

E. THE ROLE OF THE CHARGING PARTY REPRESENTATIVE AT THE HEARING

OVERVIEW:

Pursuant to § [2423.30\(c\)](#), concerning the rights of parties, the Charging Party, and all other parties to the proceeding, have the right to appear at any hearing in person, by counsel, or by other representative in order to: examine and cross-examine witnesses; introduce into the record documentary or other relevant evidence; and submit rebuttal evidence, except that the ALJ prescribes the extent of a party's participation.

OBJECTIVE:

To provide guidance concerning a Trial Attorney's responsibilities at the hearing with regard to continuing the relationship with the Charging Party's representative that was established at the pre-hearing stage of the litigation. See [Part 1, Chapter I](#).

1. BEFORE THE HEARING:

Discuss with Charging Party's representative the degree to which s/he will participate in the hearing. Ascertain to what extent the Charging Party's interests are the same or different.

☞ Usually, the Charging Party's representative will not actively participate in the hearing by examining or cross-examining witnesses or presenting oral argument. The Charging Party's representative may identify himself/herself on the record but only participate as a technical advisor to the Trial Attorney. The Trial Attorney will be a more effective advocate for the GC if the

Charging Party representative's role is determined before the hearing begins.

2. CHARGING PARTY'S PARTICIPATION AT THE HEARING:

a. *The Charging Party has a right to fully participate in the hearing by:*

- Calling witnesses;
- Presenting evidence;
- Presenting oral argument;
- Receiving documentary evidence presented by Respondent;
- Making objections to testimony and documents offered into evidence; and
- Submitting a post-hearing brief.

A Charging Party's right to participate at the hearing shall be subject to the ALJ's discretion. SBA, 54 FLRA No. 83, 54 FLRA 837, 847 (1998). In addition, the GC has the lead role in prosecuting the case. Id.

b. *The Charging Party has **no** right to:*

Expand upon the issues presented in the complaint during the hearing.

3. TRIAL ATTORNEY'S OBJECTIONS:

The Trial Attorney objects to the Charging Party representative's oral or documentary evidence, motions, and argument, to the same extent as deemed appropriate during the Respondent's examination or cross-examination of witnesses. See [Part 2, Chapter Z](#) concerning Objections.

[Part 1, Chapter I](#) concerning Relationship with Charging Party Representative; and

[Part 2, Chapter Z](#) concerning Objections.

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