, or other conduct, exhibit an opinion concerning any witness. Counsel should avoid argumentative questions when questioning an opposing party.

Cell phones and pagers should be turned off upon entry into the courtroom. Counsel are responsible for their own and their witnesses' cell phones and pagers.

At the commencement of the hearing all sequentially numbered documents and exhibits together with an index and placed in a three-ring binder shall be submitted to the undersigned. Each

party shall provide the court reporter with an original or copy of each exhibit he or she introduces and is admitted into the record. At the close of the hearing the parties shall ensure that the admitted exhibits have been assembled into a single binder or binders, as necessary, retaining the tab numbers used during trial.

Dated:

COVETTE ROONEY
Chief Judge, OSHRC