

(c) *Oral arguments or briefs.* No oral argument will be heard on motions unless the Administrative Law Judge otherwise directs. Written memoranda or briefs may be filed with motions or answers to motions, stating the points and authorities relied upon in support of the position taken.

[54 FR 48596, Nov. 24, 1989. Redesignated by Order No. 1534-91, 56 FR 50053, Oct. 3, 1991]

§ 68.12 Prehearing statements.

(a) At any time prior to the commencement of the hearing, the Administrative Law Judge may order any party to file a prehearing statement of position.

(b) A prehearing statement shall state the name of the party or parties on whose behalf it is presented and shall briefly set forth the following matters, unless otherwise ordered by the Administrative Law Judge:

- (1) Issues involved in the proceedings;
- (2) Facts stipulated to together with a statement that the party or parties have communicated or conferred in a good faith effort to reach stipulation to the fullest extent possible;
- (3) Facts in dispute;
- (4) Witnesses, except to the extent that disclosure would be privileged, and exhibits by which disputed facts will be litigated;
- (5) A brief statement of applicable law;
- (6) The conclusions to be drawn;
- (7) The estimated time required for presentation of the party's or parties' case; and
- (8) Any appropriate comments, suggestions, or information which might assist the parties or the Administrative Law Judge in preparing for the hearing or otherwise aid in the disposition of the proceeding.

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§ 68.13 Conferences.

(a) *Purpose and scope.* (1) Upon motion of a party or in the Administrative Law Judge's discretion, the judge may direct the parties or their counsel to participate in a prehearing conference at any reasonable time prior to the hearing, or in a conference during the course of the hearing, when the Ad-

ministrative Law Judge finds that the proceeding would be expedited by such a conference. Prehearing conferences normally shall be conducted by conference telephonic communication unless, in the opinion of the Administrative Law Judge, such method would be impractical, or when such conferences can be conducted in a more expeditious or effective manner by correspondence or personal appearance. Reasonable notice of the time, place, and manner of the prehearing conference shall be given.

(2) At the conference, the following matters may be considered:

- (i) The simplification of issues;
- (ii) The necessity of amendments to pleadings;
- (iii) The possibility of obtaining stipulations of facts and of the authenticity, accuracy, and admissibility of documents, which will avoid unnecessary proof;
- (iv) The limitations on the number of expert or other witnesses;
- (v) Negotiation, compromise, or settlement of issues;
- (vi) The exchange of copies of proposed exhibits;
- (vii) The identification of documents or matters of which official notice may be requested;
- (viii) A schedule to be followed by the parties for completion of the actions decided at the conference; and
- (ix) Such other matters, including the disposition of pending motions, as may expedite and aid in the disposition of the proceeding.

(b) *Reporting.* A verbatim record of the conference will not be kept unless directed by the Administrative Law Judge.

(c) *Order.* Actions taken as a result of a conference shall be reduced to a written order, unless the Administrative Law Judge concludes that a stenographic report shall suffice, or, if the conference takes place within seven (7) days of the beginning of the hearing, the Administrative Law Judge elects to make a statement on the record at the hearing summarizing the actions taken.

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