June 2026

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COMMISSION ORDERS

<u>No review was granted or denied during the month of June 2026.</u>

COMMISSION ORDERS

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1331 PENNSYLVANIA AVE., N.W., SUITE 520N
WASHINGTON, DC 20004-1710

June 2, 2026

SECRETARY OF LABOR MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), v. RAMACO RESOURCES, LLC	Docket No. WEVA 2026-0038 A.C. No. 46-09541-627982 Docket No. WEVA 2026-0039 A.C. No. 46-09084-627972 Docket No. WEVA 2026-0040 A.C. No. 46-08663-627971 Docket No. WEVA 2026-0045 A.C. No. 46-09602-627985 Docket No. WEVA 2026-0046 A.C. No. 46-09533-627980 Docket No. WEVA 2026-0047 A.C. No. 46-09537-627981

BEFORE: Rajkovich, Chair; Jordan, and Baker, Commissioners

ORDER

BY: THE COMMISSION

These matters arise under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2024) ("Mine Act"). On December 11, 2025, the Commission received from Ramaco Resources, LLC ("Nally") six motions seeking to reopen penalty assessments that had become final orders of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 815(a).[1]

Under section 105(a) of the Mine Act, an operator who wishes to contest a proposed penalty must notify the Secretary of Labor no later than 30 days after receiving the proposed penalty assessment. If the operator fails to notify the Secretary, the proposed penalty assessment is deemed a final order of the Commission. 30 U.S.C. § 815(a).

We have held, however, that in appropriate circumstances, we possess jurisdiction to reopen uncontested assessments that have become final Commission orders under section 105(a). *Jim Walter Res., Inc.,* 15 FMSHRC 782, 786-89 (May 1993) ("*JWR*"). In evaluating requests to

[1] For the limited purpose of addressing these motions to reopen, we hereby consolidate Docket Nos. WEVA 2026-0038, WEVA 2026-0039, WEVA 2026-0040, WEVA 2026-0045, WEVA 2026-0046, and WEVA 2026-0047, involving similar procedural issues. 29 C.F.R. § 2700.12.

reopen final orders, the Commission has found guidance in Rule 60(b) of the Federal Rules of Civil Procedure under which the Commission may relieve a party from a final order of the Commission on the basis of mistake, inadvertence, excusable neglect, or other reason justifying relief. *See* 29 C.F.R. § 2700.1(b) ("the Commission and its Judges shall be guided so far as practicable by the Federal Rules of Civil Procedure"); *JWR*, 15 FMSHRC at 787. We have also observed that default is a harsh remedy and that, if the defaulting party can make a showing of good cause for a failure to timely respond, the case may be reopened and appropriate proceedings on the merits permitted. *See Coal Prep. Servs., Inc.,* 17 FMSHRC 1529, 1530 (Sept. 1995).

Records of the Department of Labor's Mine Safety and Health Administration ("MSHA") indicate that the proposed assessments were delivered on October 2, 2025, and became final orders of the Commission on November 3, 2025. Ramaco asserts that, while it received the proposed assessments on October 2, they were not scanned into their system and forwarded to the company's Vice President of Law until October 7, 2025. The Vice President of Law mistakenly believed he had thirty days from October 7 to contest the penalties. Upon discovering his error, he immediately filed contests in each of the above-captioned cases, one day after the proposed penalties had become final orders of the Commission. The Secretary does not oppose the requests to reopen, but urges the operator to take steps to ensure that future penalty contests are timely filed.

Having reviewed Ramaco's request and the Secretary's response, we find that the brief delay in filing the notices of contest were the result of a genuine mistake on the part of the operator. *See Reading Anthracite Co*., 35 FMSHRC 332 (Feb. 2013). We also note Ramaco's assertion that it has taken steps to prevent the mistake from recurring, by placing the received date of the Proposed Assessments in the subject line of the forwarding email.

In the interest of justice, we hereby reopen these matters and remand them to the Chief Administrative Law Judge for further proceedings pursuant to the Mine Act and the Commission's Procedural Rules, 29 C.F.R. Part 2700. Accordingly, consistent with Rule 28, the Secretary shall file petition for assessments of penalty within 45 days of the date of this order. *See* 29 C.F.R. § 2700.28.

/s/ Marco M. Rajkovich, Jr.
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/s/ Mary Lu Jordan
Mary Lu Jordan, Commissioner

/s/ Timothy J. Baker
Timothy J. Baker, Commissioner

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1331 PENNSYLVANIA AVE., N.W., SUITE 520N
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June 10, 2026

SECRETARY OF LABOR MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), on behalf of BREK PINKERTON v. RMC MINING DEVELOPMENT, LLC, a corporation, RUSS MYERS, an individual, AMERICAN MINING PROPERTIES, LLC, a corporation, and MATTHEW HEAD, an individual	Docket No. WEST 2024-0114 MSHA Case No.: RM-MD-2024-01

BEFORE: Rajkovich, Chair; Jordan, and Baker, Commissioners

ORDER

BY THE COMMISSION:

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2024) ("Mine Act"). On October 10, 2025, the Commission received from Matthew Wayn Head a motion seeking to reopen a discrimination proceeding and relieve him from the Default Order entered against him.

The original Respondent in this matter was RMC Mining Development, LLC ("RMC"). The Secretary subsequently learned that Head owned a 60% interest in the mine where the discrimination allegedly occurred through an entity known as American Mining Properties, LLC ("AMP") and had hired RMC and an individual, Russ Myers, to operate the mine. Accordingly, on November 26, 2024, the Secretary amended the complaint to include APM, Head and Myers as Respondents. *See* Sec'y Opp. at 1-4.

On March 6, 2025, having received no answer to the amended complaint from any of the Respondents, the Judge issued an Order to Show Cause requiring the Respondents to explain the failure or risk default. When no responses had been filed by April 25, the Secretary moved for Default Judgment. Again, no responses were filed. On May 30, 2025, given the Respondents' failure to respond to the amended complaint, the Judge's order, or the Secretary's motion, the Judge granted the motion and found the Respondents in default. The Judge's Default Decision incorporated the factual allegations in the amended complaint, found that the Respondents had discriminated against Brek Pinkerton in violation of section 105(c) as alleged, assessed a civil penalty of $30,000, and imposed on the Respondents consequential and compensatory damages totaling $88,497. Sec'y Opp. at 4-5; Order dated May 30, 2025.

Head is the only Respondent who has moved to reopen this proceeding. He asserts three justifications for reopening. First, he claims that he never received the amended complaint or the Order to Show Cause, because they were served electronically to a business email to which he no longer had access. Second, he claims that his lack of legal sophistication led him to mistakenly believe that the litigation would be handled by the corporate Respondents. Third, he claims that the Default Decision is void because the Judge exceeded his authority in awarding compensatory damages for emotional distress, and because the Judge's constitutional authority to issue a penalty in the absence of a jury trial is currently under litigation in circuit courts. The Secretary opposes the motion to reopen. He counters all three proposed justifications offered by Head and further asserts that the motion to reopen should be denied as untimely.[1]

The Judge's jurisdiction in this matter terminated when the default occurred. 29 C.F.R. § 2700.69(b). Under the Mine Act and the Commission's procedural rules, relief from a Judge's decision may be sought by filing a petition for discretionary review within 30 days of its issuance. 30 U.S.C. § 823(d)(2)(A)(i); 29 C.F.R. § 2700.70(a). If the Commission does not direct review within 40 days of a decision's issuance, it becomes a final decision of the Commission. 30 U.S.C. § 823(d)(1). Accordingly, the Judge's Default Decision in this matter has become a final decision of the Commission.

In evaluating requests to reopen final orders, the Commission has found guidance in Rule 60(b) of the Federal Rules of Civil Procedure under which the Commission may relieve a party from a final order of the Commission on the basis of mistake, inadvertence, excusable neglect, or other reason justifying relief. *See* 29 C.F.R. § 2700.1(b) ("the Commission and its Judges shall be guided so far as practicable by the Federal Rules of Civil Procedure"); *Jim Walter Res., Inc.*, 15 FMSHRC 782, 786-89 (May 1993). We have also observed that default is a harsh remedy and that, if the defaulting party can make a showing of good cause for a failure to timely respond, the case may be reopened and appropriate proceedings on the merits will be permitted. *See Coal Prep. Servs., Inc.*, 17 FMSHRC 1529, 1530 (Sept. 1995).

Having reviewed Head's request and the Secretary's response, we find no basis for relief. We agree with the Secretary that the motion was untimely. A motion to reopen filed less than 30 days after the moving party learns of its failure to timely respond is presumptively timely. Conversely, failing to explain why a motion to reopen was *not* filed within 30 days is sufficient grounds to deny the motion. *E.g.*, *Highland Mining Co.*, 31 FMSHRC 1313, 1316-17 (Nov. 2009). Here, the Default Decision was issued on May 30, 2025. Notably, Head concedes that he received the Default Decision and understood at that point that he was a litigant in the proceeding. Mot. at 3. . Head could have filed a petition for discretionary review with the Commission within 30 days. He did not. In fact, he did not move to reopen the proceeding until October 2025. He offers no explanation for this delay. This failure, in and of itself, provides sufficient grounds to deny the motion to reopen.

Furthermore, we do not find that Head has shown good cause to reopen this proceeding. First, we find that Head received adequate notice of the potential for default. He asserts that he did not receive the March 2025 Show Cause Order, as it was electronically served to an email

[1] The Complainant, Pinkerton, declined to file a response.

address which he could no longer access. Mot. at 2. However, he concedes that the Secretary's subsequent Motion for Default Judgment was delivered to his residence via certified mail on April 29, 2025. Reply at 2. Additionally, an Order to Submit Updated Contact Information was sent to his residence via certified mail on April 18, 2025. Prior to the issuance of the Default Decision, Head received actual notice of both the potential for default and the need to provide updated electronic contact information.[2] Head chose not to respond to either.

Second, we find Head's misunderstanding of his legal obligations insufficient to establish good cause. Head asserts that as a *pro-se* Respondent lacking legal sophistication, his mistaken belief that the litigation was being handled by the other respondents was excusable. Mot. at 2-3. Head may be overstating his lack of legal sophistication. While Head may have little experience with litigation in the *courts*, as the part-owner and project foreman of a mine who has been involved in multiple other mining projects, he likely has at least some familiarity with Mine Act proceedings. Dep. Tr. at 19, 40. Regardless, as the Secretary notes, "lack of legal sophistication is not, by itself, an extraordinary circumstance" justifying equitable relief. *Raspberry v. Garcia*, 448 F.3d 1150, 1154 (9th Cir. 2006); *cf. Active Res. Inc*., 46 FMSHRC 848 (Oct. 2024) (ignorance of the law is not sufficient grounds for relief under Rule 60(b)(1)).

Finally, we do not find the Judge's Default Decision void. Under Rule 60(b)(4) of the Rules of Civil Procedure, relief may be appropriate where the judgment is void. However, to be void, a judgment must be more than merely erroneous—the Judge must have lacked jurisdiction or acted inconsistently with due process. *E.g.*, *United States v. Berke*, 170 F.3d 882, 883 (9th Cir. 1999). Here, both issues raised by Head—both the propriety of compensatory damages in Mine

[2] The record also strongly suggests that Head had constructive notice of the Show Cause Order. The Order was served on all four Respondents, and Head has strong business ties to RMC, AMP and Myers.

Act discrimination proceedings and the right to a civil jury trial in the assessment of civil penalties—are currently open questions of law.[3] Accordingly, there is no basis to conclude that the Judge's decision was void on these grounds.

Accordingly, we deny Head's motion.

/s/ Marco M. Rajkovich, Jr.
Marco M. Rajkovich, Jr., Chair

/s/ Mary Lu Jordan
Mary Lu Jordan, Commissioner

/s/ Timothy J. Baker
Timothy J. Baker, Commissioner

[3] To date, the issue of compensatory damages has only been addressed in non-binding decisions by the Commission's Administrative Law Judges, and neither the Commission nor any circuit court has concluded that operators are entitled to jury trials in Mine Act proceedings.

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June 11, 2026

SECRETARY OF LABOR MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), on behalf of NICHOLAS RUBIO v. CASTLE MOUNTAIN VENTURE	Docket No. WEST 2024-0283

BEFORE: Rajkovich, Chair; Jordan and Baker, Commissioners

ORDER

BY: Rajkovich, Chair; Jordan, Commissioner

This proceeding arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2024) ("Mine Act"). This case concerns a settlement of a discrimination complaint brought by the Secretary of Labor on behalf of Nicholas Rubio,[1] a plant operator at a surface mine in California, against Castle Mountain Venture ("Castle Mountain" or "operator"). The parties reached a settlement on the discrimination complaint prior to hearing. The operator filed a motion to seal the settlement agreement and related attachments, which the Secretary opposed. The Administrative Law Judge ("ALJ" or "Judge") issued an order granting the operator's motion and the Secretary appealed the order.

For the reasons that follow, we reverse the Judge's order placing the settlement agreement under seal.

[1] Section 105(c) of the Mine Act, 30 U.S.C § 815(c), sets forth the process for bringing a complaint alleging discrimination. Section 105(c)(2) provides in relevant part:

> Any miner . . . who believes that he has been . . . interfered with, or otherwise discriminated against . . . may, within 60 days after such violation occurs, file a complaint with the Secretary . . . . Upon receipt of such complaint, the Secretary . . . shall cause such investigation to be made as he deems appropriate. . . . If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall immediately file a complaint with the Commission, with service upon the alleged violator and the . . . representative of miners alleging such discrimination or interference and propose an order granting appropriate relief.

30 U.S.C. § 815(c)(2).

I.

Statement of the Facts

On June 21, 2024, the Secretary filed a discrimination complaint on behalf of Nicholas Rubio. The complaint alleged that Rubio made numerous safety complaints in the approximately 14 months he was employed at the mine. The case was assigned to a Judge and a hearing was set for January 15, 2025. On November 20, 2024, the parties filed a joint notice with the Judge informing her that the parties had reached a settlement in principle and that the parties expected to file a motion to approve settlement in early December. The settlement agreement was filed by the Secretary on December 12, 2024.

On December 16, 2024, the operator filed a motion to seal the settlement agreement and its attachments. In the short motion, Castle Mountain stated that it had "a legitimate business interest in maintaining confidentiality with respect to the terms and conditions of the settlement reached in this matter, and that Complainant Rubio has agreed to maintain confidentiality over said terms and conditions." Mot. at 1. The operator provided no further explanation for its motion except for its concern that the settlement terms might be accessible to the public through a Freedom of Information Act ("FOIA") Request or similar means.[2]

The Secretary opposed the motion to place the settlement terms under seal. The Secretary argued that it had opposed the inclusion of any provisions in the settlement agreement regarding confidentiality and non-disclosure. The Secretary further noted that it had informed the operator that it may enter into a separate confidentiality agreement directly with Rubio. Sec'y Opp. at 2. The record contains a copy of the December 12, 2024, non-disclosure agreement between Castle Mountain and Rubio.

On December 23, 2024, the Judge issued two orders granting the motion to place the settlement agreement under seal and approving the underlying settlement. In placing the settlement agreement under seal, the Judge noted that Castle Mountain contended that confidentiality was a material settlement term under a non-disclosure agreement between itself and Rubio and that sealing the record is a legitimate business interest for its company. In the

[2] Documents requested by a non-party undergo a separate FOIA review prior to release, regardless of whether the document is placed under seal. Upon receipt of a FOIA request, the Commission's FOIA officers would examine the document and determine whether an exemption would prohibit disclosure of all or part of the document. Many of the same factors that may justify placing a document under seal may also justify withholding under the FOIA. *Compare* 29 C.F.R. § 2700.5(e) *with* 5 U.S.C. § 552(b)(1)-(9) (FOIA exemptions). However, placing a document under seal is neither necessary for withholding under the FOIA, nor an absolute guarantee that the record will be withheld. The operator's concerns regarding public disclosure through the FOIA are insufficient to justify placing the document under seal.

decision approving settlement, the Judge provided a non-exhaustive list of the Settlement Agreement's "essential terms" which required:

1) Castle Mountain must pay an undisclosed sum to Rubio;

2) Castle Mountain must pay a civil penalty of $10,000 to the Department of Labor's Mine Safety and Health Administration ("MSHA");

3) Castle Mountain must remove negative information from Rubio's personnel file;

4) Castle Mountain must post a Notice of settlement in a conspicuous place; and

5) Castle Mountain must provide written materials and training on miners' rights under section 105(c) to its employees.

II.
<u>Disposition</u>

On review, the Secretary contends that the Judge abused her discretion in sealing the entire settlement agreement and the related attachments. The Secretary seeks to vacate the order sealing the settlement agreement. Though, on appeal, the Secretary indicated that he would not oppose sealing several discrete sections of the agreement. Castle Mountain argues that the Judge did not abuse her discretion and seeks to keep the settlement order in place.

A. Transparency as a Foundational Principle of Commission Settlement Review Authority

Congress vested the Commission with independent adjudicatory authority under the Mine Act, including the responsibility to review settlements. *See* 30 U.S.C. § 820(k). That review authority was not granted as a formality. Rather, it reflects Congress's judgment that the assessment and compromise of civil penalties under the Act implicate public interests that extend beyond the immediate concerns of the settling parties. *See* S. Rep. No. 95-181, at 44-45 (1977), reprinted in Senate Subcomm. on Labor, Comm. on Human Res., Legislative History of the Federal Mine Safety and Health Act of 1977, at 632-33 (1978) ("Leg. Hist."). The Commission's oversight ensures that penalties further the Act's deterrent and safety objectives and that compromises are consistent with the Act.

Transparency is integral to that function. *Crimson Oak Grove Res. LLC*, 46 FMSHRC 593, 603 (Aug. 2024) (noting that "section 110(k) was intended to create transparency in the previously opaque settlement process and serve as a check on the Secretary of Labor so that settlements further the public interest and promote the remedial nature of the Mine Act"). Public scrutiny of settlements serves at least two purposes. First, it promotes confidence that penalties are assessed and resolved in a manner consistent with the Act. Second, it enables the regulated community, miners, and the public to hold the government accountable if the mitigation of enforcement actions had a deleterious effect on the safety of miners. The Commission's authority to review settlements would be significantly diminished if the terms of compromise could be withheld from public view without justification.

Outside of the Mine Act context, the courts have also long recognized that openness in adjudicatory proceedings is a fundamental feature of our legal system. Judicial records are generally subject to a common-law presumption of public access, rooted in the public's interest in understanding and evaluating the work of governmental bodies. *See Nixon v. Warner Commc'ns, Inc.,* 435 U.S. 589, 597-98 (Apr. 1978), *citing State ex rel. Colscott v. King*, 154 Ind. 621, 621–627, 57 N.E. 535, 536–538 (1900); *State ex rel. Ferry v. Williams*, 41 N.J.L. 332, 336–339 (1879). The compromise of a proposed civil penalty assessed by a federal enforcement agency is not a purely private matter; it is a governmental act undertaken pursuant to statutory authority and in furtherance of public safety objectives.

While the Commission is not bound in every respect by doctrines developed in Article III courts, the principles underlying those doctrines—accountability, public confidence, and informed oversight—are fully applicable to Commission proceedings. Indeed, the Commission's role in reviewing settlements would be rendered largely opaque if the essential terms of those settlements could be sealed without articulated justification.

B. Section 2700.5(e) Should Guide the Analysis of Whether to Place a Document Under Seal

The Commission's own procedural rules acknowledge that certain types of information may properly be shielded from public disclosure. Procedural Rule 5 sets forth the Commission's general requirements for pleadings and other documents. Subsection 5(e) provides that parties have a duty to protect information that tends to identify certain individuals, constitutes an unwarranted intrusion of personal privacy, or discloses confidential commercial information. 29 C.F.R. § 2700.5(e). The rule reflects a measured accommodation between transparency and legitimate privacy or proprietary interests.

Examples of information that may warrant protection are set forth in Rule 5(e) and include personally identifying information such as Social Security numbers and dates of birth; the names of minor children; sensitive medical records; and certain confidential corporate or commercial information, including trade secrets. 29 C.F.R. § 2700.5(e)(1)-(5). Such examples are consistent with broader federal practice and reflect the limited circumstances in which the public interest in disclosure may yield to countervailing considerations.

Furthermore, when, as in this case, the document at issue concerns settlement documents, the Judge must review the request with the Commission's settlement review standards in mind. Specifically, the question of whether to seal a settlement is part and parcel of the Commission's role in ensuring public scrutiny of settlements. *Cf.* Leg. Hist. at 632-33. As a result, requests to seal settlement documents must be "fair, reasonable, appropriate under the facts, and protects the public interest." *The American Coal Co.*, 38 FMSHRC 1972, 1976 (Aug. 2016) ("*AmCoal I*"). In short, a request to seal is one of the "non-monetary" aspects of a settlement for which the Judge must accord due consideration. *See The American Coal Co.*, 40 FMSHRC 983, 989 (Aug. 2018) ("*AmCoal II*"). That the parties agree to seal a case may be relevant to the Judge's analysis but, as is the case in settlement agreements generally, it is not dispositive.

C. Abuse of Discretion

We review a Judge's procedural rulings, as well as settlement approvals, for abuse of discretion. *See Marfork Coal Co.*, 29 FMSHRC 626, 634 (Aug. 2007); *see also Genesis Alkali, LLC*, 47 FMSHRC 157, 160 (Mar. 2025). A Judge abuses her discretion, in part, when she fails to apply the correct legal standard, fails to consider relevant factors, or issues a decision unsupported by reasoned explanation. *See Abuse of Discretion*, , BLACK'S LAW DICTIONARY (12th ed. 2024) ("An adjudicator's failure to exercise sound, reasonable, and legal decision-making. . . [a]n outcome or decision that is without rational explanation, inexplicably departs from established policies or practices, or is based on insupportable conclusions. . .").

We determine that the Judge's decision—to grant the operator's motion to seal the entire settlement agreement, over the Secretary's objection—was an abuse of her discretion.

The Judge stated that she weighed the Secretary's opposition and the interests of public disclosure against the private non-disclosure agreement signed by Rubio and the operator's legitimate business interests. Order to Seal Settl. dated Dec. 23, 2024.

Because transparency in the context of settlements is an expressed priority under the Mine Act, and sealing is contrary to transparency, a Judge who elects to depart from transparency must take special care to articulate a rational basis for doing so. *See generally* 29 C.F.R. § 2700.69(a) (stating that a Commission Judge's decision "shall include all findings of fact and conclusions of law, and the reasons or bases for them"). An order sealing settlement terms must identify the interest asserted, explain why that interest is cognizable under the Commission's rules, and demonstrate that the sealing of the record would protect that interest without unnecessarily impairing the public's right of access. Absent such reasoning, meaningful appellate review is impossible. *See Harborlite Corp. v. ICC*, 613 F.2d 1088, 1092 (D.C. Cir. 1979) ("Perhaps the most essential purpose served by the requirement of an articulated decision is the facilitation of judicial review."). Furthermore, the Judge must determine that sealing settlement documents is fair, reasonable, appropriate under the facts, and protects the public interest. *AmCoal I*, 38 FMSHRC at 1976.

In this case, the Judge granted a request to place the settlement terms under seal, citing only the operator's stated desire to protect an unspecified business interest. The order contains no findings identifying the nature of the information at issue, no explanation of how disclosure would cause harm, and no analysis of why a narrow redaction of discrete information would be insufficient to address the operator's concerns. Furthermore, the Judge did not appear to consider the public interest in transparency at all.

By granting the sealing request solely on the basis of an unspecified business interest, the Judge effectively shifted the burden away from the moving party and treated sealing as a matter of course. That approach is inconsistent with the Mine Act's structure, the Commission's rules, and the fundamental presumption of openness that governs adjudicatory proceedings involving governmental enforcement actions.

We emphasize that there may be circumstances in which limited sealing or redaction of settlement materials is appropriate. As discussed, Procedural Rule 5(e) expressly recognizes that certain information may warrant protection.[3] Such protection, however, must pertain to the type of information recognized in Rule 5(e), justified by a showing of proof when appropriate, with no restriction on access broader than necessary.

III.

Conclusion

The Judge's order is hereby vacated, and the case is remanded to the Acting Chief Administrative Law Judge.[4]

On remand, Castle Mountain may file a motion to seal specific terms of the settlement agreement consistent with this decision. We stay the effect of our ruling vacating the Judge's order until the Acting Chief Administrative Law Judge or another assigned Judge rules upon the party's renewed motion.

/s/ Marco M. Rajkovich, Jr.
Marco M. Rajkovich, Jr., Chair

/s/ Mary Lu Jordan
Mary Lu Jordan, Commissioner

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[3] 29 C.F.R. § 2700.5(e)(6) sets forth the Commission's procedures for sealing and redacting information. Those procedures provide guidance to the parties and to Judges regarding when and how to appropriately seal documents. However, we note that this is a new addition to our procedural rules that was not promulgated when the dispute at issue here arose.

[4] The Judge who was originally assigned this matter has since retired.

Commissioner Baker, concurring:

I concur with my colleagues in all respects, save for Section III. The majority has decided to "stay the effect of our ruling vacating the Judge's order" until a Judge rules on a "renewed motion" to seal these documents. Slip op. at 6. For the reasons set forth in the majority decision, sealing these documents is not appropriate. I would simply vacate the order granting the motion to seal and remand for further proceedings. I would not stay the decision or proactively anticipate any additional motions.

/s/ Timothy J. Baker
Timothy J. Baker, Commissioner

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June 16, 2026

DISCIPLINARY PROCEEDING[1] IN RE ANDY CARSON	Docket No. CENT 2025-0180

BEFORE: Rajkovich, Chair; Jordan, and Baker, Commissioners

ORDER

BY THE COMMISSION:

On August 30, 2024, a Commission Administrative Law Judge referred attorney Andy Carson for disciplinary proceedings pursuant to Commission Procedural Rule 80, 29 C.F.R. § 2700.80. Mr. Carson had appeared before the Judge representing Cactus Canyon Quarries, Inc. ("Cactus Canyon") in a proceeding in Docket No. CENT 2023-0045, *et al*., arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 *et seq*. (2024). Mr. Carson is an attorney licensed in Texas as well as the President of Cactus Canyon.

The disciplinary referral concerns a number of serious accusations impugning the Judge's integrity that were presented by Mr. Carson in a written request for the Judge's recusal. The Judge—noting the unsubstantiated nature of the claims—referred counsel to the Commission for consideration of discipline. The Judge also issued his decision on the merits of the citations in Docket No. CENT 2023-0045, *et al*. Cactus Canyon filed a petition for discretionary review, which the Commission granted.[2]

On March 19, 2025, the Commission stayed its disciplinary inquiry pending resolution of the case on the merits. The issues on review before the Commission when reviewing the case on the merits included whether the Judge erred in denying the request for recusal. On April 21, 2026, the Commission issued its decision on the merits, determining that the Judge did not abuse his discretion and that the operator's allegations that the Judge demonstrated bias lacked merit. *Cactus Canyon Quarrie*s, 48 FMSHRC 167 (Apr. 2026), Docket No. CENT 2023-0045, *et al*.[3]

[1] The caption is amended to reflect that neither the Secretary of Labor nor Cactus Canyon is a party to this proceeding. Moreover, the Judge in this proceeding has since retired.

[2] Specifically, in the same issuance on August 30, 2024, the Judge ruled on the merits of the case, denied the request for recusal, and referred counsel for discipline. 46 FMSHRC 710 (Aug. 2024) (ALJ). On October 9, 2024, the Commission issued its Direction for Review, granting Cactus Canyon's petition for discretionary review of the Judge's decision on the merits. On March 19, 2025, the Commission docketed this captioned disciplinary referral under a separate docket number.

[3] Previously, on April 20, 2026, the Commission issued a decision in a related proceeding, *Cactus Canyon Quarries, Inc.*, 48 FMSHRC 156 (Apr. 2026), Docket No. CENT 2022-0010-M.

We now consider the disciplinary referral. On June 16, 2023, Mr. Carson filed the subject request for recusal. In that filing, Mr. Carson contended that the Judge was biased, and alleged that cited examples from the hearing transcript substantiated his assertion. As stated, the Commission reviewed these allegations and determined that the claims lacked merit. *Cactus Canyon*, slip op. at 9-16. Of particular concern to the Commission is the serious allegation by Carson that the Administrative Law Judge sought "to aid and abet false testimony" by a mine inspector at the hearing. Request for Withdrawal at 15-16.

According to Commission Procedural Rule 80, 29 C.F.R. § 2700.80, representatives appearing before the Commission's Administrative Law Judges shall conform to the American Bar Association's Model Rules of Professional Conduct.

Model Rule of Professional Conduct 8.2(a) requires that "[a] lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office." Model Rules of Prof'l Conduct R. 8.2(a) (A.B.A. 2025).

Our preliminary determination is that further disciplinary proceedings are warranted as there is cause to believe that Mr. Carson did not abide by Model Rule 8.2(a).

The stay in this matter is hereby lifted. This matter is now remanded to the Commission's Chief Administrative Law Judge for further proceedings and assignment of an Administrative

Law Judge to hear the matter pursuant to Commission Procedural Rule 80(c)(2)(ii), 29 C.F.R. § 2700.80(c)(2)(ii).

The issues to be resolved on remand are (1) whether any of the written statements in the request for recusal violated the Model Rule of Professional Conduct 8.2(a) and (2) if so, the appropriate sanction for that conduct.

/s/ Marco M. Rajkovich, Jr.
Marco M. Rajkovich, Jr., Chair

/s/ Mary Lu Jordan
Mary Lu Jordan, Commissioner

/s/ Timothy J. Baker
Timothy J. Baker, Commissioner

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