

## 6101.23

or by the appending of an errata sheet, but when no other method of correction is practicable the Board may require the reporter to provide substitute or additional pages.

### **6101.23 Briefs and memoranda of law [Rule 23].**

(a) *Form and content of briefs and memoranda of law.* Briefs and memoranda of law shall be on standard size 8 1/2 by 11-inch paper. They shall be double-spaced with text in the body and in the footnotes no smaller than 12 point. Otherwise, no particular form or organization is prescribed. The presiding judge may request prehearing and posthearing briefs and may also request, at any point in the proceedings, memoranda of law. Prehearing and posthearing briefs should, at a minimum, succinctly set forth:

(1) The facts of the case with citations to those places in the record where supporting evidence can be found; and

(2) Argument with citations to supporting legal authorities.

(b) *Submission of posthearing briefs.* Except as the Board may otherwise order, posthearing briefs shall be filed 30 calendar days after the Board's receipt of the transcript; reply briefs, if filed, shall be filed 15 calendar days after the parties' receipt of the initial posthearing briefs. The Board will notify the parties of the date of its receipt of the transcript. In the event one party has elected a hearing and the other party has elected to submit its case on the record pursuant to 6101.19 (Rule 19), the filing of record submissions in the form of briefs shall be governed by 6101.23 (Rule 23).

[72 FR 36795, July 5, 2007, as amended at 73 FR 26951, May 12, 2008]

### **6101.24 Closing the record [Rule 24].**

(a) *Closing of the record.* Except as the Board may otherwise order, no proof shall be received in evidence after a hearing is completed or, in cases submitted on the record without a hearing, after notice by the Board to the parties that the record is closed and that the case is ready for decision.

(b) *Notice that the case is ready for decision.* The Board will give written notice to the parties when the record is

## 48 CFR Ch. 61 (10-1-10 Edition)

closed and the case is ready for decision.

### **6101.25 Decisions; settlements [Rule 25].**

(a) *Decisions.* (1) Except as provided in 6101.52 (Rule 52) (small claims procedure), decisions of the Board will be made in writing upon the record as prescribed in 6101.9 (Rule 9). The Board may also take notice of any fact or law of which a court could take judicial notice. Each of the parties will be furnished a copy of the decision certified by the Office of the Clerk of the Board, and the date of the receipt thereof by each party will be established in the record.

(2) In its decision, the Board may reserve determination of the amount of recovery for other proceedings, regardless of whether there is evidence in the record concerning the amount of recovery, provided the Board notified the parties before the hearing began that its decision would not address the amount of any recovery. In any instance in which the Board has reserved its determination of the amount of recovery for other proceedings, as provided in 6101.21(a)(4) (Rule 21(a)(4)), its decision on the question of the right to recover shall be final so far as proceedings at the Board are concerned, subject to the provisions of 6101.26 through 6101.28 (Rules 26 through 28).

(b) *Settlements.* When an appeal or application is settled, the parties may file with the Board a stipulation setting forth the amount of the award. The Board will adopt the parties' stipulation by decision, provided the stipulation states the parties will not seek reconsideration of, or relief from, the Board's decision, and they will not appeal the decision. The Board's decision under this paragraph (b) is an adjudication of the case on the merits.

### **6101.26 Reconsideration; amendment of decisions; new hearings [Rule 26].**

(a) *Grounds.* Reconsideration may be granted, a decision or order may be altered or amended, or a new hearing may be granted, for any of the reasons stated in 6101.27(a) (Rule 27(a)) and the reasons established by the rules of

common law or equity applicable as between private parties in the courts of the United States. Reconsideration or a new hearing may be granted on all or any of the issues. Arguments already made and reinterpretations of old evidence are not sufficient grounds for granting reconsideration, for altering or amending a decision, or for granting a new hearing. Upon granting a motion for a new hearing, the Board will take additional testimony and, if a decision has been issued, either amend its findings of fact and conclusions or law or issue a new decision.

(b) *Procedure.* Any motion under 6101.26 (Rule 26) shall comply with the provisions of 6101.8 (Rule 8) and shall set forth:

(1) The reason or reasons why the Board should consider the motion; and

(2) The relief sought and the grounds therefor. If the Board concludes that the reasons asserted for its consideration of the motion are insufficient, it may deny the motion without considering the relief sought and the grounds asserted therefor. If the Board grants the motion, it will issue an appropriate order which may include directions to the parties for further proceedings.

(c) *Time for filing.* In an appeal or petition, a motion for reconsideration, to alter or amend a decision or order, or for a new hearing shall be filed within 30 calendar days after the date the moving party receives the decision or order. In an application, such a motion shall be filed within 7 working days after the date the moving party receives the decision or order. Not later than 30 calendar days after issuance of a decision or order, the Board may, on its own initiative, order reconsideration or a new hearing or alter or amend a decision or order for any reason that would justify such action on motion of a party.

(d) *Effect of motion.* A motion pending under 6101.26 (Rule 26) does not affect the finality of a decision or suspend its operation.

**6101.27 Relief from decision or order [Rule 27].**

(a) *Grounds.* The Board may relieve a party from the operation of a final decision or order for any of the following reasons:

(1) Newly discovered evidence which could not have been earlier discovered, even through due diligence;

(2) Justifiable or excusable mistake, inadvertence, surprise, or neglect;

(3) Fraud, misrepresentation, or other misconduct of an adverse party;

(4) The decision has been satisfied, released, or discharged, or a prior decision upon which it is based has been reversed or otherwise vacated, and it is no longer equitable that the decision should have prospective application;

(5) The decision is void, whether for lack of jurisdiction or otherwise; or

(6) Any other ground justifying relief from the operation of the decision or order.

(b) *Procedure.* Any motion under 6101.27 (Rule 27) shall comply with the provisions of 6101.8 and 6101.26(b) (Rules 8 and 26(b)), and will be considered and ruled upon by the Board as provided in 6101.26 (Rule 26).

(c) *Time for filing.* Any motion under 6101.27 (Rule 27) shall be filed as soon as practicable after the discovery of the reasons therefor, but in any event no later than 120 calendar days after the date of the moving party's receipt of the decision or order from which relief is sought. In considering the timeliness of a motion filed under 6101.27 (Rule 27), the Board may consider when the grounds therefor should reasonably have been known to the moving party.

(d) *Effect of motion.* A motion pending under 6101.27 (Rule 27) does not affect the finality of a decision or suspend its operation.

**6101.28 Full Board consideration [Rule 28].**

(a) *Requests by parties.* (1) A request for full Board consideration is not favored. Ordinarily, full Board consideration will be ordered only when it is necessary to secure or maintain uniformity of Board decisions, or the matter to be referred is one of exceptional importance.

(2) A request for full Board consideration may be made by either party on any date which is both after the panel to which the case is assigned has issued its decision on a motion for reconsideration or relief from decision and within 10 working days after the date on