

Small Business Administration

§ 134.212

§ 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. A motion must be filed, served, and accompanied by a certificate of service (see § 134.204).

(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.* All non-moving parties must file and serve a response to the motion or be deemed to have consented to the relief sought. The response is due no later than 15 days after the motion is served, unless the Judge sets a different deadline. On motion, or on his or her own initiative, the Judge may permit a reply to a response and/or oral argument 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 to the appeal petition has not yet been filed, the motion to dismiss stays the respondent's time to answer or respond.

(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 business 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; 75 FR 47441, Aug. 6, 2010]

§ 134.212 Summary judgment.

(a) *On motion by a party.* At any time before the close of record, a party may move for summary judgment 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.

(1) *Contents of motion.* The motion must include a statement of the material facts believed to be undisputed and the party's legal arguments. The motion may include supporting statements in accordance with 28 U.S.C. 1746. The motion must be filed, served, and accompanied by a certificate of service (see § 134.204).

(2) *Response.* No later than 15 days after the service of a motion for summary judgment, all non-moving parties must file and serve a response to the motion or be deemed to have consented to the motion for summary judgment.

(3) *Cross-motions.* In its response to a motion for summary judgment, a party may cross-move for summary judgment. The initial moving party must file and serve a response to any cross-motion for summary judgment within 15 days after the service of that cross-motion or be deemed to have consented to the cross-motion for summary judgment.

(4) *Stay.* If an answer or response to the appeal petition has not yet been filed, the motion for summary judgment stays the respondent's time to answer or respond. If the Judge denies the motion and an answer or response has not yet been filed, the respondent must file the answer or response within