

(b) *Form and content.* Each response shall be under oath and signed by the charged party or its duly authorized officer, attorney, or agent, with the name, address, and telephone number of the same. Each charged party shall respond to each allegation in the charging letter, and may set forth a concise statement of the facts constituting each ground of defense. There shall be a specific admission or denial of each fact alleged in the charging letter, or if the charged party is without knowledge of any such fact, a statement to that effect.

(c) *Request for confidentiality.* The response shall contain a statement as to whether the charged party seeks an order to maintain the confidentiality of all or part of the proceedings to the extent practicable, pursuant to § 207.105 of this subpart.

#### § 207.105 Confidentiality.

(a) *Protection of proprietary and privileged information.* As the administrative law judge deems reasonably necessary for the preparation of the defense of a charged party, the attorney for the charged party may be granted access in these proceedings to proprietary information or to the privileged information, the disclosure of which is the subject of the proceedings. Any such access shall be under protective order consistent with the provisions of this subpart.

(b) *Confidentiality of proceedings.* Upon the request of any charged party pursuant to § 207.106 of this subpart, the administrative law judge will issue an appropriate confidentiality order. This order will provide for the confidentiality, to the extent practicable and permitted by law, of information relating to allegations concerning the commitment of a prohibited act, consistent with public policy considerations and the needs of the parties in conducting the sanctions proceedings. The order will provide that all proceedings under this provision shall be kept confidential within the terms of the order, except to the extent that a discussion of such proceedings is incorporated into a published final decision of the Commission. Any confidential information not disclosed in such decision will remain protected.

#### § 207.106 Interim measures.

(a) At any time after proceedings are initiated, the administrative law judge, upon motion, or on his or her own initiative, may issue a recommended determination to revoke the allegedly-violated protective order, to disclose information about the proceedings that would otherwise be kept confidential, or to take other appropriate interim measures.

(b) Before issuing a determination recommending interim sanctions, the administrative law judge shall afford a party against whom such measures are proposed the opportunity to oppose them. The administrative law judge shall ordinarily decide any motion under this section no more than twenty (20) days after it is filed.

(c) The Commission shall review any recommended determination regarding the imposition of interim measures within twenty (20) days from its issuance or such other time as it may order. The Commission may impose any appropriate interim sanctions.

(d) The administrative law judge may recommend to the Commission that interim measures be modified or revoked. The Commission shall rule on such recommendation within ten (10) days after its issuance or such other time as it may order.

(e) The Commission Secretary shall immediately notify the Secretariat of any interim measures that revoke or modify an outstanding protective order in an ongoing panel review. The Commission Secretary shall also immediately notify the Secretariat of any revocation or modification of an interim measure.

#### § 207.107 Motions.

(a) *Presentation and disposition.* (1) After issuance of the charging letter and while part of the proceeding is pending before the administrative law judge, all motions relating to that part of the proceeding shall be addressed to the administrative law judge.

(2) While part of a proceeding is pending before the Commission, all motions relating to that part of the proceeding shall be addressed to the Chairman of the Commission. All written motions shall be filed with the Commission Secretary and served upon all parties.

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(b) *Content.* All written motions shall state the particular order, ruling, or action desired and the grounds therefor.

(c) *Responses.* Any response to a motion shall be filed within ten (10) days after service of the motions, or within such longer or shorter time as may be designated by the administrative law judge or the Commission. The moving party shall have no right to reply, except as permitted by the administrative law judge or the Commission.

(d) *Service.* All motions, responses, replies, briefs, petitions, and other documents filed in sanctions proceedings under this subpart shall be served by the party filing the document upon each other party. Service shall be made upon the attorney for the party unless the administrative law judge or the Commission orders otherwise.

### § 207.108 Preliminary conference.

As soon as practicable after the response to the charging letter is filed, the administrative law judge shall direct counsel or other representatives for the parties to meet with him or her at a preliminary conference, unless the administrative law judge determines that such a conference is not necessary. At the conference, the administrative law judge shall consider the issuance of such orders as the administrative law judge deems necessary for the conduct of the proceedings. Such orders may include, as appropriate under these regulations, the establishment of a discovery schedule or the issuance of an order, if requested, to provide for maintaining the confidentiality of the proceedings pursuant to § 207.105(b) of this subpart.

### § 207.109 Discovery.

(a) *Discovery methods.* All parties may obtain discovery under such terms and limitations as the administrative law judge may order. Discovery may be by one or more of the following methods:

- (1) Depositions upon oral examination or written questions;
- (2) Written interrogatories;
- (3) Production of documents or things for inspection and other purposes; and
- (4) Requests for admissions.

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(b) *Sanctions.* If a party or an officer or agent of a party fails to comply with a discovery order, the administrative law judge may take such action as he deems reasonable and appropriate, including the issuance of evidentiary sanctions or deeming the respondent to be in default.

(c) *Depositions of nonparty officers or employees of the United States or another Free Trade Area country government—(1) Depositions of Commission officers or employees.* A party desiring to take the deposition of an officer or employee of the Commission (other than a member of the Office of Unfair Import Investigations or of the Office of the Administrative Law Judges), or to obtain nonprivileged documents or other physical exhibits in the custody, control, and possession of such officer or employee, shall file a written motion requesting the administrative law judge to recommend that the Commission direct that officer or employee to testify or produce the requested materials.

(2) *Depositions of officers or employees of other United States agencies, or of the government of another Free Trade Area country.* A party desiring to take the deposition of an officer or employee of another agency, or of the government of another Free Trade Area country, or to obtain nonprivileged documents or other physical exhibits in the custody, control, and possession of such officer or employee, shall file a written motion requesting the administrative law judge to recommend that the Commission seek the testimony or production of requested material from the officer or employee.

### § 207.110 Subpoenas.

(a) *Application for issuance of a subpoena.* Except as provided in § 207.109(c) of this subpart, an application for issuance of a subpoena requiring a person to appear and depose or testify at the taking of a deposition or at a hearing shall be made to the administrative law judge. The application shall be made in writing, and shall specify the material to be produced as precisely as possible, showing the relevancy of the material and the reasonableness of the scope of the subpoena. The application