

**Title 1—OFFICE OF
ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—Procedure For All Contested
Cases Under Statutory Jurisdiction,
Except Cases [Under Section 621.040, RSMo]
Where Procedure Is Otherwise Provided For By Law**

1 CSR 15-3.446 Decision on the Complaint without a Hearing

PURPOSE: This amendment states the commission's preference that motions for summary decision be drafted as required by the circuit courts.

(1) Generally. Decision without hearing means a disposition, or recommended disposition, of the complaint on the merits. It includes a decision on the pleadings, summary decision, and consent order in cases under section 621.045, RSMo. The commission may grant a motion for decision without hearing in favor of any party, including a party who did not file the motion. On any motion under this rule, the commission may allow such written argument as it deems helpful and may rule on the motion without oral argument.

(2) Any party may file a motion for a decision without hearing on all or any part of the complaint except that, unless the commission grants leave otherwise, no party shall file a motion for decision without hearing—

(A) In any case in which any legal authority, other than the commission, sets any maximum time for conducting a hearing on the merits of the complaint.

(B) In any case, less than forty-five (45) days before the hearing, except by leave of the commission for good cause.

(3) Decision on Stipulated Facts. The parties may file a stipulation of facts and may waive hearing before the commission. The parties or their attorneys shall sign the stipulation.

(4) Decision on the Pleadings. A decision on the pleadings is a decision without hearing based solely on the complaint and the answer. The commission may grant a motion for decision on the pleadings if a party's pleading, taken as true, entitles another party to a favorable decision. Petitioner shall not file a motion for decision on the pleadings before the time for filing a responsive pleading has expired, except with the consent of all other parties.

(5) Consent Orders in Cases Under Section [620.149]**324.038**, RSMo, and Contested Cases Under Section 621.045, RSMo. A motion for a consent order shall contain stipulated facts necessary to support the relief sought under the cited legal authority. Parties seeking a consent order under this section shall jointly file a motion that includes substantially the following language:

The parties stipulate that (*party*) committed the following conduct:
(*Conduct*).

(*Party*) admits that such conduct is cause for (*the relief sought*) under the following legal authority:

(Legal Authority).

Therefore, the parties agree to *(the relief sought)*.

(6) Summary Decision. Summary decision is a motion for decision without hearing that relies on matters outside the pleadings and is not filed jointly by all parties.

(A) The commission may grant a motion for summary decision if a party establishes facts that entitle any party to a favorable decision and no party genuinely disputes such facts.

(B) Parties may establish a fact, or raise a dispute as to such facts, by admissible evidence. Admissible evidence includes a stipulation, pleading of the adverse party, discovery response of the adverse party, affidavit, or other evidence admissible under the law. A party shall not rely solely on its own pleading to establish any fact, or to raise a genuine issue as to any fact. A party may meet the requirements for the content of a motion, or for a response to a motion, under section (6) of this rule by complying with Missouri Supreme Court Rule of Civil Procedure 74.04.

(C) Petitioner shall not file a motion for summary decision before the time for filing a responsive pleading has expired, except with the consent of all other parties.

(D) With regard to motions for summary decision, the commission prefers that:

(1) A motion for summary decision summarily state the legal basis for the motion, and have a statement of uncontroverted material facts attached to the motion. The statement should state with particularity in separately numbered paragraphs each material fact as to which the party filing the motion claims there is no genuine issue, with specific reference to the pleadings, discovery, exhibits, or affidavits that demonstrate the lack of a genuine issue as to such facts. Attached to the statement should be a copy of all discovery, exhibits or affidavits on which the motion relies. The party filing the motion should also file a separate legal memorandum explaining why summary decision should be granted.

(2) The adverse party may file a response to the motion for summary decision within the time ordered by the commission, and shall serve the response on all parties. To the extent possible, the response should admit or deny each enumerated statement of fact set forth in the motion, and each denial should be supported with specific references to the discovery, exhibits or affidavits that demonstrate specific facts showing that there is a genuine issue of fact. The response may also set forth additional material facts that remain in dispute, with supporting documentation.

AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. 2013. Original rule filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expired March 7, 2011. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011. Amended: Filed _____, 2016, effective _____.*

**Original authority: 536.073, RSMo 1957, amended 1985, 1989, 1995; 621.035, RSMo 1978; and 621.198, RSMo 1965, amended 1978, 2001.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

