

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

United States of America, Complainant v. Chesters Restaurants, Inc.,
d.b.a. La Cabana Restaurant; Respondent, 8 U.S.C. § 1324a Proceeding;
Case No. 89100432.

ORDER

On December 11, 1989, the parties filed a joint ``Motion to Approve Admission of Liability.'' Attached to the motion was a ``Stipulation As to Liability,'' a ``Stipulation as to Penalty Amount in Count I,'' and an ``Installment Payment Agreement.``

The parties request that I order the approval of the admission of liability pursuant to 28 C.F.R. § 68.10. The motion further states that the stipulation as to liability ``is to serve as a basis for entry of Summary Decision/Judgment by the Administrative Law Judge.``

28 C.F.R. § 68.10 has been renumbered in the final rules to 28 C.F.R. § 68.12, but the substance or language of the regulation has not been changed. See, 54 Fed. Reg. 48599 (November 14, 1989) (to be codified at 28 C.F.R. § 6812).

The purpose of 28 C.F.R. § 68.12 is to permit the parties, with the approval of the administrative law judge, to settle a case either by submitting a proposed agreement containing consent findings and a proposed decision, or by agreeing to a dismissal of the action. 28 C.F.R. § 68.12 is not applicable to the settlement of cases by summary decision or judgment. Motions for summary decision are controlled by 28 C.F.R. § 68.36 in the final rules.

The stipulations which have been attached to the Motion to Approve Admission of Liability are relevant to a Motion for Summary Decision. A motion to approve admission of liability is not necessary for me to consider in deciding whether or not to grant a motion for summary decision. The proper procedural method which the parties should take in order for me to consider granting their agreement to settle this case by summary decision is for Complainant to file a Motion for Summary Decision and incorporate or attached to its motion all stipulation or agreements in support of its motion. Furthermore, if Complainant files a motion for summary

decision, it should also submit to me, with its motion for a summary decision, a proposed decision and order. See 28 C.F.R. § 68.12(a)(1).

For the foregoing reasons, the Joint Motion to Approve Admission of Liability is DENIED.

IT IS SO ORDERED: This 14th day of December, 1989, at San Diego, California.

ROBERT B. SCHNEIDER
Administrative Law Judge