

take the form of admissions in pleadings, stipulations, depositions, transcripts, affidavits, and any other evidentiary materials that the moving party contends support its position. The motion must also be accompanied by a brief containing the points and authorities in support of the moving party's arguments. Any party opposing a motion for summary disposition must file a statement setting forth those material facts as to which such party contends a genuine dispute exists. The opposition must be supported by evidence of the same type as that submitted with the motion for summary disposition and a brief containing the points and authorities in support of the contention that summary disposition would be inappropriate.

(c) *Hearing on motion.* At the request of any party or on his or her own motion, the Administrative Law Judge may hear oral argument on the motion for summary disposition.

(d) *Decision on motion.* Following receipt of a motion for summary disposition and all responses thereto, the Administrative Law Judge shall determine whether the moving party is entitled to summary disposition. If the Administrative Law Judge determines that summary disposition is warranted, he or she shall submit a recommended decision to that effect to the Secretary. If the Administrative Law Judge finds that no party is entitled to summary disposition, he or she shall make a ruling denying the motion.

(e) *Interlocutory appeal.* Following receipt of the Administrative Law Judge's recommended decision relating to summary disposition, each party has the right to an interlocutory appeal to the Secretary or the Secretary's designee. The interlocutory appeal must be filed within 20 calendar days immediately following the Administrative Law Judge's recommended decision.

(f) *Partial summary disposition.* If the Administrative Law Judge determines that a party is entitled to summary disposition as to certain claims only, the Administrative Law Judge shall defer submission of a recommended decision as to those claims. A hearing on the remaining issues must be ordered and those claims for which the Admin-

istrative Law Judge has determined that summary disposition is warranted will be addressed in the recommended decision filed at the conclusion of the hearing.

**§515.712 Prehearing conferences and submissions.**

(a) *Prehearing conferences.* The Administrative Law Judge may, on his or her own motion, or at the request of any party for good cause shown, direct counsel for the parties to meet with him or her (in person, by telephone, or by teleconference) at a prehearing conference to address any or all of the following:

(1) Simplification and clarification of the issues;

(2) Stipulations, admissions of fact, and the contents, authenticity and admissibility into evidence of documents;

(3) Matters of which official notice may be taken;

(4) Limitation of the number of witnesses;

(5) Summary disposition of any or all issues;

(6) Resolution of discovery issues or disputes; and

(7) Such other matters as may aid in the orderly disposition of the proceeding.

(b) *Prehearing orders.* At, or within a reasonable time following the conclusion of, any prehearing conference, the Administrative Law Judge shall serve on each party an order setting forth any agreements reached and any procedural determinations made.

(c) *Prehearing submissions.* Within 40 calendar days of the receipt of respondent's request for a hearing or at a time set by the Administrative Law Judge, the Office of Foreign Assets Control shall serve on the respondent and upon the Administrative Law Judge, the following:

(1) Stipulations of fact, if any;

(2) A list of the exhibits to be introduced at the hearing along with a copy of each exhibit; and

(3) A list of witnesses to be called to testify at the hearing, including the name and address of each witness and a short summary of the expected testimony of each witness.

(d) *Deadline for respondent's and the other parties' submissions.* Unless for

## §515.713

good cause shown the Administrative Law Judge permits an extension of time to file, the respondent and the other parties shall have 20 calendar days from the date of the submission by the Office of Foreign Assets Control of the items set forth in paragraph (c) of this section, and/or of any other party's service of items set forth in this paragraph (d), to serve upon the Administrative Law Judge and all parties, the following:

(1) Its response to stipulations of fact, if any;

(2) A list of the exhibits to be introduced at the hearing along with a copy of each exhibit; and

(3) A list of witnesses to be called to testify at the hearing, including the name and address of each witness and a short summary of the expected testimony of each witness.

(e) *Effect of failure to comply.* No witness may testify and no exhibits may be introduced at the hearing if such witness or exhibit is not listed in the prehearing submissions pursuant to paragraphs (c) and (d) of this section, except for good cause shown.

### §515.713 Public hearings.

(a) *In general.* All hearings shall be open to the public, unless the Administrative Law Judge, at his or her discretion, determines at any time prior to or during the hearing, that holding an open hearing would be contrary to the public interest. Within 20 calendar days of service of the notice of hearing from the Administrative Law Judge, any party may file with the Administrative Law Judge a request for a closed hearing, and any party may file a pleading in reply to such a request. Failure to file a request or a reply is deemed a waiver of any objections regarding whether the hearing will be public or closed.

(b) *Filing document under seal.* (1) The Office of Foreign Assets Control may file any document or any part of a document under seal if disclosure of the document would be inconsistent with the protection of the public interest or if justice requires protection of any person, including a source or a party, from annoyance, threat, oppression, or undue burden or expense, or the disclosure of the information would be, or

## 31 CFR Ch. V (7-1-02 Edition)

might reasonably lead to a disclosure, contrary to Executive Order 12958 or other Executive orders concerning disclosure of information, U.S. Treasury Department regulations, the Privacy Act, or the Freedom of Information Act.

(2) The Administrative Law Judge shall also safeguard the security and integrity of any documents under seal and shall take all appropriate steps to preserve the confidentiality of such documents or any parts thereof, including closing portions of the hearing to the public. Release of any information under seal, in any form or manner, is subject to the same sanctions and the exercise of the same authorities as are provided with respect to ex parte communications under paragraph (e)(5) of this section.

(3) Should the Administrative Law Judge deny placement of any documents under seal or under protective order, any party, and any person whose documents or materials are at issue, may file an interlocutory appeal to the Secretary or the Secretary's designee. In such cases the Administrative Law Judge must not release or expose any of the records or documents in question to the public or to any other parties for a period of 20 calendar days from the date of the Administrative Law Judge's ruling, in order to permit a petitioner the opportunity either to withdraw the records and documents or to file an interlocutory appeal with the Secretary or the Secretary's designee requesting an order that the records be placed under seal.

(4) Upon settlement, final decision, or motion to the Administrative Law Judge for good cause shown, all materials (including all copies) under seal or protective order shall be returned to the respective parties, except when it may be necessary to retain a record until the judicial process is completed.

(5) Written notice of all requests for release of protected documents or materials shall be given to the parties registered with the Administrative Law Judge at least 20 calendar days prior to any permitted release and prior to any access not specifically authorized under the protective order. A copy of all requests for information, including