

## § 1081.216

(2) A final list of witnesses to be called to testify at the hearing, including the name and address of each witness and a short summary of the expected testimony of each witness;

(3) Any prior sworn statements that a party intends to admit into evidence pursuant to §1081.303(h);

(4) A list of the exhibits to be introduced at the hearing along with a copy of each exhibit; and

(5) Any stipulations of fact or liability.

(b) *Expert witnesses.* Each party who intends to call an expert witness shall also serve, in addition to the information required by paragraph (a)(2) of this section, a statement of the expert's qualifications, a listing of other proceedings in which the expert has given or sought to give expert testimony at trial or hearing or by deposition within the preceding four years, and a list of publications authored or co-authored by the expert within the preceding ten years, to the extent such information has not already been provided pursuant to §1081.210.

(c) *Effect of failure to comply.* No witness may testify and no exhibits may be introduced at the hearing if such witness or exhibit is not listed in the prehearing submissions pursuant to paragraph (a) of this section, except for good cause shown.

### § 1081.216 Amicus participation.

(a) *Availability.* An amicus brief may be filed only if:

(1) A motion for leave to file the brief has been granted;

(2) The brief is accompanied by written consent of all parties;

(3) The brief is filed at the request of the Director or the hearing officer, as appropriate; or

(4) The brief is presented by the United States or an officer or agency thereof, or by a State or a political subdivision thereof.

(b) *Procedure.* An amicus brief may be filed conditionally with the motion for leave. The motion for leave shall identify the interest of the movant and shall state the reasons why a brief of an amicus curiae is desirable. Except as all parties otherwise consent, any amicus curiae shall file its brief within the time allowed the party whose posi-

## 12 CFR Ch. X (1–1–14 Edition)

tion the amicus will support, unless the Director or hearing officer, as appropriate, for good cause shown, grants leave for a later filing. In the event that a later filing is allowed, the order granting leave to file shall specify when an opposing party may reply to the brief.

(c) *Motions.* A motion for leave to file an amicus brief shall be subject to §1081.205.

(d) *Formal requirements as to amicus briefs.* Amicus briefs shall be filed pursuant to §1081.111 and shall comply with the requirements of §1081.112 and shall be subject to the length limitation set forth in §1081.212(e).

(e) *Oral argument.* An amicus curiae may move to present oral argument at any hearing before the hearing officer, but such motions will be granted only for extraordinary reasons.

## Subpart C—Hearings

### § 1081.300 Public hearings.

All hearings in adjudication proceedings shall be public unless a confidentiality order is entered by the hearing officer pursuant to §1081.119 or unless otherwise ordered by the Director on the grounds that holding an open hearing would be contrary to the public interest.

### § 1081.301 Failure to appear.

Failure of a respondent to appear in person or by a duly authorized counsel at the hearing constitutes a waiver of respondent's right to a hearing and may be deemed an admission of the facts as alleged and consent to the relief sought in the notice of charges. Without further proceedings or notice to the respondent, the hearing officer shall file a recommended decision containing findings of fact and addressing the relief sought in the notice of charges.

### § 1081.302 Conduct of hearings.

All hearings shall be conducted in a fair, impartial, expeditious, and orderly manner. Enforcement counsel shall present its case-in-chief first, unless otherwise ordered by the hearing officer, or unless otherwise expressly specified by law or regulation. Enforcement counsel shall be the first party to