**Section 5300.735 Summary Decision**

a) At any time after the service of a complaint and prior to service of a decision pursuant to Section 8A-102(I), 8A-102.5(B)(4) or 8B-102(J) of the Act, the complainant or the respondent may move, with or without supporting affidavits, for a summary Order in the moving party's favor as to all or any part of the relief sought. An Administrative Law Judge may not preclude the filing of a motion for summary decision except within the 60-day period prior to the date set for the hearing on the merits of the complaint. Once the Administrative Law Judge has set a deadline for the filing of the motions for summary decisions in accordance with this Section, no motion may be filed after that date without leave of the Administrative Law Judge, even if the hearing on the merits is postponed.

b) Procedure – The non-moving party may file counter-affidavits prior to the time of the ruling on the motion. The Order sought shall be rendered without delay if the pleadings and affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a recommended Order as a matter of law. An interim recommended summary Order, interlocutory in character, may be rendered on the issue of liability alone, although there is a genuine issue as to the relief to be awarded. The term *without delay* (Section 8-106.1(B) of the Act) means that consideration of the motion shall not be stayed without the agreement of the parties. Further, the Administrative Law Judge may not postpone consideration of the motion until after the public hearing. The term does not mean that motions for summary decision will be given preference over other pending motions in the case at issue or other cases pending in front of the Commission.

c) Affidavits or Motions Made in Bad Faith – If it appears to the satisfaction of the Administrative Law Judge at any time that any affidavit or motion presented pursuant to this Section is presented in bad faith or solely for the purpose of delay, the Administrative Law Judge may recommend that the party employing the use of affidavits for dilatory purposes shall pay to the other party the amount of reasonable expenses incurred as a result of the filing of the affidavit or motion, including reasonable attorney's fees.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)