

Small Business Administration

§ 134.212

§ 134.209 Requirement of signature.

Every written submission to OHA, other than evidence, must be signed by the party filing that submission, or by the party's attorney. By signing the submission, a party or its attorney attests that the statements and allegations in that submission are true to the best of its knowledge, and that the submission is not being filed for the purpose of delay or harassment.

§ 134.210 Intervention.

(a) *By SBA.* SBA may intervene as of right at any time in any case until 15 days after the close of record, or the issuance of a decision, whichever comes first.

(b) *By interested persons.* Any interested person may move to intervene at any time until the close of record by filing and serving a motion to intervene containing a statement of the moving party's interest in the case and the necessity for intervention to protect such interest. An interested person is any individual, business entity, or governmental agency that has a direct stake in the outcome of the appeal. The Judge may grant leave to intervene upon such terms as he or she deems appropriate.

[67 FR 47248, July 18, 2002]

§ 134.211 Motions.

(a) *Contents.* All motions must state the relief being requested, as well as the grounds and any authority for that relief.

(b) *Statement of whether motion is opposed.* Except when filing a motion to dismiss or a motion for summary decision, the moving party must make reasonable efforts before filing the motion to contact any non-moving party and determine whether it will oppose the motion and must state in the motion whether each non-moving party will oppose or not oppose the motion. If the moving party cannot determine whether a non-moving party will oppose the motion, the moving party must describe in the motion the efforts made to contact that non-moving party.

(c) *Response.* No later than 20 days after the service of a motion, all non-moving parties must serve and file a response or be deemed to have con-

sent to the relief sought. Unless the Judge directs otherwise, the moving party will have no right to reply to a response, nor will oral argument be heard on the motion.

(d) *Service of orders.* OHA will serve upon all parties any written order issued in response to a motion.

(e) *Motion to dismiss.* A respondent may file a motion to dismiss any time before a decision is issued. If an answer or response has not been filed, the motion to dismiss stays the time to answer or respond. If the Judge denies the motion, and an answer or response has not been filed, the respondent must file the answer or response within 20 days after the order deciding the motion.

(f) *Motion for an extension of time.* Except for good cause shown, a motion for an extension of time must be filed at least two days before the original deadline.

[61 FR 2683, Jan. 29, 1996, as amended at 63 FR 35766, June 30, 1998; 67 FR 47248, July 18, 2002]

§ 134.212 Summary decision.

(a) *Grounds.* A party may move for summary decision at any time as to all or any portion of the case, on the grounds that there is no genuine issue as to any material fact, and that the moving party is entitled to a decision in its favor as a matter of law.

(b) *Contents of motion.* The motion must include a statement of the material facts believed not to be disputed, and relevant law. Supporting affidavits may also be included.

(c) *Cross-motions.* In its response to a motion for summary decision, a party may cross-move for summary decision. The initial moving party may file and serve a response to any cross-motion for summary decision within 20 days after the service of that cross-motion.

(d) *Stay.* A motion for summary decision stays the time to answer. The Judge will establish the time for filing and serving an answer in the order determining the motion for summary decision.

(e) *Appeal petitions from SBA determinations (other than 8(a) determinations).* In a case involving an appeal petition, except as provided in subpart D of this part, if SBA has provided multiple grounds for the determination