

§ 22.9

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file a motion to compel a response. However, such motion must include a representation that the moving party has tried in good faith, prior to filing the motion, to resolve the matter informally. The motion to compel shall include a copy of each discovery request at issue and the response, if any.

(j) *Sanctions.* If, after being properly served with such discovery request, a party fails to appear for deposition, respond to interrogatories or requests for admissions, or respond to a request for production of documents, electronically stored information, other tangible things, or entry onto land, the party seeking discovery may move the Board to impose sanctions under § 22.10 of this part [Rule 10].

(k) *Discovery motions, timing.* All motions concerning discovery, including motions to compel discovery, shall be filed on or before the scheduled end date of discovery to the maximum extent practicable. Motions that are filed after the end date of discovery will not be considered except for good cause shown.

[73 FR 36258, June 26, 2008, as amended at 73 FR 60610, Oct. 14, 2008]

§ 22.9 Subpoenas [Rule 9].

(a) *Issuance.* Upon the written request of any party, or on the initiative of the Board, a subpoena may be issued that commands the person to whom it is directed to attend and give testimony at a deposition or hearing, and/or produce documents or electronically stored information (including writings, papers, books, accounts, photographs, drawings, graphs, charts, recordings, and other data or data compilations) or other tangible things designated in the subpoena, or to permit entry onto designated premises for inspection or other purposes. Requests for subpoenas shall identify the Board and state the name and docket number of the appeal; identify the name of the person to whom the subpoena is directed; command the person to whom the subpoena is directed to, at a specific place and time, appear and testify, or produce designated documents, electronically stored information, or other tangible things, or permit the inspection of designated premises; and state the scope and relevance of the requested testi-

mony or evidence to the appeal. All requests for subpoenas shall be filed at least 15 days before the testimony or evidence is to be provided, except that the Board may, in its discretion, honor requests for subpoenas not made within this time limitation.

(b) *Service.* The party requesting the subpoena shall cause the subpoena to be served upon the person named in the subpoena as soon as practicable after the subpoena has been issued and shall provide proof of service to the Board. Service shall be made by any person who is not a party and not less than 18 years of age by personal delivery to the person named in the subpoena, and shall include tender of the fees for one day attendance and the mileage allowed by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the government, money payments need not be tendered in advance of attendance.

(c) *Motions to quash.* Upon written motion of the person named in the subpoena or a party, the Board may quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or the Board may require the party in whose behalf the subpoena was issued to advance the reasonable costs of producing subpoenaed evidence. Motions to quash or modify a subpoena must be filed within 10 days of service of the subpoena or by the date and time specified in the subpoena for compliance, whichever is earlier.

(d) *Contumacy.* In the case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States district court, the Board may apply to the court through the Attorney General of the United States for an order requiring the person to appear before the Board to give testimony, produce evidence, or both.

§ 22.10 Sanctions [Rule 10].

(a) *Standards.* All parties and their representatives, attorneys, and any experts/consultants retained by them or their attorneys, must obey directions and orders prescribed by the Board and adhere to standards of conduct applicable to such parties and persons. As to an attorney, the standards include the