

§ 1.139

§ 1.139 Procedure upon failure to file an answer or admission of facts.

The failure to file an answer, or the admission by the answer of all the material allegations of fact contained in the complaint, shall constitute a waiver of hearing. Upon such admission or failure to file, complainant shall file a proposed decision, along with a motion for the adoption thereof, both of which shall be served upon the respondent by the Hearing Clerk. Within 20 days after service of such motion and proposed decision, the respondent may file with the Hearing Clerk objections thereto. If the Judge finds that meritorious objections have been filed, complainant's Motion shall be denied with supporting reasons. If meritorious objections are not filed, the Judge shall issue a decision without further procedure or hearing. Copies of the decision or denial of complainant's Motion shall be served by the Hearing Clerk upon each of the parties and may be appealed pursuant to § 1.145. Where the decision as proposed by complainant is entered, such decision shall become final and effective without further proceedings 35 days after the date of service thereof upon the respondent, unless there is an appeal to the Judicial Officer by a party to the proceeding pursuant to § 1.145: *Provided, however*, That no decision shall be final for purposes of judicial review except a final decision of the Judicial Officer upon appeal.

§ 1.140 Conferences and procedure.

(a) *Purpose and scope.* (1) Upon motion of a party or upon the Judge's own motion, the Judge may direct the parties or their counsel to attend a conference at any reasonable time, prior to or during the course of the hearing, when the Judge finds that the proceeding would be expedited by a conference. Reasonable notice of the time, place, and manner of the conference shall be given. The Judge may order each of the parties to furnish at or subsequent to the conference any or all of the following:

- (i) An outline of the case or defense;
- (ii) The legal theories upon which the party will rely;
- (iii) Copies of or a list of documents which the party anticipates introducing at the hearing; and

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(iv) A list of anticipated witnesses who will testify on behalf of the party. At the discretion of the party furnishing such list of witnesses, the names of the witnesses need not be furnished if they are otherwise identified in some meaningful way such as a short statement of the type of evidence they will offer.

(2) The Judge shall not order any of the foregoing procedures that a party can show is inappropriate or unwarranted under the circumstances of the particular case.

(3) At the conference, the following matters shall be considered:

- (i) The simplification of issues;
- (ii) The necessity of amendments to pleadings;
- (iii) The possibility of obtaining stipulations of facts and of the authenticity, accuracy, and admissibility of documents, which will avoid unnecessary proof;
- (iv) The limitation of the number of expert or other witnesses;
- (v) Negotiation, compromise, or settlement of issues;
- (vi) The exchange of copies of proposed exhibits;
- (vii) The identification of documents or matters of which official notice may be requested;
- (viii) A schedule to be followed by the parties for completion of the actions decided at the conference; and
- (ix) Such other matters as may expedite and aid in the disposition of the proceeding.

(b) *Reporting.* A conference will not be stenographically reported unless so directed by the Judge.

(c) *Manner of Conference.* (1) The conference shall be conducted by telephone or correspondence unless the Judge determines that conducting the conference by audio-visual telecommunication:

- (i) Is necessary to prevent prejudice to a party;
- (ii) Is necessary because of a disability of any individual expected to participate in the conference; or
- (iii) Would cost less than conducting the conference by telephone or correspondence. If the Judge determines that a conference conducted by audio-