

§ 28.43

within the time limits set forth in paragraph (d)(2) of this section. Any objection shall be addressed to the party requesting discovery and shall state the particular grounds for the objection. Any request for a protective order shall state the grounds for the protective order and shall be served on the administrative judge and any other parties to the action. The administrative judge shall rule on the request for a protective order.

(4) Motions for an order compelling discovery shall be filed with the administrative judge within 10 days of the service of objections or within 10 days of the expiration of the time limits for response when no response or an alleged inadequate response is received. Opposition to a motion to compel must be filed with the administrative judge within 10 days of the date of service of the motion.

(5) Discovery shall be completed by the time designated by the administrative judge, but no later than 65 days after the service of the notice of filing of a petition. A later date may be set by the administrative judge after due consideration of the particular situation including the dates set for hearing and closing of the case record.

[58 FR 61992, Nov. 23, 1993, as amended at 68 FR 69301, Dec. 12, 2003]

§ 28.43 Compelling discovery.

(a) *Motion for an order compelling discovery.* Motions for orders compelling discovery shall be submitted to the administrative judge as set forth at § 28.42(c)(2) and (d)(4) above.

(b) *Content of order.* Any order issued may include, where appropriate:

(1) Provision for notice to the person to be deposed as to the time and place of such deposition.

(2) Such conditions or limitations concerning the conduct or scope of the proceedings or the subject matter as may be necessary to prevent undue delay or to protect any party or deponent from undue expense, embarrassment or oppression.

(3) Limitations upon the time for conducting depositions, answering written interrogatories, or producing documentary evidence.

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(4) Other restrictions upon the discovery process as determined by the administrative judge.

(c) Failure to comply with an order compelling discovery may subject the noncomplying party to sanctions under § 28.24.

§ 28.44 Taking of depositions.

Depositions may be taken before any person not interested in the outcome of the proceedings who is authorized by law to administer oaths.

§ 28.45 Admission of facts and genuineness of documents.

(a) Any party may be served with requests for the admission of the genuineness of any relevant documents identified within the request or the truth of any relevant matters of fact or application of law to the facts as set forth in the request.

(b) Within the time period prescribed by § 28.42(d)(2), the party on whom the request is served must submit to the requesting party:

(1) A sworn statement specifically denying, admitting, or expressing a lack of knowledge after making reasonable inquiry regarding the specific matters on which an admission is requested; and/or

(2) An objection to the request for an admission, in whole or in part, on the grounds that the matters contained therein are privileged, irrelevant, or otherwise improper.

(c) Upon a failure or refusal of a party to respond to a request for admissions within the prescribed time period, the request shall be deemed admitted.

SUBPOENAS

§ 28.46 Motion for subpoena.

(a) *Authority to issue subpoenas.* Any member of the Board may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. Any member of the Board may order the taking of depositions or order responses to written interrogatories.