



UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND REVIEW COMMISSION

PROCEDURES AND PRACTICES IN CONVENTIONAL PROCEEDINGS
BEFORE JUDGE JOHN B. GATTO

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October 1, 2024

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I. Preamble

Any rule referenced in these procedures is to the Federal Rules of Civil Procedure (Federal Rules), unless otherwise indicated.¹ Any reference to a Commission Rule means the Commission's Rules of Procedure, 29 CFR Part 2200, a copy of which is available on the Commission's web page at <https://www.oshrc.gov> under the "Rules – Guides" tab. 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). 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. Any reference to "Counsel" or "attorney" also includes a non-attorney representative or a party that is representing itself.

II. Contacting Chambers

The Court's Legal Assistant, Arvetta D. Diggs, is your primary point of contact on matters relating to your case and can be reached by e-mail at adiggs@oshrc.gov, or by telephone at (404) 562-1640. Neither the parties nor their counsel are permitted to discuss the merits of the case with any court staff. Subpoenas may be requested *ex parte* through the Court's Legal Assistant by email.

III. Official Record; Mandatory Electronic Filing; Email Service

A. Official Record. The official record is the electronic file maintained by the Commission in the Commission's E-File System. 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 file documents electronically in the Commission's E-File System (unless you filed a written request to be exempt from electronic filing explaining specifically how and why it would be an undue burden to comply with the electronic filing **and** are granted an exemption from electronic filing by the Judge). **If you have not yet registered, you must immediately do so and notify the Court's Legal Assistant that you have**

¹ 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).

done so. If you have not registered but included your email address in your notice of contest or notice of appearance, you will receive a **one-time** *courtesy* copy of the Court’s Initial Scheduling Order sent to your email address of record. *Unless you have been granted an exemption from electronic filing by the Judge, you will not receive any future Court orders/notices until you register and notify the Court’s Legal Assistant that you have done so.*

C. User Registration and Electronic Filing. User registration and electronic filing are accomplished at <https://oshrc.entellitrak.com>. You are responsible for reviewing and complying with the Commission’s Instructions for Electronic Filing link located on the Commission’s web page at <https://www.oshrc.gov> under the “Featured Resources” tab. Failure to comply with these Instructions may result in the rejection of your submission.

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

Certificate of Service

This is to certify that service of the [Document Name] filed in the Commission’s E-File System was also simultaneous served by email attachment to the parties listed below on [Date of Service].

[Name of Individual Served
Address
Email Address]

/s/
Name Title
Company / Firm Name / Office of the Solicitor
Street Address
City, State, Zip Code Email Address

IV. **Pleadings; Corporate Disclosure; Rule 26(f) Conference of the Parties; Joint Preliminary Report and Discovery Plan**

A. Complaint. If the Complainant has not filed a complaint, the Complainant 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 at <https://www.oshrc.gov/sample-documents/>.

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.*

E. 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.² Counsel are jointly responsible for arranging the conference. Counsel are required to inform the parties promptly of all offers of settlement proposed at the conference.

F. 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 21 days** from the date of the Court’s *Initial Scheduling Order*, which shall state the parties’ views and proposals as 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 Complainant and by Respondent; the date expert reports from retained experts must be served by Complainant and by Respondent; the date expert designations and reports by any rebuttal experts must be served by Complainant and by Respondent; and the date

² Although Federal 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 Commission or Judge* 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 meeting.

any objections to such designations must be served by Complainant and by Respondent (all designations and reports must be completed and served within the discovery period);

2. estimated total number of trial days and separately estimated number of days for each party to present their case;

3. all available trial date(s);

4. a proposed trial city/state with a federal courthouse and a national or international (*not local or regional*) airport;³

5. whether all parties consent to the taking of depositions, and if not, whether any party intends to move to compel such depositions;

6. any request for Language Access Services (oral, sign or written language services) and the scope of such services;⁴

7. the location of Respondent's principal place of business; and

8. any other matters appropriate to the circumstances of the case.

V. Discovery

A. Scope and Limits of Discovery. 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, Federal 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.”

³ Although the *Joint Preliminary Report and Discovery Plan* includes proposals for the trial city/state with a Federal courthouse and a national or international (not local) airport, the parties may jointly propose that the trial be conducted remotely via Zoom video conference.

⁴ 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.

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. Unless otherwise ordered, all discovery shall be completed within **4 months** from the date of the Court’s *Initial Scheduling Order*.⁵ 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.

D. Filing of Discovery and Disclosures Prohibited. Commission Rule 8(a)(2) mandates that discovery documents “shall not be filed with the Commission or Judge. Filing 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 Commission or Judge. 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 interrogatories, requests, answers, responses, or depositions are to be used at the hearing or are necessary to a prehearing motion which might result in a final order on any claim, the portions to be used shall be filed with the Commission or Judge at the outset of the hearing or at the filing of the motion insofar as their use can be reasonably anticipated.” 29 C.F.R. § 2200. 52(1).

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 Principles. 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.

⁵ 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 Judge orders otherwise*”).

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. *Before a deposition may be used at trial, the proponent must first seek an order from the Court ruling the deposition meets one of the conditions authorizing such use under Federal Rule of Civil Procedure 32.*

H. Initial Disclosure. Although Commission Rule 52(a)(1)(v) provides that the “required disclosures” requirements of Federal 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. 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 these provisions 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 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.

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.

J. Time to Disclose Expert Testimony. Absent a stipulation or Court order, the disclosures must be made within **90 days** before the date set for trial or for the case to be ready for trial. Any party who does not comply with these provisions 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 objection within the date that the proposed pretrial order is submitted. Otherwise, such objections will be waived, unless expressly authorized by Court order based upon a showing that the failure to comply was justified.

K. 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.

L. 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) the name and, if not previously provided, the 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) 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) 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 Federal 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.

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

N. *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.

VI. Discovery Disputes

A. 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.*

Therefore, 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).⁶

B. 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.

C. 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 objection.

VII. Summary Judgment

A. When to File. 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.

B. Form of Motion. A movant for summary judgment shall include with the motion a brief in support thereof and a separate, concise, numbered statement of the material facts to which

⁶ 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.

the movant contends there is no genuine issue to be tried. Each material fact must be numbered separately and supported by a citation to evidence proving such fact. The Court will not consider any fact:

1. not supported by a citation to evidence (including page or paragraph number);
2. supported by a citation to a pleading rather than to evidence;
3. stated as an issue or legal conclusion; or
4. set out only in the brief and not in the movant's statement of undisputed facts.

C. Response to Motion. Within **14 days** of service of the motion, a responding party shall include with the response a brief in support thereof and a statement of disputed facts, which shall contain a separate, concise, numbered statement of nonargumentative responses **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 material fact must be numbered separately and supported by a citation to evidence proving such fact. The Court will not consider any fact:

1. not supported by a citation to evidence (including page or paragraph number);
2. supported by a citation to a pleading rather than to evidence;
3. stated as an issue or legal conclusion; or
4. set out only in the brief and not in the responding party's statement of disputed facts.

The Court will deem each of the movant's facts as admitted unless the responding party:

1. directly refutes the movant's fact with concise responses supported by specific citations to evidence (including page or paragraph number);
2. states a valid objection to the admissibility of the movant's fact; or
3. points out that the movant's citation does not support the movant's fact or that the movant's fact is not material or otherwise has failed to comply with the provisions set out in (VII)(B)(1).

The Court will deem the movant's citations supportive of its facts unless the responding party specifically informs the Court to the contrary in the response. The response that a party has insufficient knowledge to admit or deny is not an acceptable response unless the party has complied with the provisions of Fed. R. Civ. P. 56(d).

D. Statement of Additional Facts. The responding party may also file a statement of additional facts which the responding party contends are material and present a genuine issue for

trial. Each material fact must be numbered separately and supported by a citation to evidence proving such fact. The Court will not consider any fact:

1. not supported by a citation to evidence (including page or paragraph number);
2. supported by a citation to a pleading rather than to evidence;
3. stated as an issue or legal conclusion; or
4. set out only in the brief and not in the responding party statement of additional facts.

E. Response to Statement of Additional Facts. If the responding party provides a statement of additional material facts, then, within **7 days** from the date of service of the statement, the movant may file a response to each of the respondent's facts. The range of acceptable responses is limited to:

1. an objection to the admissibility of the evidence upon which the respondent relies;
2. an objection pointing out that the respondent's evidence does not support the respondent's fact;
3. an objection on the ground that the respondent's fact is not material or does not otherwise comply with the provisions set out in (VII)(B)(2); and
4. a concession that the Court can properly consider the responding party's evidence for purposes of the summary judgment motion.

F. Exhibits. The parties must file as exhibits to their briefs the originals of any affidavits relied upon in their motion and responsive papers, 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 shall file the entire deposition.

VIII. 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 **jointly** file a proposed Pretrial Order, which shall be prepared and filed in conformity with the Court's form Pretrial Order, a copy of which is available on the Commission's web page under the Administrative Law Judge Practices section at <https://www.oshrc.gov/about/administrative-law-judge-practices>. The Pretrial Order shall supersede the pleadings and shall govern the issues to be tried.

IX. Witness Lists; Exhibit Lists

A. Witness Lists. Within **14 days** before trial, each party must deliver to the Court, 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 deliver to the Court, 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. The parties shall comply with the "Trial Exhibits" provisions in the Court's Procedures and Practices in Conventional Cases. 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

X. Trial Exhibits

A. General Requirements. The official exhibits are the electronic version, which shall be presented in Adobe Portable Document Format (.pdf). *The electronic version of each exhibit must mirror the original paper version in all respects, including clarity and color.* 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 **7 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 (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. *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.*

E. Witness Statements. The Court will not attempt to interpret hand-written statements

recorded by a compliance officer and therefore, will not admit any hand-written statements that are not accompanied by a typed version. All hand-written witness statements must be accompanied by a typed version.

XI. 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.

XII. Proposed Findings of Fact and Conclusions of Law and Briefs

The parties shall file proposed findings of fact and conclusions of law and separate post-trial briefs within **30 days** after receipt of the electronic trial transcript, except that if the Respondent is self-represented or represented by a non-attorney, the Respondent may, but shall not be required, to file proposed findings of fact and conclusions of law and separate post-trial briefs. *Reply briefs are not authorized without the approval of the Court.*

XIII. Status Report

The parties shall file a joint status report of their intent to proceed to trial, settle, or withdraw the citation or notice of contest no later than **14 days before trial**. 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, unless otherwise ordered, to memorialize the settlement or withdrawal announcement on the record.

SO ORDERED.



/s/ JOHN B. GATTO, Judge

Dated: October 1, 2024
Atlanta, GA