

representative, the unrepresented employee shall, upon receipt of the statement filed in conformance with § 2200.38, serve a copy thereof on such authorized employee representative in the manner prescribed in paragraph (c) of this section and shall file proof of such service.

(l) *Employee contest; Service on employer.* Where a notice of contest is filed by an affected employee or an authorized employee representative, a copy of the notice of contest and response filed in support thereof shall be provided to the employer for posting in the manner prescribed in paragraph (g) of this section.

(m) *Employee contest; service on other authorized employee representatives.* An authorized employee representative who files a notice of contest shall be responsible for serving any other authorized employee representative whose members are affected employees.

(n) *Duration of posting.* Where posting is required by this section, such posting shall be maintained until the commencement of the hearing or until earlier disposition.

[51 FR 32015, Sept. 8, 1986; 52 FR 13331, Apr. 27, 1987, as amended at 57 FR 41684, Sept. 11, 1992; 58 FR 26065, Apr. 30, 1993; 62 FR 35963, July 3, 1997; 70 FR 22787, May 3, 2005; 70 FR 25652, May 13, 2005]

§ 2200.8 Filing.

(a) *What to file.* All papers required to be served on a party or intervenor, except for those papers associated with part of a discovery request under Rules 52 through 56, shall be filed either before service or within a reasonable time thereafter.

(b) *Where to file.* Prior to assignment of a case to a Judge, all papers shall be filed with the Executive Secretary at One Lafayette Centre, 1120 20th Street, NW., Suite 980, Washington, DC 20036-3457. Subsequent to the assignment of the case to a Judge, all papers shall be filed with the Judge at the address given in the notice informing of such assignment. Subsequent to the docketing of the Judge's report, all papers shall be filed with the Executive Secretary, except as provided in § 2200.90(b)(3).

(c) *How to file.* Unless otherwise ordered, filings may be accomplished by

postage-prepaid first class mail, personal delivery, or electronic transmission or facsimile transmission.

(d) *Number of copies.* Unless otherwise ordered or stated in this part, only the original of a document shall be filed.

(e) *Filing date.* (1) Except for the documents listed in paragraph (e)(2) of this section, filing is effective upon mailing, if by mail, upon receipt by the Commission, if filing is by personal delivery, overnight delivery service, facsimile transmission or electronic transmission.

(2) Filing is effective upon receipt for petitions for interlocutory review (§ 2200.73), petitions for discretionary review (§ 2200.91), and EAJA applications (§ 2204.301).

(3) Counsel and the parties shall have sole responsibility for ensuring that the document is timely received by the Commission.

(f) *Facsimile transmissions.* (1) Any document may be filed with the Commission or its Judges by facsimile transmission. Filing shall be deemed completed at the time that the facsimile transmission is received by the Commission or the Judge. The filed facsimile shall have the same force and effect as an original.

(2) All facsimile transmissions shall include a facsimile of the appropriate certificate of service.

(3) It is the responsibility of parties desiring to file documents by the use of facsimile transmission equipment to utilize equipment that is compatible with facsimile transmission equipment operated by the Commission. Legibility of the transmitted documents is the responsibility of the serving party.

(g) *Electronic filing.* (1) Where all parties consent to electronic service and electronic filing, a document may be filed by electronic transmission with the Commission and its Judges. The certificate of service accompanying the document must state that the other parties consent to filing by electronic transmission. The electronic transmission shall be in the manner specified by the Commission's Web site (<http://www.OSHRC.gov>).

(2) A document filed in conformance with these rules constitutes a written document for the purpose of applying these rules, and a copy printed by the

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Commission and placed in the case file shall have the same force and effect as the original.

(3) A certificate of service shall accompany each document electronically filed. The certificate shall set forth the dates and manner of filing and service. It is the responsibility of the transmitting party to retain records showing the date of transmission, including receipts.

(4) A party that files a document by an electronic transmission shall utilize equipment and software that is compatible with equipment operated by the Commission and shall be responsible for the legibility of the document.

(5) Information that is sensitive but not privileged shall be filed as follows:

(i) If Social Security numbers must be included in a document, only the last four digits of that number shall be used;

(ii) If names of minor children must be mentioned, only the initials of that child shall be used;

(iii) If dates of birth must be included, only the year shall be used;

(iv) If financial account numbers must be filed, only the last four digits of these numbers shall be used;

(v) If a personal identifying number, such as a driver's license number must be filed, only the last four digits shall be used. Parties shall exercise caution when filing medical records, medical treatment records, medical diagnosis records, employment history, and individual financial information, and shall redact or exclude certain materials unnecessary to a disposition of the case.

(6) A transmittal letter shall not be filed electronically or by other means when a document is transmitted noting:

(i) The transmittal of a document;

(ii) The inclusion of an attachment;

(iii) A request for a return receipt; or

(iv) A request for additional information concerning the filing.

(7) The signature line of any document shall include the notation “/s/” followed by the typewritten name or graphical duplicate of the handwritten signature of the party representative filing the document. Such representation of the signature shall be deemed to be the original signature of the representative for all purposes unless the

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party representative shows that such representation of the signature was unauthorized.

(8) Privileged information shall not be filed electronically. Privileged information or information that is asserted by any party to be privileged shall not be filed electronically.

[70 FR 22787, May 3, 2005; 70 FR 25652, May 13, 2005; 74 FR 63986, Dec. 7, 2009]

§ 2200.9 Consolidation.

Cases may be consolidated on the motion of any party, on the Judge's own motion, or on the Commission's own motion, where there exist common parties, common questions of law or fact or in such other circumstances as justice or the administration of the Act require.

[51 FR 32015, Sept. 8, 1986; 52 FR 13831, Apr. 27, 1987; 52 FR 19631, May 26, 1987]

§ 2200.10 Severance.

Upon its own motion, or upon motion of any party or intervenor, where a showing of good cause has been made by the party or intervenor, the Commission or the Judge may order any proceeding severed with respect to some or all claims or parties.

[57 FR 41684, Sept. 11, 1992]

§ 2200.11 [Reserved]

§ 2200.12 References to cases.

(a) *Citing decisions by Commission and Judges*—(1) *Generally*. Parties citing decisions by the Commission should include in the citation the name of the employer, a citation to either the Bureau of National Affairs' Occupational Safety and Health Cases (“BNA OSHC”) or Commerce Clearing House's Occupational Safety and Health Decisions (“CCH OSHD”), the OSHRC docket number and the year of the decision. For example, *Clement Food Co.*, 11 BNA OSHC 2120 (No. 80–607, 1984).

(2) *Parenthetical statements*. When citing the decision of a Judge, the digest of an opinion, or the opinion of a single Commissioner, a parenthetical statement to that effect should be included. For example, *Rust Engineering Co.*, 1984 CCH OSHD ¶27,023 (No. 79–2090, 1984)