

Hon. Carol Andrea Baumerich (Ret.)

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WORK EXPERIENCE

1.

**Occupational Safety and Health Review Commission
Federal Administrative Law Judge**

08/2011 – 01/2025
Washington, D.C.

Settlement Judge, Mediator.

At the Review Commission, a consistent, significant portion of my assigned docket, was to serve as a Settlement Judge, Mediator. I conducted numerous in-person and virtual voluntary and mandatory settlement conferences to resolve complex, significant cases pending before the Review Commission, concerning workplace safety and health issues. Cases before the Commission concern employer contests of federal OSHA citations. Settlement proceedings are conducted pursuant to the Commission Procedural Rules, Subpart H, Settlement Part, 29 C.F.R. §2200.120.

This experience included settlement conferences conducted with Spanish / English interpretation and settlement proceedings with self-represented employers. I conducted conferences that involved complex multi-party negotiations including the government, the employer, and the collective bargaining representative of the affected employees, the Union. Settlement proceedings sometimes involved more than one employer for example, on multi-employer construction worksites or on worksites where the affected employees, allegedly exposed to the hazard, were provided by a staffing agency. The overwhelming majority of the settlement proceedings I conducted resulted in an amicable resolution of the dispute between the parties. The amicable resolution obviated the need for litigation and provided a meaningful, forward-looking resolution enhancing workplace safety and health.

As a Settlement Judge, I provided preconference guidance and instruction to the parties regarding necessary preparation for the settlement negotiation. The parties were encouraged to learn the case facts and relevant law, exchange documents, and frankly assess the strengths and weaknesses of their case and the opposing party's case. The parties were encouraged to identify and assess their true needs and interests and consider the needs and interests of the opposing party. This preconference preparation enabled the parties to intelligently evaluate settlement options discussed during the conference.

At the settlement conference, I successfully employed facilitative mediation techniques, including active listening, identification of shared goals and interests, collaborative problem solving, practical and pragmatic negotiation techniques, and the consideration of creative settlement terms to address shared interests. Active participation was encouraged from all conference participants, each party's counsel, and each party's principal decision-maker holding full settlement authority.

I conducted settlement conferences regarding significant cases in a wide variety of industries under the regulatory jurisdiction of federal OSHA, including construction, vehicle glass manufacture, furniture manufacture, international paper manufacture, national retail stores, regional grocery stores, poultry processing plants, maritime terminals and docks, steel mills, steel fabrication shops, and chemical production plants, among others. Significant cases resolved by incorporating creative settlement terms to enhance workplace safety and health and ensure continued compliance with OSHA standards, in addition to terms regarding the agreed settlement penalty amount and citation item classification(s).

Hearing Judge.

I presided at and managed complex, adversarial hearings, ensuring development of a complete, relevant, hearing record. Hearing management and decision making required evidentiary rulings, factual findings, and legal conclusions regarding the issues presented. I conducted hearings pursuant to the Administrative Procedure Act and the Commission Procedural Rules, which required knowledge and application of the Federal Rules of Evidence.

I ruled on prehearing discovery, subpoena request, summary judgment and dismissal motions, issued show cause orders, protective orders, and resolved prehearing deposition evidentiary disputes. This experience required knowledge and application of the Federal Rules of Civil Procedure and the Commission Procedural Rules. Hearing docket management techniques included professional, respectful active listening, and collaborative, creative, resolution of scheduling, evidentiary, privilege, and discovery disputes.

I issued written decisions based on the hearing record and post hearing briefs. In certain cases, I also issued written decisions and final orders on prehearing motions, responses, and briefs. I issued decisions regarding the alleged violation of many varied OSHA standards, including standards regarding fall protection, excavations, electrical safety requirements, electric power transmission and distribution, steel erection, permit-required confined spaces, cranes and derricks, walking-working surfaces, hazardous materials, machinery and machine guarding, control of hazardous energy (lock out / tag out), powered industrial trucks, toxic and hazardous substances, lead, bloodborne pathogens, and alleged general duty clause violations, including worksite heat hazards and workplace violence. Among other issues, I adjudicated issues regarding single employer, independent contractor, employee status, and employer responsibility on multi-employer worksites. Sample decisions: [Planet Fitness](#), No. 23-1328 (OSHRC 2025); [Commercial Metals Company dba CMC Steel New Jersey](#), OSHRC No. 22-1556 (OSHRC 2024).

Lead Committee Member. 2019 Commission Procedural Rule Revisions.

With a judicial colleague, I served as a Lead Committee Member to revise and update the Commission Procedural Rules. The Committee proposed rule revisions were approved by the Review Commission and promulgated, following notice and comment rule making, as the Occupational Safety and Health Review Commission Procedural Rule Revisions, on April 10, 2019. Among other revisions, the 2019 revised Commission Procedural Rules clarified the rules regarding voluntary and mandatory settlement proceedings, including the confidentiality of settlement proceedings. See Review Commission Procedural Rules, Subpart H, Settlement Part, 29 C.F.R. § 2200.120. <https://www.oshrc.gov/rules-of-procedure>.

Mentoring, hiring, training, conference presentations.

As a Review Commission Judge, my assignments included mentoring new judges, attorney advisors, and legal assistants. I mentored new judges regarding best practices when preparing for and conducting voluntary and mandatory settlement conferences. I mentored new attorney advisors regarding legal writing and research. Also, I served on hiring panels for the positions of administrative law judge, attorney advisor, and legal assistant, and effectively made hiring recommendations.

My assignments included the design and presentation of staff training programs. I served as a presenter and panelist at national ABA and OSHRC Conferences. (Discussed below).

2.**Social Security Administration, Office of Disability Adjudication and Review.****Federal Administrative Law Judge**

09/2009 – 08/2011 - Baltimore, MD

06/2008 - 09/2009 - Cleveland, OH

My principal responsibility was to decide cases on appeal before the SSA Office of Disability Adjudication and Review (ODAR), regarding applications for Social Security and SSI Disability benefits. I presided at and managed hearings, examined claimants and expert witnesses, ensured development of a fair, legally sufficient hearing record, and made evidentiary rulings, factual findings, and legal conclusions regarding the issues presented. I wrote decisions, prepared attorney decision writer instructions, and edited draft decisions.

#3**Mediation Private Practice**

09/1997 – 05/2008

Attorney Mediator

Baltimore, MD

I managed my solo mediation practice. I mediated disputes in litigation cases pending before the Circuit Court for Baltimore County and the Circuit Court for Baltimore City. I worked collaboratively with parties to appropriately schedule and prepare for the mediation conference. Preconference preparation enabled the parties to intelligently evaluate settlement options discussed during the conference.

I prepared mediation agreements, including confidentiality requirements. At the conclusion of the mediation, I prepared an agreed settlement term summary for the parties to facilitate preparation of the settlement agreement, following consultation and review by counsel. I also managed mediation billing correspondence. On occasion, I conducted follow-up conference calls to facilitate compliance with the agreed resolution.

I served as a volunteer mediator in cases pending before several state and federal agencies, including the EEOC, Maryland Commission on Human Relations (currently renamed Maryland Commission on Civil Rights), and the U.S. Government Interagency Program on Sharing Neutrals. A brief summary follows.

Circuit Court for Baltimore County.

09/1997- 05/2008

Court Designated Civil Mediator. (Court set hourly mediation fee.)

I mediated cases pending before the Circuit Court, referred by the Chief Judge, in the practice areas of commercial disputes, contracts, workers' compensation, estates, employment, auto tort, and real estate, among others. The majority of cases mediated were successfully resolved.

Circuit Court for Baltimore City.

02/1999 - 07/2000

Court Designated Mediator / Pretrial Settlement Officer. (Volunteer)

I mediated cases pending before the Circuit Court in the practice areas of contracts, torts, employment, and real estate, among others.

U.S. Government – Interagency Program on Sharing Neutrals.

10/1999 – 06/2004

Senior Mediator. (Collateral Duty)

Washington, D.C.

I served on a panel of senior mediators available to mediate employment disputes arising in federal agencies. I successfully mediated employment disputes for the National Endowment for the Arts and Centers for Medicare and Medicaid.

#4.

National Labor Relations Board, Region 5.

Deputy Regional Attorney.

07/2000 – 06/2008 - Baltimore, MD

Trial Specialist

09/1979 – 07/2000 - Baltimore, MD

At the National Labor Relations Board, Region 5, I acquired twenty-nine years of litigation experience in complex, adversarial proceedings, working first as a trial specialist and later as a Deputy Regional Attorney. My litigation experience included first chair responsibility in many complex, adversarial proceedings before the National Labor Relations Board, U.S. District Courts, and U.S. Bankruptcy Courts.

As Deputy Regional Attorney, I supervised a team of trial attorneys, legal interns, and investigators. I was responsible for the effective management and advocacy of the litigation assigned to my team, including many high-profile, complex, adversarial trials. Pretrial management included discussion with the trial attorney regarding trial organization and strategy, witness identification, evidence gathering, anticipated evidentiary and privilege issues, identification of settlement opportunities, guidance regarding settlement negotiation techniques, review and editing of subpoenas duces tecum and pretrial motions. Trial management included guidance regarding the development of a complete record, mentoring regarding making and responding to objections, and serving as second chair for newer attorneys during initial trial assignments. Post trial management included review and editing of post-trial motions and briefs to administrative law judges and appellate briefs to the Board. Regarding investigative and representation cases assigned to my team, I was responsible for timely, efficient, high quality, objective case processing and decision-making.

I supervised, trained, coached, mentored, motivated, counseled, and appraised team members. Collaboratively, I managed the Region's trial calendar. In addition, I interviewed and

effectively made hiring recommendation for law clerks, prepared projected budgets regarding litigation and investigative expenses, served as the Region's FOIA Officer, and served as EEO Special Emphasis Program Coordinator. Together with the Compliance Officer, I served as the Region's Bankruptcy Coordinator.

As a trial specialist, my litigation experience included first chair responsibility in many complex, adversarial proceedings before the National Labor Relations Board, U.S. District Courts, and U.S. Bankruptcy Courts. My litigation cases included issues regarding employment discrimination, single employer, joint employer, successor employer, alter ego, independent contractor, employee status, appropriate bargaining unit, duty to bargain, bargaining impasses, protected and prohibited strikes, among others.

Serving as a trial specialist, I participated in numerous mediation and settlement conferences as counsel for the NLRB General Counsel.

My litigation experience included compliance litigation following Judgments by the U.S. Courts of Appeal, enforcing Decisions and Orders of the NLRB. I drafted compliance specifications (the formal complaints filed to resolve disputes regarding ordered remedies) and duces tecum subpoenas, conducted depositions and Bankruptcy Rule 2004 examinations, represented the NLRB at Creditors' Meetings before the Bankruptcy Trustee and settlement negotiations.

I served as a hearing officer in representation cases. I presided at and managed the hearing, ensured development of a fair and complete hearing record, elicited facts, examined witnesses, and made evidentiary rulings.

Sample litigated case: *CNN America, Inc.*, 361 NLRB 439 (2014), reconsideration denied, decision modified, corrected 362 NLRB 293 (2015), enforcement granted in part and denied in part 865 F.3d 740 (D.C. Cir. 2017). Litigation manager and trial counsel during trial before the administrative law judge.

EDUCATION

Rutgers School of Law

Newark, New Jersey

JD – May 1979

Rutgers Law Review, Editor; Staff Member

Upsala College

East Orange, New Jersey

Bachelor's Degree, *summa cum laude* – May 1975

BAR MEMBERSHIP

Maryland State Bar – (1989 – present).

New Jersey Bar – (1979 – 2021).

District of Columbia Bar – (1981 – 2021).

MEDIATION AND NEGOTIATION TRAINING (select focused summary).

Mediation Training. Pepperdine University School of Law and University of Maryland Francis King Carey School of Law. (March 2015). Preventing Bad Settlement Decisions and Impasse. (Instructors: Donald Philbin, Jr., Esq., Douglas Noll, Esq.)

Mediation Training. Pepperdine University School of Law and University of Maryland Francis King Carey School of Law. (March 2013). Advanced Mediation: Skills and Techniques. (Instructors: Bruce Edwards, Esq., Nina Meierding, Esq.)

Negotiation Workshop. Program on Negotiation at Harvard Law School. (June 2012). Negotiation: Strategies, Tools, and Skills for Success. (Instructor: Prof. Robert Bordone).

Mediation Training. Center for Dispute Settlement. (May 1999). Advanced Mediation Techniques Workshop. (Instructors: Linda Singer, Esq., Michael Lewis, Esq.).

Mediation Training Workshop. Harvard Law School Program of Instruction for Lawyers. (June 1998). (Instructors: Prof. Frank Sander, Linda Singer, Esq., Michael Lewis, Esq.).

Mediation Training / Mediator Certification. The Maryland Institute for Continuing Professional Education of Lawyers, Inc. (MICPEL) (Basic Mediation 40 Hour Workshop). University of Baltimore School of Law. (March 1997). (Instructors: Prof. Roger Wolf, Melanie Vaughn, Esq. and Harry Fox, Esq.).

EXPERIENCED MEDIATOR TRAINER.

Experienced Mediator Trainer / Mediation Simulation Role-Playing Critique. The Maryland Institute for Continuing Professional Education of Lawyers, Inc. (MICPEL) (Basic Mediation 40 Hour Workshop). University of Baltimore School of Law. (Mediation Workshop Instructors: Prof. Roger Wolf, Melanie Vaughn, Esq. and Harry Fox, Esq.). As an experienced mediator, I provided mediation simulation role-playing critique during basic mediation workshops. (MICPEL Basic Mediation 40 Hour Workshops, several workshops from March 1999 to May 2007).

PROFESSIONAL COMMITTEE

Maryland State Mediation and Conflict Resolution Office (MACRO). Business ADR Initiative. Member. (2000-2005), previously Maryland ADR Commission:
Business Applications Committee: Member, (1998-1999).
Public Forum Planning Group. Member, Public Forum Facilitator. (1999).

MEMBERSHIP

American Bar Association. Dispute Resolution and Litigation Sections.

Maryland State Bar Association. Alternative Dispute Resolution, Litigation, and Administrative Law Sections.

MENTORING AND TRAINING (Select examples).

OSHRC Federal Administrative Law Judge. (08/2011 - 01/2025).

Mentoring. As a Review Commission Judge, my assignments included mentoring new judges, attorney advisors, and legal assistants. I mentored new judges regarding best practices when preparing for and conducting voluntary and mandatory settlement conferences. New judges accompanied me to observe scheduled Settlement Conferences on my docket.

(Washington, D.C. and Atlanta, GA, and various settlement conference locations. 2012 – 2024).

Presenter, Facilitated Discussion, Training Module Design. As a Review Commission Judge, my assignments included the design and presentation of the staff training programs. I designed and facilitated discussion for judges, attorney advisors, and legal assistants, regarding the 2019 Commission Procedural Rule Revisions.

(Washington, D.C. and Denver, CO. April 2019).

Presenter, Facilitated Discussion, Training Module Design. I designed, presented, and facilitated discussion regarding a Training Module for legal assistants who work closely with the judges. The Training Module emphasizes the significant value of the legal assistants' contribution to the important work and responsibility of the Review Commission stated in the OSH Act. The Training Module is multi-media and promotes collaborative discussion and best practice sharing.

(Washington, DC. Beginning in 2012, continuing thereafter).

Deputy Regional Attorney, NLRB, Region 5. (07/2000 – 06/2008).

Mentoring. As Deputy Regional Attorney, my responsibilities included trial training, from pretrial witness preparation to post trial and appellate briefing, and second chairing newer attorneys during initial trial assignments.

(Baltimore, MD. July 2000 to June 2008).

Presenter, Facilitated Discussion. As Deputy Regional Attorney, collaboratively, I designed and facilitated staff training programs regarding FOIA, litigation and bankruptcy practice, evidence skills, including the Federal Rules of Evidence, and effective investigative techniques.

(Baltimore, MD. July 2000 to June 2008).

Teaching Facilitator. Working collaboratively with attorney supervisors and managers from several NLRB Regional Offices, I served as a trial training teaching facilitator.

NLRB Trial Training Advocacy Institute. (San Diego, CA. June 2001).

Committee Member. I served as a member of the NLRB Compliance Manual Revision Committee. (April 2004 – 2007). I worked collaboratively with compliance officers and managers from NLRB Headquarters, Regional Offices, and Operations Management to update and revise the Compliance Manual. I drafted the following sections of the revised 2007 NLRB Casehandling Manual, Part 3, Compliance Proceedings: Disclosure of Information (10650.5), Preparation for the Compliance Hearing (10658-10660.8), Settlement Judges (10660.7), Prehearing Conferences with the Administrative Law Judge (10660.8) and Post Hearing Briefs (10668). (Revised / Published 2007).

Presenter, Facilitated Discussion, Training Module Design. I designed, drafted, and edited two Training Module Instructor's Guides included in the NLRB Professional Development Program available nationwide to NLRB field professional employees and managers. The Training Modules were published on the NLRB intranet. Training Module 13 concerns Fed. Rule of Evid. 901 "Authentication and Identification Evidence" (photographs) and Fed. Rule of Evid. 902 "Evidence That is Self-Authenticating" (newspaper advertisements) (dated September 29, 2005). Training Module 24 concerns Fed. Rule of Evid. 1006 "Summaries to Prove Content," the management and introduction of voluminous records at trial (dated March 21, 2007). Also, through facilitated discussion, I presented these Training Modules to the NLRB Region 5 professional employees and managers.

SELECTED PROFESSIONAL PRESENTATIONS

Presenter, Facilitated Discussion, "Lessons Learned Since the Pandemic: Benefits and Challenges When Conducting Virtual Hearings and Settlement Conferences."
OSHRC Judicial Conference 2023. (Denver, CO. September 2023).

Panelist, Topic Presenter, "Courtroom Technology: Effective Use of Electronic Evidence at Hearings; Decision Making Considerations: Credibility Determinations."
OSHRC Judges Panel. ABA Section of Labor and Employment Law, Occupational Safety and Health Law Committee, 2020 Midwinter Meeting. (Rancho Mirage, CA. March 6, 2020).

Presenter, Facilitated Discussion, "Settlement Conference Considerations." Discussion included (a) best practices to prepare for and conduct significant case mandatory settlement conferences, with multiple, varied, high penalty OSHA citation items, (b) best practices to ensure "meaningful participation" in the settlement process, when the authorized representative of affected employees in a collective bargaining unit, elects party status, and (c) best practices when conducting settlement conferences with self-represented Respondents.
OSHRC Judicial Conference 2018. (Washington, D.C. September 2018).

Presenter, Facilitated Discussion, "Issues in Settlements." Discussion included (a) the right of affected employees granted party status, not in a collective bargaining unit, to representation and

participation in the settlement process, (b) request for transparency and disclosure of settlement agreement terms without filing a FOIA request, and (c) the Commission Procedural Rule regarding confidentiality during voluntary and mandatory settlement proceedings.
OSHRC Judicial Conference 2017. (Washington, D.C. September 2017).

Presenter, Facilitated Discussion, “Significant Orders: Order Denying Respondent’s Motion to Strike The Secretary’s Claim for Enterprise-Wide Abatement or, in the Alternative, to Sever and Stay that Claim.” *Central Transport, LLC*. No. 14-1452, 2015 WL 10534161 (OSHR CALJ Dec. 7, 2015) (ALJ Baumerich). I facilitated discussion of this significant Order.
OSHRC Judicial Retreat 2016. (Washington, D.C. September 2016).

Panelist, Topic Presenter, “Settlement Best Practices: Convening the Settlement Conference, Preconference Preparation, and Conference Opening.” I facilitated discussion of these topics.
Settlement Judge Panel. OSHRC Judicial Retreat 2016. (Washington, D.C. September 2016).

Training Facilitator, Committee Member, Co-Presenter. As a Review Commission Judge, I served on the NLRB Conference Planning Subcommittee regarding decision making. I worked collaboratively with managers from NLRB Regional Offices to design and develop the workshop entitled “Considerations for NLRB Post Election Hearing Officer Decision Making.” At the conference, I co-presented and facilitated this workshop.
NLRB Senior Examiner Conference. (National Training Center, Leesburg, VA. September 2019).

Presenter, Facilitated Discussion, As a Review Commission Judge, I designed and presented a facilitated discussion program for professional employees participating in the NLRB Professional Exchange Program. The program compared the similarities and differences between the Review Commission’s adjudication and facilitated settlement responsibilities, regarding disputed OSHA cases pending before the Commission, and the unfair labor practice cases investigated and litigated by the NLRB Regional Office investigators and trial attorneys.
NLRB Professional Exchange Program. (Washington, D.C. - August 2012, April 2014, June and July 2016, June and July 2017, and May 2019).

Training Facilitator, Committee Member. As NLRB, Region 5, Deputy Regional Attorney, I served as a Compliance Conference Committee Member and Chair of the Conference Planning Subcommittees on compliance hearings and settlement negotiation. At the conference, I served as a presenter and training facilitator during these conference sessions.
NLRB National Compliance Conference (Lansdowne, VA - August 2005).

Facilitated Discussion, Program Committee. As Deputy Regional Attorney, I designed and facilitated a training session regarding the litigation of unfair labor practice and compliance cases, presented by panel members from the labor and management bars.
NLRB Region 5 – Seminar on Traditional Labor Law Practice and Procedure. (Baltimore, MD. April 2002).

Facilitated Discussion, Program Committee. As Deputy Regional Attorney, I served on the Conference Planning Committee and worked collaboratively with managers from several Regional Offices and Operations Management to design and develop workshops on settlement negotiation and supervision. At the training program, I facilitated discussion during workshops on trial training, 10(j) litigation, settlement negotiation, and supervision.

National NLRB Senior Professional Training Program. (San Diego, CA. July 2002).

Facilitated Discussion. As Deputy Regional Attorney, I worked collaboratively with managers from several Regional Offices to facilitate discussion during workshops on settlement negotiation and advanced representation cases.

National NLRB Senior Professional Training Program. (Clearwater Beach, FL. August 2000).

Cab