

§ 953.4

officer, or other officer authorized to bind the organization.

[59 FR 31538, June 20, 1994, as amended at 71 FR 53972, Sept. 13, 2006]

§ 953.4 Service of notice; Reply; Motion for summary judgment.

(a) *Service of notice.* (1) Upon receiving the appeal, the Recorder shall issue a notice specifying that the Postal Service General Counsel's or Chief Postal Inspector's or his or her designee's reply shall be filed within 15 days of receipt of the notice; and the time and place of the hearing (if one was requested).

(2) The Recorder shall promptly serve this notice on the parties as follows:

(i) The notice, with a copy of the appeal, shall be sent to the General Counsel or the Chief Postal Inspector or his or her designee at Postal Service headquarters.

(ii) When the appellant's address is within the United States, the notice, with a copy of the appeal, shall be sent to the postmaster at the office that delivers mail to the appellant's address. The postmaster shall be instructed that, acting personally or through a supervisory employee or a postal inspector, he or she is to serve these documents on the appellant. If the appellant cannot be found within 3 days, the postmaster shall send these documents to the appellant by ordinary mail and forward a statement to the Recorder that is signed by the delivering employee and that specifies the time and place of delivery.

(iii) When the appellant's address is outside the United States, the notice, with a copy of the appeal, shall be sent to the appellant by registered airmail, return receipt requested. A written statement by the Recorder, noting the time and place of mailing, shall be accepted as proof of service in the event a signed and dated return receipt is not received.

(b) *Reply.* The General Counsel or the Chief Postal Inspector or his or her designee shall file a written reply, in triplicate, with the Recorder, within the aforementioned 15-day period or any extension granted by the presiding officer for good cause shown. If the General Counsel's or the Chief Postal Inspector's or his or her designee's

39 CFR Ch. I (7-1-12 Edition)

reply fails to address any allegation in the appeal, that allegation shall be deemed admitted.

(c) *Motion for summary judgment.* Upon motion of either the General Counsel, the Chief Postal Inspector, or his or her designee, or the appellant, or on the presiding officer's own initiative, the presiding officer may find that the appeal and answer present no genuine and material issues of fact requiring an evidentiary hearing, and thereupon may render an initial decision upholding or reversing the determination or ruling. The initial decision shall become the final Agency decision if a timely appeal is not taken.

[59 FR 31538, June 20, 1994, as amended at 71 FR 53972, Sept. 13, 2006]

§ 953.5 Hearings.

(a) In general, admissibility of evidence at hearings conducted under this part hinges on relevancy and materiality. However, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, or by considerations of undue delay, or by needless presentation of cumulative evidence. Testimony shall be given under oath or affirmation, and witnesses are subject to cross-examination. Stipulations of fact are encouraged and may be received in evidence.

(b) Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objections relied upon. The transcript shall not include argument or debate thereon except as ordered by the presiding officer. Rulings on such objections shall be a part of the transcript.

(c) Formal exceptions to the rulings of the presiding officer made during the course of the hearing are unnecessary. For all purposes for which an exception otherwise would be taken, it is sufficient that a party, when the ruling of the presiding officer is made or sought, makes known the action he desires the presiding officer to take or his objection to an action taken, and his grounds therefor.

§ 953.6 Compromise and informal dispositions.

Either party may request the other to consider informal disposition of any