

## Small Business Administration

## § 134.219

### § 134.215 Interlocutory appeals.

(a) *General.* A motion for leave to take an interlocutory appeal from a Judge's ruling will not be entertained in those proceedings in which OHA issues final decisions. In all other cases, an interlocutory appeal will be permitted only if, upon motion by a party, or upon the Judge's own initiative, the Judge certifies that his or her ruling raises a question which is immediately appealable. Interlocutory appeals will be decided by the AA/OHA or a designee.

(b) *Motion for certification.* A party must file and serve a motion for certification no later than 20 days after issuance of the ruling to which the motion applies. A denial of the motion does not preclude objections to the ruling in any subsequent request for review of an initial decision.

(c) *Basis for certification.* The Judge will certify a ruling for interlocutory appeal only if he or she determines that:

(1) The ruling involves an important question of law or policy about which there is substantial ground for a difference of opinion; and

(2) An interlocutory appeal will materially expedite resolution of the case, or denial of an interlocutory appeal would cause undue hardship to a party.

(d) *Stay of proceedings.* A stay while an interlocutory appeal is pending will be at the discretion of the Judge.

[61 FR 2683, Jan. 29, 1996, as amended at 67 FR 47249, July 18, 2002]

### § 134.216 Alternative dispute resolution procedures.

At any time during the pendency of a case, the parties may submit a joint motion requesting that the Judge permit the use of alternative dispute resolution procedures to assist in resolving the matter. If the motion is granted, the Judge will also stay the proceedings before OHA, in whole or in part, as he or she deems appropriate, pending the outcome of the alternative dispute resolution procedures.

### § 134.217 Settlement.

At any time during the pendency of a case, the parties may submit a joint motion to dismiss the appeal if they

have settled the case, and may file with such motion a copy of the settlement agreement. If the Judge has express authority, under statute, SBA regulation or SBA standard operating procedures, to review the contents of a settlement agreement for legality, the Judge may order the parties to file a copy of the settlement agreement. Otherwise, upon the filing of a joint motion to dismiss, the Judge will issue an order dismissing the case. Settlement negotiations, and rejected settlement agreements, are not admissible into evidence.

[61 FR 2683, Jan. 29, 1996, as amended at 67 FR 47249, July 18, 2002]

### § 134.218 Judges.

(a) *Assignment.* The AA/OHA will assign all cases subject to the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, to an Administrative Law Judge. The AA/OHA will assign all other cases before OHA to either an Administrative Law Judge or an Administrative Judge, or, if the AA/OHA is a duly licensed attorney, to himself or herself.

(b) *Authority.* Except as otherwise limited by this part, or by statute or other regulation, a Judge has the authority to take all appropriate action to ensure the efficient, prompt, and fair determination of a case, including, but not limited to, the authority to administer oaths and affirmations and to subpoena and examine witnesses.

(c) *Recusal.* Upon the motion of a party, or upon the Judge's own initiative, a Judge will promptly recuse himself or herself from further participation in a case whenever disqualification is appropriate due to conflict of interest, bias, or some other significant reason. A denial of a motion for recusal may be immediately appealed to the AA/OHA, or to the Administrative Law Judge if the AA/OHA is the Judge, but that appeal will not stay proceedings in the case.

### § 134.219 Sanctions.

A Judge may impose appropriate sanctions, except for fees, costs, or monetary penalties, which he or she deems necessary to serve the ends of justice, if a party or its attorney:

(a) Fails to comply with an order of the Judge;