# REPORT

# OF

# BEST PRACTICES COMMITTEE

## REPRESENTATION CASES

DECEMBER 1997

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# PREFACE

As part of Impact Analysis, our general reinvention efforts and our program to improve the quality of case processing, we have implemented a program to identify and share successful casehandling practices among Regional Offices. Our focus in this effort is not to mandate additional procedures and requirements, but to capitalize on the delegation of authority and the expertise within our Regional Offices. Because of the wide range of delegated authority which Regional Directors exercise as well as the variety in the Region's size and the nature of the geographical area which Regions cover, we recognize that local practices and procedures develop within the Regions which, while consistent with operational policy and procedural directives, demonstrate creative and successful approaches to handle and resolve a multitude of issues which arise in our field work. Historically, our annual conference of Regional Directors and managers has provided an opportunity and forum where the sharing of experiences and practices has been informally integrated into our more structured conference agendas in a constructive and collegial setting. Given our need to facilitate casehandling, conserve resources and make our operations more efficient and effective, there is an institutional need to continue fostering this exchange of ideas and information.

In many areas of case processing, there is not a single best practice. Rather, one of a number of practices may be best for a particular Region in light of its characteristics. Thus, we have attempted to set forth various practices in the casehandling pipeline so that if a Region is dissatisfied with its approach, it can adopt one of the described procedures. When there was, in the Committee's view, a single best practice, we have also so indicated by underlining that practice. The best practices have also been summarized at the end of the report.

Attached to this report are examples of documents that Regions should consider adopting. Other Regions may already be using these or similar documents, but we attempted to attach only a limited number of documents. We wish to express our appreciation to the Regions, both management, local unions and bargaining unit, for responding to the survey regarding R case best practices and submitting their documents.

The members of the Committee are: Alvin Blyer, Regional Director, Region 29; Jeffery DeNio, Field Attorney, Region 15; Stephen Glasser,

Assistant to the Regional Director, Region 7; Ronald Hooks, Regional Attorney, Region 26; Nelson Levin, Deputy Assistant General Counsel, Division of Operations-Management; Jean Libby, Field Attorney, Region 21; Marion Muma, Field Examiner, Region 7; James McDermott, Regional Director, Region 31; Dorothy Wilson, Deputy Regional Attorney, Region 14.

## INITIAL R CASE PROCESSING

A. Service of Petitions and Notices of Hearing and Related Documents in R Cases

Presently, faxing is the most rapid technological method available to the Regions although it is not improbable, in theory, that faxing could someday be replaced by electronic filings. The trend now in the Regions is clearly towards more use of the fax. Essentially all Regions fax petitions. There remain many Regions, however, which delay the issuance of the notice of hearing (NOH) for a few days in an "up front" effort to secure a stipulated election agreement without issuing a NOH. In fact, this determination, i.e., "fax" or "talk" first, is the most significant variant in how Regions approach the NOH. No matter the approach, all Regions were cognizant of the need to issue the NOH in time to open the hearing, absent an election agreement, within the General Counsel's guidelines.

While the Committee recognizes that local circumstances prevailing in a given Region may impact the application of the following, we also believe that the procedure below for service of petitions, the NOH and related documents should be considered a best practice. Samples of documents used in various Regions are included as Attachments A - D.

> Petitions should be faxed to all parties (except Petitioner) on the day of filing. Service by mail should be achieved within two days of filing. The opening correspondence should reflect that the hearing will be conducted on consecutive days until it is completed, absent the most compelling circumstances, and that requests for postponement of a hearing will be granted only for good cause and consistent with the requirements set forth in Form NLRB 4338.
>
> A NOH, either formal or "informal" (anticipated or proposed)

should also be faxed to all parties on the date the petition is filed. In no instance should a formal NOH issue less than five days before the hearing is opened. Mail service of the formal NOH should occur as soon as possible following the fax transmission.

Hearings should open between the 10th and the 14th day after the petition is filed whenever possible.

The NOH should firmly put the burden on the parties to justify any postponements and propose alternate dates cleared by all parties that are acceptable to the Region. Please refer to Section C below for further definition of the burden placed on the parties.

## B. Management, Supervision and Employee Utilization in R Cases

Supervision and R case specialization within the unit varies among the Regions. A plurality of the Regions retain the traditional structure wherein R cases are directly supervised by a first level supervisor with appropriate input from the ARD as necessary. Several Regions have recently implemented procedures whereby the ARD directly supervises unit professionals who are assigned R cases. In both of the above systems, the universe of unit professionals assigned to R cases in a given office ranges from a single R case specialist in one office to a mix of examiners and new attorneys in other offices, to a full R case team of examiners in a few offices. It is noted, however, that most Regions assign this work exclusively to field examiners. One other Region has successfully established, in essence, an integrated, fungible R case team. In this Region, although cases are assigned to specific team members, the emphasis is on a team concept with substantial interchange of work. Team meetings are held on a weekly basis to resolve any scheduling or casehandling problems. The progress of all pending pre-election R-cases is charted on a large magnetic board located in a room that has been set aside for use by the R case team. All incoming mail relating to these R cases is sent to the in-box in the R case room.

No structure produced a clearly preferable approach or "best practice." In fact, all systems seemed to work effectively in some offices. Variations in office structure, size, relations with the local Bar and the like

were beyond the scope of our inquiry and the choice of approach in this area may indeed be somewhat related to these idiosyncratic considerations. What we do observe, however, is that each approach clearly has the potential to be a best practice; and, if your system is not achieving the desired goals, we would urge you to consider one of the above alternative approaches.

C. Request for Postponement or Continuance of R Case Hearing

With respect to requests for postponements, both the Committee and the Regions were essentially in agreement with small variations with respect to the details. All agree that control of this important procedural question should reside with the ARD, although a small number of Regions allow the unit professionals to grant short postponements of 2 to 3 days on their own before the ARD gets involved. One Region claims not to grant postponements at all. Several benefits from ARD control of the process were noted. First, this approach ensures a uniform policy within the Region for this function and further enhances managerial control of an important goal of the General Counsel. Second, the approach provides the ARD with an opportunity to gain familiarity with our regular practitioners and enhances opportunities to condition the granting of a postponement for, by way of example, concessions on a briefing schedule or an election date.

In some Regions the docketing letter sent to the parties states that any request for a postponement must be in writing and, in a few Regions, the parties are further advised that the burden is on the moving party to give specific reasons for the request and to ascertain the positions of the other party. It is the practice of at least one Region to condition approval of a postponement request upon the parties' agreement to the hearing being conducted on consecutive days. Another Region conditions approval of a one week postponement request upon agreement that there will be no extensions granted for the filing of briefs and that the election will be conducted within 42 days if a stipulated election agreement is subsequently executed. One Region requires a party seeking a postponement to proffer the reasons that a hearing is required at all before considering the request.

The Committee determines that it is a best practice always to place the burden of justifying the request for a postponement on the party who makes it. Specifically, the requesting party should advise the Region in writing of the specific reasons for the request, such as unavailability of other counsel in the law firm, as well as the availability of alternative dates for all parties and the positions of the other parties on the request. In

considering such a request, the Region should caution all parties orally and through the NOH that a postponement beyond seven days will not be entertained, and that the hearing, once opened, will continue on consecutive business days.

Once the hearing opens, a request for a continuance is ruled upon by the hearing officer pursuant to Section 102.64 of the Board's Rules and Regulations, although in some Regions there is consultation with the Regional Office prior to a ruling. We further determine that it is a best practice for the hearing officer to consult with a manager prior to this ruling. The hearing officer should also announce at the opening of the hearing that it will run on consecutive days until completed. When a continuance request is made after a hearing opens, the requesting party should be directed to state the specific reasons on the record so that there is no misunderstanding as to the basis for the request. If an attorney has a scheduling conflict, the issue can occasionally be resolved by starting the hearing later, or ending earlier, the same day.

## ELECTION AGREEMENTS

### A. Case Assignment Procedure After NOH Issues

In most Regions, the agent who handles the initial processing of a petition continues to process that case through securing an election agreement or a hearing unless that agent is for some reason not available or unable to handle it. Some Regions have an "expert" that handles the initial processing. In a few Regions, cases are assigned based on geographic areas.

The Committee considers it a best practice not to reassign a representation case after the NOH issues, unless there are reasons such as the agent's insufficient experience in view of the issues involved, conflicting assignments or agent unavailability due to previously scheduled leave. The Committee believes that reassigning cases results in duplication of effort and the possibility that, unless considerable time is spent to thoroughly document the file, important information may not be transmitted to the next agent.

B. Assistance from the Supervisors and ARDs in Securing Election Agreements

The degree of direct contact with the parties by supervisors and ARDs varies among the Regions. In some Regions the supervisor and ARD are actively involved in speaking with the parties and attempting to secure election agreements and some Regions have a requirement that the hearing does not commence until the parties have met with the ARD. Other Regions have the supervisor and ARD actively involved in monitoring the process and making suggestions to the agent to assist in persuading the parties to enter into an election agreement or to narrow the issues for hearing.

Inasmuch as hearings are costly to the Agency both in terms of transcript fees and personnel resources used to conduct the hearing and to prepare and issue a decision, it is axiomatic that maximum effort should be made to avoid hearings, or if they cannot be avoided, to narrow the issues at hearing. Involvement of the supervisor and/or ARD, either directly or indirectly, in assisting agents to obtain election agreements or to narrow issues for hearing is considered a best practice. Such involvement is desirable because a different person may have a new approach to obtaining an agreement or narrowing an issue, or may be able to make a different argument or provide case authority to persuade a reluctant party to enter into an election agreement. The Committee believes that having the supervisor and/or ARD speak directly to the parties or having the supervisor and/or ARD deal directly with the hearing officer can both be effective. What is important is that every avenue of reaching an agreement be explored and that efforts be made to narrow the issues as much as possible if a hearing is necessary. Regions seeking improvement in this area should examine the role of the supervisor and/or ARD to ensure that they are sufficiently involved in the process.

C. Percentage of Challenges Allowed and Consideration of Showing of Interest in Approving Election Agreements

Most Regions utilize a 10 percent guideline in the number of challenges they will permit in approving an election agreement. Some Regions adhere to that percentage strictly, while other Regions occasionally exceed that percentage. Only a few Regions appear to consider the extent of the showing of interest when determining whether to exceed the 10 percent guideline.

The Committee notes that the Board's advisory panels are examining the issue of the appropriate percentage of voters to permit to vote subject to challenge. Factors which Regions evaluate in deciding to exceed the 10 percent rule include: (1) showing of interest; (2) number of classifications in dispute; (3) size of the unit; (4) Regional resources; (5) desire of the parties and (6) the nature of the eligibility issues (e.g. striker recall and expectation of recall).

D. Utilization of Joint Conference Calls with the Parties to Secure Election Agreements

Generally, Regions conduct a conference with the parties on the morning of the hearing. In addition, some Regions conduct a conference, either face-to-face or telephonic, approximately two days prior to the hearing in a further attempt to secure an election agreement and, if that effort is unsuccessful, to define and narrow the issues to be litigated. One difficulty in utilizing a conference call procedure is scheduling a time prior to the hearing when the parties' representatives are sufficiently knowledgeable about the issues to take a position. Another possible disadvantage to the joint conference call is that a party will not be frank in discussing its flexibility on a particular issue and may be more inclined to posture. However, the advantage of using a conference call is that it is less time consuming than having the Board agent repeatedly calling the parties and relaying positions.

While a few Regions conduct such conferences in all cases scheduled for hearing, other Regions have successfully used these conferences when there are large units and/or numerous issues. In some Regions these conferences are conducted by the Board agent who has been handling the case, and possibly the supervisor, as well as the designated hearing officer (when a different Board agent). In other Regions the ARD, and occasionally the Regional Director, chairs the conference. When a conference call cannot be conducted, the hearing officer should contact the parties to become familiar with the issues.

As a best practice, Regions should always conduct a conference on the day of the hearing. In addition, Regions should seek to identify cases that would be appropriate for an earlier conference. The opening letter to the parties should advise them that a joint conference may be held. At this conference, in which the hearing officer should be a participant, the Region

should continue to explore the possibility of an election agreement, seek to narrow the issues and obtain a better understanding of the issues. If not done previously, the Region should obtain the job classifications and, if possible, the names of the employees in the proposed unit(s) inasmuch as such information may alert the Region to possible issues in dispute. As is the practice in at least one Region, during the conference the Region should have the parties discuss the anticipated witnesses and documents each party expects to seek to introduce at the hearing.

The Committee concludes that the best practice is to keep the lines of communication open with the parties, whether by joint conference calls or otherwise, and be tenacious in pursuing an agreement, as well as in narrowing the issues in the event a hearing is necessary.

## HEARINGS

### A. Hearing Officer Assignments

The overwhelming majority of Regions do not have R case teams. The Regions which have R case teams handle the assignment of hearings in different manners. One Region has an R case team that investigates the petition and then the hearing is assigned to any professional in the office. Another Region has one professional who handles all R case investigations and hearings, unless conflicts arise, in which case a small cadre of professionals is drawn upon to be the hearing officer.

Other Regions, which do not have an R case team, have agents who are routinely assigned hearing officer duties. One Region rotates the hearing officer duties amongst three field examiners. Another Region has a senior field attorney who conducts most of the Region's hearings. For the remaining Regions, a pattern emerged from the survey responses which indicates that these Regions attempt to assign the R case investigation and hearing officer duties to the same agent.

In many Regions, when reassignment of a hearing from the investigating agent is necessary, the assignment occurs shortly before the hearing. After the reassignment, the Regions varied in their approach to continued contact between the agent and the parties. In many Regions, the newly assigned hearing officer typically has little or no contact with the parties prior to the day of hearing. In a few Regions, the new hearing

officer contacts the parties in an attempt to narrow the issues or secure an election agreement.

As stated above, the Committee finds as a best practice that R cases should not be reassigned from the investigating agent unless necessary due to the limited experience of the Board agent, scheduling conflicts or agent unavailability due to previously scheduled leave. When reassignment is necessary, it should be done as early in the process as possible. Furthermore, the second agent (hearing officer) should contact the parties immediately to learn the issues and positions of the parties. Such contact will assist in securing an election agreement or in narrowing the issues more effectively than relying exclusively on discussions with, or reports from, the prior Board agent.

## B. Preparation by Hearing Officers

There appears to be a wide disparity as to the process by which hearing officers prepare for pre-election hearings. A few Regions have a formal process wherein the hearing officer has a meeting with the supervisor and/or DRA and at least one manager to discuss pre-hearing issues. One Region, which has an R case team, has weekly team meetings wherein the anticipated issues are discussed. In other Regions there is often some type of discussion by the hearing officer with the supervisor, although a number of Regions rely on the hearing officer to decide whether any discussion is necessary. Hearing officers in several Regions apparently do not generally engage in any internal discussions with supervision prior to the hearing.

We find as a best practice that no case should proceed to hearing without consultation with at least one supervisor or manager. Such consultation can either be a formal meeting or involve informal communications. The key point is that a discussion should be conducted to determine whether there is any approach that can be employed in a final attempt to secure an stipulated agreement, as well as to narrow the issues and to ensure a concise, yet complete, record.

## C. Oral Argument

Many Regions find that post hearing briefs are helpful inasmuch as they expedite the recitation of the facts, confirm the issues in dispute and assist or verify the Region's research of the applicable case law. Other

Regions believe that post hearing briefs are not very helpful except in difficult cases. These Regions state that oral argument would be preferable, but the parties have the right to file a brief pursuant to Section 102.67 of the Board's Rules and Regulations and it is difficult to get the parties' agreement to argue the issues orally in lieu of filing briefs.

It is considered a best practice that the hearing officer should solicit oral argument in lieu of briefs in appropriate cases since in some cases briefs are little, if any, assistance to the Regions and may delay issuance of the decision.

In any event, it is a best practice that the hearing officer should ensure that the parties state on the record the issues and their position on each issue at the end of the hearing. Such statements will assist the Region in preparing the decision more quickly. Finally, when briefs are to be filed, the parties should be requested also to submit their briefs on diskette to facilitate their possible utilization on the computer.

D. Filing of Briefs

Section 102.67(a) of the Board's Rules and Regulations provides that, prior to the close of the hearing, the hearing officer, for good cause, may grant an extension of time not to exceed 14 days beyond the automatic 7 days to file briefs. There is no consistent practice among the Regions, however, as to the extent to which hearing officers exercise this discretion. In our experience, the issues in the typical hearing do not warrant an extension of time. Accordingly, it is found to be a best practice that, absent very unusual circumstances, the hearing officer should exercise his or her discretion judiciously and grant requests for extensions of time beyond the automatic seven day period in only the most unusual cases. The factors considered by the hearing officers, all of which are appropriate, include the positions of the parties, basis for the request, projected date for issuance of the decision, length of the transcript and previous delays in the processing of the case. In accordance with GC Memorandum 96-2, parties should be advised on the record that they can order expedited transcripts and that their failure to do so will result in a denial of subsequent requests for extensions of time due to late receipt or nonreceipt of transcripts. At least one Region sets forth this announcement in a notice which is included in the formal papers. (See Attachment E).

E. Steps to Ensure Complete Record

The Regions reported different methods for ensuring the completeness of R case hearing records. These methods are primarily divided into two groups. The first set of methods is used prior to the closing of the record and allows the hearing officer to get a complete record. The second set of methods is used after the record has closed and is primarily employed to ensure complete records in future hearings.

Prior to closing the record in an R case hearing several Regions have a formal or semi-formal system of contact between the hearing officer and the Regional Office during the course of the hearing. In a few other Regions, the hearing officer meets with the RA or ARD to discuss the record before it is closed. This is possible where the hearing is held in the Regional Office or when the hearing officer can contact the Region by telephone prior to closing the record.

After the record is closed, some Regions review the record as a training method to ensure that future records are complete. Some Regions utilize supervisors or managers (ARD) in the direct reading of the transcript. In Regions where supervisors did not review the transcript, incomplete records are brought to the attention of supervisors by the decision writer during the course of writing the decision.

We find, as a best practice, that hearing officers should be in contact with the Regions during and/or immediately prior to the close of the record at least in cases involving difficult issues or where there is an inexperienced hearing officer. In Regions which are experiencing difficulties with respect to the completeness of the records, consideration should be given to supervisory review of the records of those Board agents who are experiencing this problem.

F. Training New Agents

The Regions rely upon several methods of training new hearing officers, including materials from the new employee training conference and the video on hearing officer training. Another method which is utilized in many Regions allows the new hearing officer to observe and/or second chair a hearing prior to conducting a hearing alone. Several offices also assign new hearing officers to hearings which are scheduled to be held in the Regional Office to facilitate communication between the hearing officer and the Region. Numerous Regions review R case transcripts with the new hearing officer after the hearing is completed in an effort to assist in the training process.

The Committee finds several best practices regarding the training procedures for hearing officers. Regions should utilize Agency training materials and make the materials available to hearing officer trainees for review prior to conducting a hearing. The referenced materials include the hearing officer video tape, the hearing officer's guide, the R case manual, new employee training materials, and the September 1995 R case training materials. The Committee also concludes that new hearing officers should initially observe a hearing, then sit next to a hearing officer and, finally, serve as a hearing officer at a hearing which is observed by a supervisor or an experienced hearing officer. Furthermore, it is concluded, to the extent possible, that, prior to holding a hearing, Regions have new hearing officers review an R case transcript or prepare an R case decision. Finally, the Committee finds that Regions should ensure that hearing officers have a basic familiarity with the Federal Rules of Evidence, with particular attention directed to the sections contained in the hearing officer's guide. Each of these best practices will help equip new hearing officers to conduct hearings efficiently and effectively and to ensure a complete record. They are also consistent with the third goal of the Agency's GPRA Strategic Plan.

## R CASE DECISION WRITING

### A. Decision Writing Assignments/Specialization

Regions make decision writing assignments by one of three methods. In some Regions, the assignment is done on a case-by-case basis and is determined by the availability of the agent. Some of these Regions also factor in the particular area or issue of law involved and whether there is an agent who is considered to have developed a degree of expertise in that area or on that issue. In other Regions, one individual is designated as the decision writing specialist and drafts all decisions unless there is an overflow of work. This individual may be a supervisory attorney, DRA or RA, as well as a unit professional. Finally, other Regions have an R case team which will have one or more attorneys who draft the decisions.

It is the consensus of the Committee that all the assignment methods are valid and the reason each Region adopts a particular method for making decision writing assignments probably has several legitimate

variables including both the size of the Region and the number of decisions being written.

B. Time Decision Writing Assignment Is Made/Length of Hearing

The responses of the Regions can be grouped as follows: Assignment made before hearing closes; assignment made after hearing closes and upon receipt of hearing officer's report; assignment made 1 to 2 days after hearing closes; or assignment made upon receipt of transcript in the Region. When there is a lengthy hearing, some Regions will make the assignment, particularly if there has been an adjournment, before the hearing closes and/or upon receipt of the first volumes of transcript in order to expedite the issuance of the decision.

The consensus of the Committee is that the best practice in this area is to make the decision writing assignment no later than one business day after the hearing closes. In cases of lengthy hearings, including those that have been adjourned to be resumed at a later date, the assignment should be made upon receipt of the first volumes of transcript. It was felt that this practice was most compatible with ensuring the timely issuance of decisions in that it allowed the Board agents to more quickly initiate their research and also to organize and arrange their schedules around the decision writing assignment.

C. Levels of Review/Materials Reviewed

In some Regions, the decision writer's draft is reviewed only by the Director, who also reviews the briefs and in some instances may review portions of the transcript. Other Regions have two levels of review. The decision writer's draft is reviewed by at least one supervisor in addition to the Director. Depending upon the particular Region, this supervisor may be a first line supervisor, DRA, RA or ARD. In some Regions this supervisory review will include a review of the briefs and the entire transcript while in other Regions the review is normally limited to the briefs but may include some review of portions of the transcript as deemed warranted.

A few Regions have three levels of review. The decision writer's draft, before being submitted to the Director, is reviewed by two supervisors, who, depending upon the Region, may be any combination of first line supervisor, DRA, RA or ARD. Review on the first level in Regions

utilizing this system normally includes reviewing the briefs and transcript while the second level of review may be limited to the decision draft or may also include a review of the briefs.

The Committee recognizes that all the various methods and levels of review currently utilized by the Regions have some validity. However, the Committee, taking into account this new era of government restructuring where we have diminished resources, concludes that it is a best practice that review of the draft decision be limited to a maximum of two levels of review, which would include review by the Director. The first level of review would include a review of the draft decision, any briefs submitted and, to the extent necessary to ensure a quality decision, portions or all of the transcript and exhibits. While some Regions adopting this procedure could have concern about its impact on quality, the Committee's rationale is driven by the necessity to obtain greater utilization of resources by reducing the number of levels of review thereby freeing up supervisory/managerial personnel to work on other tasks.

D. Priorities of Decision Writer/Competing Category III or Other Assignments

The responses of the Regions were fairly consistent in this area. In general, top priority is given to drafting the decision, including priority over Category III investigations. The agent's other work assignments are taken into account prior to making the decision writing assignment. Some Regions reassign or swap the information officer duties of the decision writer while other Regions do not. The Committee notes that there appeared to be a consensus among the responses of the Regions in recognizing the priority to be given to decision writing assignments. Thus, it is concluded that it is a best practice, to the extent possible, that decision writing assignments should not be given to agents who have immediate Category III conflicts.

E. Indexing of Prior R Case Decisions by Issue/Placing Decisions on Common Drive

Some Regions reported having no indexing system of previously issued R case decisions other than institutional memory. These Regions also do not store issued R case decisions on the common drive. Other

Regions reported having various forms of written indexes of previously issued R case decisions generally maintained by issue or subject matter.

Still other Regions reported having developed the expertise whereby they are keeping subject matter indexes and sub-directories of previously issued decisions and the decisions themselves on the computer common drive. Some of these Regions utilize read only protection in this regard to protect the integrity of their decisions after they have issued. Other Regions, in order to save space on the Regional Office computer file server, keep only the issue and subject indexes and sub-directories on the common drive and store the decisions themselves on diskette. One Region uses a shared file system on the office network for decision writing assignments in which the Region maintains a decisions sub-directory on the office network. This sub-directory is further divided into a pending sub-directory and a research sub-directory. A separate file is created for each decision being drafted. The decision writer, the supervisor and the secretary all have access to this sub-directory and each can make appropriate revisions to the draft decision as required.

The Committee concludes that it is a best practice to keep issue and subject matter indexes and sub-directories, as well as selected decisions, on the common drive. This will be limited by the space available on the common drive. The Committee's rationale is driven by the increased efficiency and productivity such expertise generates. Accordingly, all Regions are encouraged to develop and increase their use of computer technology in creating issue and subject matter indexes, storing and retrieving decisions and pulling appropriate text from decisions as needed. By way of example, attached hereto are samples of indexing formats currently utilized by two Regions. (See Attachments F and G).

## F. Other Utilization of Computer Technology for Decision Writing

All Regions, with the possible exception of one or two Resident Offices, have had the Summation software installed and have received training on its use. Some Regions make use of this computer technology to read the transcript and take notes. The responses of some of the Regions which had received Summation training by the time of the R case Best Practices survey were positive regarding its effectiveness and usefulness. These Regions felt that Summation allowed for better organization of, and easier access to, the testimony, especially on the longer transcripts. Some Regions were not as enthused, primarily either

because of apparent glitches in the software they received, problems with the transcript disk being properly formatted by the court reporter or the computer they were using not being powerful enough to handle the Summation software.

The Committee believes, based on the positive responses of the Regions who had received Summation training by the time of the survey and had not experienced any technology problems, that as these technology problems are eliminated, Summation will prove to be an increasingly efficient method of organizing and reviewing transcripts, especially longer ones. Thus, the Committee concludes that it is a best practice for Regions to encourage the use of Summation in the drafting and reviewing of R case decisions.

Most Regions make use of various boilerplate templates to draft the decision. Additionally, Regions make use of the common drive to transfer the decision from the decision writer to the secretary for final editing and issuance.

As with Section E above, the level of expertise varies greatly among the Regions. However, it appears that most Regions make some use of computer technology in preparing their decisions. The Committee concludes that all Regions should attempt to maximize their use of the decision templates to increase their efficiency and speed in drafting R case decisions. The Committee also concludes that some consideration should be given to the development of a computerized national repository of indexes and Regional R case decisions.

## ELECTIONS

### A. Case Assignment Procedure

The Committee considered the various assignment procedures used among the Regions. We noted that many Regions utilize an election clerk/election specialist/election assistant and/or a WAE ("when actually employed") to conduct elections, thus freeing up the professional employees who would otherwise conduct elections. Some Regions have R case teams or election teams which conduct virtually all the elections. Many Regions seek to have the election conducted by the same agent to

whom the petition was initially assigned, particularly where there is no R case or election team. We also noted that several Regions assign Spanish speaking agents to elections involving Spanish speaking employees.

In evaluating the various responses, the Committee was mindful that issues of support staff restructuring/upgrading were under consideration by another committee. Apart from such deliberations, the Committee believes that it is a best practice to have "specialists" conduct elections, with the resulting advantages of specialization and more time for the professional employees to concentrate on other casehandling matters. In this regard, whether the specialist is the election clerk/election specialist/election assistant and/or a WAE, the gains from having one or more individuals especially knowledgeable in the election process, being better able to coordinate election assignments and travel, and minimizing the time taken from various professional employees, favor such specialization. It is recognized, of course, that staff size, geographic size of the Region and office makeup factor into what may be the ongoing practice. But, in the main, we would urge strong consideration to any procedure that allows for "quality elections" which minimizes the impact on the professional staff.

## B. Coordinating Elections with Other Assignments

Regions were asked to comment on how they coordinate elections with other assignments. The dominant response was that a monthly or master list of scheduled elections is maintained for use by the supervisors and agents for coordination purposes. Some Regions have regular meetings where the ARD or supervisors discuss possible coordination of casehandling assignments with elections in the same geographic area. The Committee believes that the key element needed for coordination is communication among the involved individuals, an ongoing dialogue as to when and where an election is scheduled, and what other casehandling activities can be accommodated with the election. In this regard, the Committee considers it a best practice that in addition to posted election lists and regular discussions among supervisors, this information should also be placed on the common drive for ease of reference for all office personnel.

C. Procedures for Non-English Elections

As to non-English elections, most Regions will translate the election notice and ballot upon request of the parties and where the percent of non-English speaking voters is more than minimal. One Region will not translate notices/ballots where less than 5 percent of the electorate require it; will always translate when more than 10 percent require it; and between 5 to 10 percent will usually agree to translate. The Committee does not suggest that any fixed percentage formula be used, but does suggest that any request for translated notices/ballots be carefully probed to ensure that the Region is not being asked to do something that is not really needed. (For example, the mere fact that some voters may not speak English does not necessarily mean that they cannot comprehend the ballot. Some questions to consider are: How do these individuals follow job instructions? Do their supervisors speak to them in English? Are all company notices translated?). The Committee recognizes, of course, that certain elections require translated notices/ballots, and perhaps even the need for an interpreter at the election; and where a Regional Office has such bilingual agents, they are often used. However, the purpose of having the notice/ballot translated is to help ensure that by the time of balloting, the electorate is reasonably familiar with its rights and the issue to be decided.

The Committee has some concern with having non-English-speaking observers conversing with the voters at a time when the Board agent cannot understand what is being said. If a translator is needed at the point of election, a Board interpreter was deemed preferable to having the observers appearing to "run the show."

The Committee also notes that many Regions maintain an inventory of translated notices (i.e., side panels), as does the Forms Management Unit in the Division of Administration. Although the middle panel containing the information specific to the particular case may have to be translated, most of the document probably has already been translated somewhere in the Agency. The Committee considers it a best practice to contact the Forms Management Unit initially and possibly also other Regions before hiring an outside translator.[1] Moreover, assuming no objections to the

[1] Notice translations in the following languages are available from the Forms Management Unit: Arabic, Bengali, Bosnian, Cambodian, Chinese, Creole, Czech, Ethiopian, French, German, Greek, Hindi, Hmong, Italian, Japanese, Korean, Laotian, Polish, Portugese, Romanian, Russian, Samoan, Tagalog, Thai, Tongan, Vietnamese

notice translated by the Region, such notice should be submitted to the Forms Management Unit.

D. Observers

As to requests for nonemployees to act as election observers, most Regions do not permit it, citing Casehandling Manual Section 11310, whereas some Regions discourage it. However, the Committee is mindful of Embassy Suites Hotel, Inc., 313 NLRB 302 (1993), wherein the Board held that Section 11310 does not establish a rule forbidding nonemployee observers, and that the use of nonemployees[2] as observers is not per se objectionable. The preferred approach, however, is to have nonsupervisory employees of the involved employer serve as observers. In this respect, the Committee is cognizant of OM 94-98 (Nov. 22, 1994) and the observer form attached thereto. The Committee finds it a best practice to send the form, as modified to conform to *Embassy Suites*, to the parties well in advance of the election in order to resolve potential issues as to the designated observers. (See Attachment H.)

E. Challenge Ballot Procedure

As to whether any document is provided to the challenged voter explaining the challenge procedure, most Regions handle the matter orally. Some Regions provide a written explanation, especially if there is a large number of anticipated challenges. Where a large number of voters was going to be challenged, one Region prepared a document explaining the challenged ballot procedure which it provided to the parties and had posted alongside the Notice of Election. There was mixed feeling among the Committee as to whether, as a matter of routine, a challenged voter should be provided with a written explanation. Some believed it to be a good idea so that the voter might better understand the procedure. Others felt that having another document for the voter to read might spawn questions and conversation, thus possibly delaying the voting process. In the end the Committee agrees that it is preferable that whatever explanatory document is prepared by the Region should be posted (if the employer is willing) rather than having a handout at the point of balloting, and that this be done only in those elections where a large number of challenges is anticipated. (See Attachment I as one example). One idea raised was to consider

[2] By nonemployees we do not include managerial employees, supervisors or other agents or individuals closely aligned with a party.

having an NLRB-prepared explanation of the challenge procedure appear in the Notice of Election.

F. Resolving Challenges Prior to Opening the Ballots

As to the procedure used to resolve challenges prior to counting the ballots, virtually all Regions follow the procedure described in Casehandling Manual Section 11340.3. All resolutions of challenges are put in writing by the parties' authorized representatives. One Region will try to resolve **determinative** challenges immediately after the count if the parties are amenable. Certain challenges involving no factual dispute may be easily resolved by examination of pertinent records and the Board election agent will ask the employer to produce such records for examination by the other party(ies). One Region - in large elections with several polling periods - has the Board agent consult with the parties between polling sessions, based on a pre-arranged schedule, in an attempt to resolve challenges. The overriding consideration is to try to gain a resolution of the challenges immediately upon the conclusion of the election and thus finalize this aspect of the QCR process. To this end the Committee finds it a best practice that Regions should make special effort to urge the parties to address the challenges at the election, immediately upon the closing of the polls. Similarly, in an effort to ferret out possible challenges Regions should solicit the other party's(ies') written position as to the accuracy of the *Excelsior* list when forwarding the list to it/them. By seeking the union's response to the list in advance of the election date, potential challenges may be obviated, especially where employee names were inadvertently omitted from the list or included in error.

G. Technology in Mail Ballot Elections

Concerning the use of computer technology in mail ballot elections, although some Regions use mail merge, most do not. The Regions that use mail merge do so in the larger elections where clerical time can be saved. Some Regions in the case of large elections ask the employer to provide one or more sets of self-adhesive mailing labels and the diskette for use by the election clerk in preparing the mail ballot kits and list of employees with all pertinent information. The Committee believes that any use of computer technology that serves to reduce the amount of support staff time needed to prepare the mail ballot kits is worthwhile. Therefore, the Committee believes that the best practice is for the Regions to request

mailing labels and diskettes from the employer and to increase their expertise in the use of mail merge technology for use in large mail ballot elections.

## POST-ELECTION

A. Case Assignment Procedure

The Committee learned that when election objections and/or challenges are filed some Regions will immediately assign the case to a Board agent. Other Regions will not assign the case as soon as the objections or challenges are filed, but will wait to see what evidence is provided in support thereof, thereby allowing the Region to tailor the assignment to a particular agent who has less pressing matters or has a familiarity with the issues (without sacrificing speed). The Committee believes it to be a best practice to immediately assign the objections/challenges rather than to wait for the evidence in support thereof to arrive. In this way, the Board agent is in a better position to clear his or her schedule to conduct the investigation promptly and this also allows him or her to become familiar with the issues and possibly to secure a withdrawal of some of the allegations or an agreement for a re-run.

B. Notification of Right to File Objections

Our survey indicated a lack of uniformity among the Regions as to whether they notify parties about the right to file objections immediately after the tally of ballots is prepared. Most Regions do not apprise parties of their right to file objections. A few Regions have Board agents advise parties at the election of their right to so file. The Committee did not find that either method constituted a best practice, and concluded that it was a policy question.

Once objections are filed, most Regions promptly send the Star Video letter (Star Video Entertainment L.P., 290 NLRB 1010) (evidence in support of objections must be filed within 7 days) to the objecting parties. To the extent that any Region does not send the Star Video letter, the Committee concludes it is a best practice to promptly send, by facsimile transmission, the Star Video letter. The benefits of doing so include

increasing the possibility that the objecting parties will provide their evidence more quickly than otherwise and, if they provide no evidence or insufficient evidence to justify conducting an investigation, the Region has improved the likelihood of being sustained when it issues a Report dismissing the objections.

The Committee ascertained that once objections are filed, some Regions request all parties to submit their evidence within seven days of the filing of objections. Others will wait to receive the objecting party's evidence before seeking evidence from others, to avoid seeking evidence from the non-objecting party where the objecting party's evidence does not warrant it. However, waiting to evaluate the objecting party's evidence before seeking evidence from the non-objecting party may create a delay in resolving the issues. At least one Region employs a hybrid procedure. Upon receipt of objections, it will evaluate them to determine when to request evidence from the non-objecting party. Thus, by way of example, where the objecting party alleges a threat as objectionable conduct, this Region immediately asks the non-objecting party to respond to the allegation, rather than to wait for the objecting party's evidence, inasmuch as the likely denial from the non-objecting party may allow the Region to move the case to the next stage more quickly. The Committee believes each method has advantages and there is no best practice. The Committee believes that in most instances asking all parties for their evidence once objections are filed will allow the Region either to resolve all issues or to proceed to a hearing in the shortest period of time. However, a disadvantage is that a non-objecting party is being requested to provide evidence when it may be unnecessary for it to do so. In those Regions where the circuit courts, in most circumstances, require a hearing to resolve objections, it was felt that the better procedure was to ask all parties for their evidence immediately upon objections being filed due to the greater likelihood that a hearing will be required.

It was agreed that it is beneficial to advise all parties, as soon as practical, as to the possibility of a hearing (so that parties can leave dates open and begin preparation). One Region does this by indicating in its letter to the parties requesting evidence on the objections, that a hearing may be necessary, and, if so, that the hearing is being tentatively scheduled for a particular date. (See Attachment J as well as Attachment K when there are determinative challenges). This may make for earlier hearings, if one is necessary, and fewer adjournment requests. It also may cause the Region to further expedite its investigation so as to render a determination on whether proceeding to a hearing will be necessary at an

earlier enough point in time so as to proceed to hearing on the date which was tentatively proposed. Not all Committee members viewed this as particularly helpful in opening hearings earlier. The view was expressed that there was insufficient information to assert that parties were requesting substantial delays in the opening of hearings once they were set by the Region, or that by notifying parties earlier in time of a tentative hearing date parties were less likely to seek an adjournment. On the other hand, this early notification of a possible hearing date for objections is consistent with the present approach we are taking pre-election where we notify parties on the day a petition is filed, or the next day, that a hearing on the petition will occur, if necessary, at a date certain, with the hope that this will result in earlier hearings and discourage adjournment requests. The Committee did not reach consensus on a best practice in this area.

As for determinative challenges, it appears that most Regions will ask all parties, at the same time, within a limited number of days after the election, for their evidence regarding the challenges. It was noted that some Regions advise all parties at the election that they have until a specific date, normally the date objections are due, to present their evidence on the determinative challenges and they promptly follow this up with a letter to that effect. The Committee finds this to be a best practice.

C. Administrative Investigation v. Hearing

In most cases, most Regions dispense with administrative investigations of objections and/or challenges and choose to notice the matter for hearing. However, some Regions have had success in conducting administrative investigations and resolving all issues without a hearing. It was generally acknowledged that Regions should avoid administrative investigations where they were likely to be lengthy, particularly where it also appeared that the administrative investigation was not going to resolve all issues. It was acknowledged that administrative investigations were most appropriately undertaken where it was anticipated that there were no credibility or factual issues, or, even crediting the moving party's evidence, as a matter of law, there was no merit to the contentions. Further, an administrative investigation was deemed appropriate where it appeared a certain type of objection could be administratively resolved, such as a Peerless Plywood or an Excelsior list objection, or where there was a failure to post Board notices for the minimum of three days. It was also noted that the view in the particular circuit court of resolving such matters administratively, rather than after a

hearing, is an important consideration in determining whether to proceed to a hearing. Thus, it is preferable to err on the side of proceeding to hearing rather than be told by a circuit court years later that it was inappropriate to resolve the issues administratively.

The Committee is of the view that it is a best practice not to interview witnesses to corroborate offers of proof of a direct or hearsay nature which establish a prima facie case. Rather, the Committee concludes that such matters should be sent to hearing to avoid time consuming investigations likely to result in hearings in any event. Moreover, while a few Regions write fairly detailed reports even when the matter is being noticed for hearing, the Committee concludes it is a best practice to write brief reports in that circumstance.

D. Partial Administrative Dismissal of Objections

The Committee noted that frequently, upon being advised that certain objections are being sent to hearing and that others have been found by the Region to be without merit, the objecting party will withdraw the non-meritorious objections. At present a minority of the Regions send all objections to hearing without attempting to dispose of any of them administratively. However, a clear majority attempt to cull out non-meritorious objections and to resolve them administratively, which shortens any hearing and reduces the number of issues at hearing. There were two or three Regions that send all objections to hearing but direct the hearing officer to accept no evidence in connection with the non-meritorious objections. This last option raised some concerns among the Committee, certain members noting that it may raise due process issues to notice a matter for hearing and then not allow any evidence, and that the hearing officer would then be disposing of an issue without any record evidence. One approach to this problem would be to encourage the objecting party to make an offer of proof by summary with respect to those objections where no evidence will be allowed.

It was determined that Regions should routinely attempt to persuade objecting parties to withdraw their non-merit objections to obviate the need to issue a report dismissing them. It is further concluded that a best practice is to administratively dismiss non-meritorious objections where others are being set for hearing, but only where it can be done expeditiously and the Region is confident it will be sustained. In this way, the hearing can commence promptly and the Board will be likely to dispose

of them with dispatch, with only the smallest likelihood the hearing will have to be re-opened to take evidence on any additional objections not initially sent to hearing. Finally, it is considered a best practice for a hearing officer, at the close of the objecting party's case and/or at the close of the hearing, where appropriate, to attempt to have objections (or challenges) withdrawn or sustained or to secure an agreement on a re-run.

E. Preparation of Hearing Officer

The Committee agrees that a best practice is for the manager/supervisor, in preparing a hearing officer for conducting a post-election hearing, to discuss legal and procedural issues, but to avoid discussing the evidence. The Committee believes that the hearing officer should decide the issues in the case strictly on the record evidence, and that any discussion of the anticipated evidence might improperly influence the hearing officer's decision.

F. Use of Counsel for the Regional Director

The Committee ascertained that a counsel for the Regional Director at post-election hearings is not routine, but that it occurred most frequently when Board agent misconduct was an allegation to be resolved at the hearing. In this way, the Region had greater confidence that its version of the events was presented on the record. The Committee concludes it is a best practice to have counsel for the Regional Director in all Board agent misconduct cases. In all other cases, except possibly where there are complex C case issues and/or voluminous affidavits, the hearing officer should be able to handle the proceeding with no counsel for the Regional Director, thereby saving scarce resources.

G. Post-Election Briefs

The Committee determined that the present policy is to allow for post-hearing briefs only where the hearing officer finds they would be helpful; otherwise, briefs should not be permitted as a matter of course or because the parties insist. It was also noted that where appropriate a hearing officer should limit the post hearing briefs to certain issues or length. (See Memorandum GC 96-2).

H. Training New Agents

Hearing officers are trained for post-election hearings by various methods, including discussions with their supervisors, through training seminars for professionals, through training materials, including the videotape on credibility, and by observing hearings. It is determined that it is a best practice to first have a Board agent conduct a pre-election hearing or an unfair labor practice trial before being assigned a post-election hearing and that another best practice is for inexperienced Board agents to review the manual sections on conducting such hearings.

## TECHNOLOGICAL ISSUES

With respect to technology, the Committee found itself in somewhat of a quandary. With implementation of CATS now on the horizon during the next two fiscal years, we recognize that its enhanced capabilities, including in the R case area, would modernize, if not revolutionize, our technical approach to R cases. For that reason, we conclude that it is not presently worthwhile to survey all of the technological interim "fixes" developed independently by some of the Regions in order to determine which, if any, of these interim measures is a best practice. We also recognize, however, that a fiscal year or two can be a long time for those Regions which are not technologically sophisticated. As an interim measure, we reviewed the templates submitted by the Regions for the purpose of making the most useful examples available to all Regions. A list of these templates is set forth in Attachment L.[3] Any Region desiring the templates should contact DAGC Nelson Levin.

Generally, most Regions utilize the computer as a word processor for the production of election notices, ballots and related election documents. One Region uses the computer to enter the "eligibility key number" on the yellow envelope of the mail ballot kit. Many Regions use templates to reproduce various election-related documents such as the election agreement and certification.

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[3] We appreciate the cooperation of many Regions in supplying templates to the Committee, most notably Regions 8, 11, 14 and 16.

# SUMMARY

## INITIAL R CASE PROCESSING

1. Petitions should be faxed to all parties (except Petitioner) on the day of filing. Service by mail should be achieved within two days of filing. The opening correspondence should reflect that the hearing will be conducted on consecutive days until it is completed, absent the most compelling circumstances, and that requests for postponement of a hearing will be granted only for good cause and consistent with the requirements set forth in Form NLRB 4338.

2. A NOH, either formal or "informal" (anticipated or proposed) should also be faxed to all parties on the date the petition is filed. In no instance should a formal NOH issue less than five days before the hearing is opened. Mail service of the formal NOH should occur as soon as possible following the fax transmission.

3. Hearings should open between the 10th and the 14th day after the petition is filed whenever possible.

4. The NOH should firmly put the burden on the parties to justify any postponements and propose alternate dates cleared by all parties that are acceptable to the Region.

5. The hearing officer should consult with a manager prior to ruling on a request for a continuance. The hearing officer should also announce at the opening of the hearing that it will run on consecutive days until completed. When a continuance request is made after a hearing opens, the requesting party should be directed to state the specific reasons on the record so that there is no misunderstanding as to the basis for the request.

## ELECTION AGREEMENTS

1. A representation case should not be reassigned after the NOH issues, unless there are reasons such as the agent's insufficient experience in view of the issues involved, conflicting assignments or agent unavailability due to previously scheduled leave.

2. There should be involvement of the supervisor and/or ARD, either directly or indirectly, in assisting agents to obtain election agreements or to narrow issues for hearing.

3. Regions should always conduct a conference on the day of the hearing. In addition, Regions should seek to identify cases that would be appropriate for an earlier conference.

4. Lines of communication should be kept open with the parties, whether by joint conference calls or otherwise, and Regions should be tenacious in pursuing an agreement, as well as in narrowing the issues in the event a hearing is necessary.

HEARINGS

1. R cases should not be reassigned at the hearing stage from the investigating agent unless necessary due to the limited experience of the Board agent, scheduling conflicts or agent unavailability due to previously scheduled leave. When reassignment is necessary, it should be done as early in the process as possible. Furthermore, the second agent (hearing officer) should contact the parties immediately to learn the issues and positions of the parties.

2. No case should proceed to hearing without consultation with at least one supervisor or manager.

3. The hearing officer should solicit oral argument in lieu of briefs in appropriate cases since in some cases briefs are little, if any, assistance to the Regions and may delay issuance of the decision.

4. The hearing officer should ensure that the parties state on the record the issues and their position on each issue at the end of the hearing. Such statements will assist the Region in preparing the decision more quickly.

5. When briefs are to be filed, the parties should be requested also to submit their briefs on diskette to facilitate their possible utilization on the computer.

6. Absent very unusual circumstances, the hearing officer should exercise his or her discretion judiciously and grant requests for extensions of time beyond the automatic seven day period in only the most unusual cases.

7. Hearing officers should be in contact with the Regions during and/or immediately prior to the close of the record at least in cases involving difficult issues or where there is an inexperienced hearing officer.

8. The Committee finds several best practices regarding the training procedures for hearing officers. Regions should utilize Agency training materials (refer to page 12) and make the materials available to hearing officer trainees for review prior to conducting a hearing. New hearing officers should observe a hearing, serve as second chair and then act as first chair at a hearing which is observed by a supervisor or an experienced hearing officer. Furthermore, to the extent possible, Regions should have new hearing officers review an R case transcript or prepare an R case decision prior to holding a hearing. Finally, Regions should ensure that hearing officers have a basic familiarity with the Federal Rules of Evidence, with particular attention directed to the sections contained in the hearing officer's guide.

R CASE DECISION WRITING

1. A decision writing assignment should be made no later than one business day after the hearing closes. In cases of lengthy hearings, including those that have been adjourned to be resumed at a later date, the assignment should be made upon receipt of the first volumes of transcript.

2. Review of the draft decision should be limited to a maximum of two levels of review, which would include review by the Director.

3. To the extent possible, decision writing assignments should not be given to agents who have immediate Category III conflicts.

4. Regions should keep issue and subject matter indexes and sub-directories, as well as selected decisions, on the common drive.

5. Regions should encourage the use of Summation in the drafting and reviewing of R case decisions.

ELECTIONS

1. To the extent possible, Regions should have "specialists" conduct elections, with the resulting advantages of specialization and more time for the professional employees to concentrate on other casehandling matters.

2. In addition to posted election lists and regular discussions among supervisors, scheduled elections should also be placed on the common drive for ease of reference for all office personnel.

3. Any request for translated notices/ballots should be carefully probed to ensure that the Region is not being asked to do something that is not really needed.

4. Regions should contact the Forms Management Unit initially and possibly also other Regions before hiring an outside translator. Moreover, assuming no objections to the notice translated by the Region, such notice should be submitted to the Forms Management Unit.

5. Regions should send the observer form, as modified to conform to Embassy Suites, to the parties well in advance of the election in order to resolve potential issues as to the designated observers.

6. In an effort to ferret out possible challenges Regions should solicit the party's(ies') written position as to the accuracy of the Excelsior list when forwarding the list to it/them.

7. Regions should make special effort to urge the parties to address the challenges at the election, immediately upon the closing of the polls.

8. When conducting mail ballot elections, Regions should request mailing labels and diskettes from the employer and increase their expertise in the use of mail merge technology for use in large mail ballot elections.

POST-ELECTION

1. Objections/challenges should be immediately assigned rather than waiting for the evidence in support thereof to arrive.

2. Regions should promptly send, by facsimile transmission, the Star Video letter.

3. Regions should advise all parties at the election that they have until a specific date, normally the date objections are due, to present their evidence on the determinative challenges and promptly follow this up with a letter to that effect.

4. Regions should not interview witnesses to corroborate offers of proof of a direct or hearsay nature which establish a prima facie case. Rather, such matters should be sent to hearing to avoid time consuming investigations likely to result in hearings in any event.

5. Regions should issue brief reports when the matter is being noticed for hearing.

6. Where it can be done expeditiously and the Region is confident it will be sustained, non-meritorious objections should be administratively dismissed despite others being set for hearing.

7. A hearing officer, at the close of the objecting party's case and/or at the close of the hearing, where appropriate, should attempt to have objections (or challenges) withdrawn or sustained or to secure an agreement on a re-run.

8. In preparing a hearing officer for conducting a post-election hearing, the manager/supervisor should discuss legal and procedural issues, but avoid discussing the evidence.

9. Counsel for the Regional Director should be present in all Board agent misconduct cases. In all other cases, except possibly where there are complex C case issues and/or voluminous affidavits, the hearing officer should be able to handle the proceeding with no counsel for the Regional Director, thereby saving scarce resources.

10. A Board agent should first conduct a pre-election hearing or an unfair labor practice trial before being assigned a post-election hearing and an inexperienced Board agent should review the manual sections on conducting such hearings.

United States Government
NATIONAL LABOR RELATIONS BOARD
Region 18 - Resident Office
909 Federal Building
210 Walnut Street
Des Moines, IA 50309-2116

Office: (515) 284-4391
Fax: (515) 284-4713

August 19, 1996

VIA FACSIMILE AND REGULAR MAIL

RE:
Case No. 18-RC-

Dear Mr. :

Enclosed is a copy of a Petition for Certification of Representative, pursuant to the provisions of the National Labor Relations Act, which has been filed with this office. Also enclosed is a copy of "Parties Involved In a Representation Petition," Form NLRB-4812, explaining the manner in which representation petitions are processed by this Agency.

The National Labor Relations Act requires the prompt resolution of questions concerning representation. Because this is an integral part of our mission, these cases are prioritized and resolved as expeditiously as possible.

If the Board has jurisdiction, the parties may execute a standard agreement for an election fixing the date, time and place and the classifications to be included in the appropriate unit. All such elections are conducted by an agent of the Board or by mail ballot under the supervision of an agent of the Board. Absent unusual circumstances, an election will be conducted within 42 days from the filing of the petition. Election procedures are outlined in the enclosed pamphlet. In the event there is no agreement for an election, a formal investigatory hearing may be held before a hearing officer of the Board.

Consistent with the Agency's efforts to ensure the expeditious resolution of questions concerning representation, please be advised that in the event it is determined that a formal investigatory hearing is necessary it is our intention to conduct that hearing on September 3, 1996. Requests for the postponement of the hearing will be granted only for good cause and consistent with the requirements set forth in Form NLRB 4338, which is enclosed with this letter. For purposes of Section 102.114(d) of the Board's Rules and Regulations, I am granting advance permission to the parties to file postponement requests with me by facsimile transmission. The hearing, once

Attachment A

commenced, will be conducted on consecutive days, until completed, unless the most compelling circumstances warrant otherwise. I advise the parties of these requirements at this time so that they may begin their preparations for them.

Attention is called to your right, and the right of any party, to be represented by counsel or another representative in any proceeding before the National Labor Relations Board. In the event you choose to have a representative appear on your behalf, please have your representative complete "Notice of Appearance," Form NLRB-4701. If you desire to designate a representative to receive all documents mailed by this office in this matter, you are requested to complete "Notice of Designation of Representative as Agent for Service of Documents," Form NLRB-4813. Both forms should be returned to this office as soon as possible. In view of our policy of processing these cases expeditiously, I anticipate that in the event you exercise your right to be represented by counsel or another representative you will do so promptly.

Prior to conducting a formal hearing, who has been assigned to this matter, will be in contact with the parties to explore the issues and, if appropriate, to obtain an election agreement. If these contacts do not result in an election agreement, we may conduct an informal conference before the scheduled formal hearing. At this conference, the Board agent will explore all of the issues raised by the petition in an effort either to obtain an election agreement or narrow the issues which will be litigated at the hearing. It has been our experience that these informal conferences can be extremely useful in helping us in these regards, and that it is in the mutual interest of all parties, as well as the Agency, to explore fully all potential areas of agreement in order to eliminate or limit, to the extent possible, the significant costs associated with litigation. I encourage the parties to share all available information at this conference.

In order to assist us in our investigation, please submit the following information immediately:

1. Commerce information, which may be furnished on the enclosed "Questionnaire on Commerce Information," Form NLRB-5081. An extra copy of the form is enclosed for your files.

2. An alphabetized list of employees described in the petition together with their job classifications, for the payroll period immediately preceding the date of this letter. This list is to be used to resolve possible eligibility and unit questions as well as to determine the adequacy of the Petitioner's showing of interest.

3. Copies of correspondence and existing or recently expired contracts, if any, covering employees in the unit alleged in the petition. Names of any other labor organization(s) claiming to represent any of the employees in the proposed unit.

4. Your position as to the appropriateness of the unit.

It has been our experience that the exchange of information made possible by providing the list of employees requested in Item 2 above to all parties to the case is an excellent aid in resolving many of the eligibility and unit questions that arise during case processing. Accordingly, I encourage you to provide the list as requested in Item 2 above, and to permit me to provide the list to the other parties. Please state in your return correspondence whether you intend to provide the list and whether I may provide it to the other parties.

Please be advised that in addition to the list of employees requested in Item 2 above, in the event an election is agreed to or directed in this case, a list of the full names and addresses of all the eligible voters must be filed by the employer with the undersigned, who will in turn make it available to all parties to the case. The list must be furnished to the undersigned within seven (7) days of the direction of election or approval of an agreement to conduct an election. I am advising you now of this requirement so that you have ample time to prepare for the eventuality that such list may become necessary.

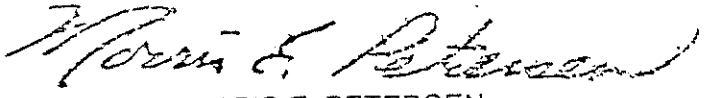
It has been our experience that by the time a petition such as this one has been filed, employees may also have questions about what is going on and what may happen. At this stage in the handling of this case, we, of course, do not know what disposition will be made of the petition, but experience tells us that an explanation of rights, responsibilities and Board procedures can be helpful to your employees. The Board believes that employees should have readily available to them information about their rights and the proper conduct of employee representation elections. At the same time, employers and labor organizations should be apprised of their responsibilities to refrain from conduct which could impede employees' freedom of choice. Accordingly, you are requested to post the enclosed Notice to Employees in conspicuous places in areas where employees such as those described in the enclosed petition work. Please advise me where in your facility you have posted the notice. Copies of this notice are also being made available to the labor organization(s) involved. In the event an election is not conducted, pursuant to this petition, you are requested to remove the posted notice. In addition, I am enclosing two (2) copies of the pamphlet, "Your Government Conducts an Election," for distribution to employees and to supervisory personnel. Additional copies of the pamphlet will be furnished upon request.

In addition, the Board has adopted a rule that requires that a Notice of Election be posted for at least 3 full working days prior to any election. The 3 full working days exclude weekends, holidays, and the day of the election. The first day of the full 3 working days begins at 12:01 a.m. Enclosed is a copy of the Board Rule Section 103.20 setting forth this posting requirement. Section 103.20(c) provides that an employer shall be conclusively deemed to have received copies of the Notice of Election unless it notifies this office at least 5 working days prior to the commencement of the election that it has not received copies. The Board has interpreted Section 103.20(c) as "requiring an employer to notify the Regional Office at least 5 full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice." Club Demonstration Services, 317 NLRB 349 (1995).

Please be further advised that under the Freedom of Information Act, unfair labor practice charges and representation petitions are subject to prompt disclosure to members of the public upon request. In this regard, you may have received or may receive a solicitation by organizations or persons who have obtained public information concerning this matter and who seek to represent you before our Agency. You may be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board; their information regarding this matter is only that which must be made available to any member of the public.

If you have any questions, please do not hesitate to communicate with Robert R. Reid. Your cooperation will expedite the investigation and be deeply appreciated.

Sincerely,



MORRIS E. PETERSEN
Resident Officer

MEP:ahf
Enclosures
cc:

(P)

NATIONAL LABOR RELATIONS BOARD
REGION 33
300 HAMILTON BOULEVARD - SUITE 200
PEORIA, ILLINOIS 61602-1246
Office Telephone 309-671-7080
Fax 309-671-7095

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Facsimile Cover Sheet

To:
Company:
Phone:
Fax:

From: Gary L. Vickers, Assistant to the Regional Director
Region 33, NLRB, Peoria, Illinois
Phone: 309-671-7069
Fax: 309-671-7095

Date: 6/7/96

Pages including this page: 6

Subject: FILING OF PETITION AND NOTICE OF ANTICIPATED HEARING

This acknowledges receipt of the Petition you filed today in the matter referenced in the letter accompanying this facsimile. If you intend to have counsel represent you, please do not delay in contacting your counsel and apprising him/her of the Petition and the intended hearing dates. A copy of the Petition, the letter accompanying it, and other documents are being mailed to you today, but you should not delay in preparing for the processing of the Petition or in contacting your representative, if any. You, or your representative if any, should contact the Board Agent named in the letter within the next three days if he/she has not contacted you by then.

## NOTICE

Your attention is directed to the **Notice of Anticipated Hearing** in the accompanying letter which provides, inter alia, that a Notice of Hearing will issue within five (5) days from the date of filing the representation Petition setting a hearing date for one of the three dates set forth therein, unless all parties to this matter firmly commit to an election agreement providing for an election within 42 days from the date of the filing of the Petition. Your prompt attention to this matter is urged because postponements outside the time periods specified in the letter will <u>not</u> be granted except in the most compelling and unusual circumstances.

Attachment B

United States Government
NATIONAL LABOR RELATIONS BOARD
Region 33
300 Hamilton Boulevard - Suite 200
Peoria, IL 61602-1246
Telephone (309) 671-7080
Facsimile (309) 671-7095

June 6, 1996

Re:

A petition has been filed with this office pursuant to the provisions of the National Labor Relations Act. A copy is attached. Investigation of this matter has been assigned to the staff member named below, to whom all inquiries and correspondence should be directed:

Attention is called to your right, and the right of any party, to be represented by counsel or other representative in any proceeding before the National Labor Relations Board. In the event you choose to have a representative appear on your behalf, please have your representative complete "Notice of Appearance" Form NLRB-4701, and forward it promptly to this office. In the event you also wish not to receive copies of written communications between this agency and your representative (except for formal documents), it will be necessary for you to complete and forward to this office "Notice of Designation of Representative" Form NLRB-4813.

To assist in completing the investigation, the Employer is required to submit within 48 hours the following:

1. The attached jurisdictional questionnaire, fully completed and signed (unless this has been submitted in a recent case).
2. An alphabetized list of names and job classifications of your current employees in the unit described in the petition.
3. A copy of any current or recently expired collective bargaining agreement covering any of such employees.
4. The names of any unions claiming to represent any such employees, and copies of any pertinent correspondence with them.

The prompt communication of your position as to the appropriateness of the unit sought in the petition and your willingness to agree to an election to be conducted by the Board to resolve any questions concerning representation will be appreciated.

In the event it is determined that an election is warranted in this matter, such election may be brought about by agreement of the parties or by Decision and Direction of Election following a hearing. It has been our experience that in most cases the parties are able to agree on the terms and conditions of an election, thereby saving all concerned the time and expense of a formal hearing. It is the Agency's policy to encourage such agreement.

It has been our experience that by the time a petition such as this one has been filed, employees also have questions about what is going on and what may happen. At this point in the handling of this case, we do not know what disposition will be made of the petition, but experience tells us that an explanation of rights, responsibilities and procedures can be helpful to the employees involved. The Board believes that employees should have readily available information about their rights and the proper conduct of employee representation elections. At the same time, employers and unions should be apprised of their responsibilities to refrain from conduct which could impede employees' freedom of choice. Accordingly, the Employer is requested to post the enclosed Notice to Employees in conspicuous places in areas where employees such as those described in the enclosed petition work, and notify us of such posting. Copies of this Notice are being made available to the labor organization(s) involved. In the event an election is not conducted pursuant to this petition, the Employer is requested to remove the posted Notice.

If an election is agreed to or directed in this case, the Board requires that a list of names and addresses of all the eligible voters be filed by the Employer with the undersigned, who will, in turn, make it available to all parties to the case. The list must be furnished to the undersigned within seven (7) days of the direction of or agreement to an election. I am noting this now so that the Employer will have ample time to prepare for the eventuality that such a list may become necessary. The list is in addition to the list of employees requested in the proposed unit by job classification.

If you have any questions, do not hesitate to communicate with the Board Agent named above. Your cooperation in this matter will be appreciated.

## NOTICE OF ANTICIPATED HEARING

Please be advised that if, after preliminary investigation, the undersigned has reasonable cause to believe that a question concerning representation exists and the parties have not made a firm commitment to waive hearing and consent to the conduct of an election by this office, we intend to issue a Notice of Hearing within five (5) days from the filing of the petition. The formal hearing, if necessary, will be scheduled for a date certain during the period (**June 14, 17, or June 18, 1996**).

In the event you decide to retain counsel or other representative, such person should be notified immediately of these dates.

Very truly yours,

Glenn A. Zipp
Regional Director

Enclosures

Please see the attached Notice regarding (a) the Employer's obligation to post copies of the Board's official Notice of Election should an election be held in this matter; (b) hearing sites; (c) Your Government Conducts an Election leaflet, and (d) disclosures under the Freedom of Information Act.

A. Subpart B, Section 103.20 of the Board's Rules and Regulations, as amended, provides:

1. Employers shall post copies of the Board's official Notice of Election in conspicuous places at least three (3) full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Office in the mail. In all cases, the Notices shall remain posted until the end of the election.

2. The term "working day" shall mean an entire 24-hour period excluding Saturdays, Sundays and holidays.

3. A party shall be estopped from objecting to nonposting of notices if it is responsible for the nonposting. An Employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least five (5) working days prior to the commencement of the election (interpreted as requiring notification to be given at least 5 full working days prior to12:0l a.m. of the day of the election) that it has not received copies of the election notice.

4. Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of Section 102.69(a).

B. Due to budget limitations, any hearing conducted in this matter will be held in Peoria, Illinois absent compelling reasons warranting a different hearing site.

C. The enclosed leaflet Your Government Conducts an Election may be distributed to inform affected persons of the National Labor Relations Board election procedures. This leaflet may be reproduced if additional copies are needed.

D. Please be advised that under the Freedom of Information Act, unfair labor practice charges and representation petitions are subject to prompt disclosure to members of the public upon request. In this regard, you may have received a solicitation by organizations or persons who have obtained public information concerning this matter and who seek to represent you before our Agency. You may be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board; their information regarding this matter is only that which must be made available to any member of the public.

## NOTICE

Your attention is directed to the Notice of Anticipated Hearing portion of the enclosed letter which provides, inter alia, that a Notice of Hearing will issue within five (5) days from the date of filing of the enclosed Petition setting a hearing date for one of the three dates set forth therein, unless all parties to this matter firmly commit to an election agreement providing for an election within 42 days from the date of the filing of the Petition. Your prompt attention to this matter is urged because postponements outside the time periods specified in the letter will not be granted except in the most compelling and unusual circumstances.

## NOTICE OF ANTICIPATED TELEPHONE CONFERENCE

## AND

## NOTICE OF ANTICIPATED HEARING

YOU ARE HEREBY NOTIFIED that if, after preliminary investigation, the undersigned has reasonable cause to believe that a question concerning representation exists within the meaning of Section 9(c) and 3(b) of the Act, a Notice of Hearing will issue scheduling a formal hearing for February 16, 1996[1], unless a firm commitment is received from each proper party by February 9, 1996 that it will waive hearing and consent to the conduct of an election by this office.

You are also notified that a telephone conference will be held at 10:00 a.m. on February 13, 1996 in order to explore any issues to be raised at the hearing and to further discuss whether the parties will agree to the conduct of an election by this office.[2]

DATED at Tampa, Florida, this 6th day of February, 1996

Rochelle Kentov

Rochelle Kentov, Regional Director
National Labor Relations Board, Region 12
Enterprise Plaza, Suite 530
201 E. Kennedy Boulevard
Tampa, FL 33602-5824

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[1]The Board agent assigned to the case will, upon request, furnish the names, addresses and the telephone numbers of the other parties to facilitate expeditious communications. Requests for postponement of the hearing shall not be granted unless good cause is shown in writing, and ABSENT EXTRAORDINARY CIRCUMSTANCES, no postponement of the hearing will be granted beyond February 22, 1996.

[2]Requests for postponement of the telephone conference shall not be granted unless good cause is shown in writing. Of course, the telephone conference will be cancelled if prior thereto the parties agree to the conduct of an election. (It is expected that any election would be held between 25 and 42 days from the filing of the petition.)

Attachment C

United States Government

NATIONAL LABOR RELATIONS BOARD

Region 25

575 North Pennsylvania Street - Room 238

Indianapolis, IN 46204-1577 (317) 226-7381

AN IMPORTANT MESSAGE TO THE PUBLIC
CONCERNING THE PROCESSING OF
REPRESENTATION CASES IN REGION TWENTY-FIVE

**THIS LETTER INCLUDES A NOTICE OF HEARING PROVIDING FOR A HEARING TO BE CONDUCTED ON THE FOURTEENTH DAY (OR FIRST BUSINESS DAY THEREAFTER) AFTER THE FILING OF THE ENCLOSED PETITION FOR A REPRESENTATION ELECTION UNDER THE NATIONAL LABOR RELATIONS ACT.**

If the parties enter into an election agreement, the hearing will be canceled. Requests for postponement will only be granted in limited circumstances where the reasons for such requests are compelling and all parties are available on the date requested. Any request must be made in accordance with the requirements set forth in Form NLRB 4338, a copy of which is enclosed.

a) The request must be in writing;
b) Grounds for the request must be set forth in detail;
c) Alternative dates for the rescheduling of the hearing must be given;
d) The positions of all other parties must be ascertained by the requesting party and set forth in the request; and
e) Copies of the request must be simultaneously served on all other parties and that fact must be noted in the request.

Very truly yours,

Roberto G. Chavarry

ROBERTO G. CHAVARRY
Regional Director

Attachment D

## NOTICE OF EXPEDITED DELIVERY OF TRANSCRIPT

The parties are hereby advised that they can make arrangements with the reporting service to obtain the transcript on an expedited basis. Requests for extensions of time to file briefs based on delay or nonreceipt of the transcript will be denied by the Regional Director if the parties have not availed themselves of this option.

Attachment E

# Explanation of Region 5 Index of Representation Case Decisions

Region 5's DRA maintains an Index on the office network, in a folder entitled "Decisions," showing all Regional Director Decisions. An example of pages from the Index is attached. For each Decision the Index lists the document's file name, case name, legal issue(s) addressed in the Decision, and miscellaneous information such as the date the Decision issued and an identifying number of a diskette containing the full text of each Decision. Unlike Region 14, and to save space on the office's file server, Region 5 does not archive the full text of each Decision on the office network; rather, the DRA maintains the Decisions on diskettes and updates the Index and the diskettes whenever appropriate. The "FIND" feature can be used to locate specific issues or phrases in the Index.

The Region's "Decisions" folder also has a sub-folder entitled "Research." This folder holds a number of document files containing a variety of frequently used topics and text. A separate file within that folder, named "Index_1," summarizes the document files. For instance, as shown in the attached pages, these are files containing the text of Sections 2(11), 2(12) and 9(b); community of interest standards; Daniel Construction eligibility formula; "boilerplate" text concerning supervisory status, managerial employees, relatives of management, technical employees; etc. The documents are not intended as a substitute for full research. Rather, they are akin to Word's Auto Text feature and offer a ready source of text available for Board Agents to use in writing FIRs, briefs and Decisions.

The Region also maintains its R case docket in a "read only" file on the office network. The ARD's secretary maintains the file, and Board Agents can access the file to learn intake and case filing information.

REPRESENTATION CASES
ON WORD FOR WINDOWS

[Joe Baniszewski has the diskettes]

| FILE NAME | CASE NAME | ISSUES | MISCELLANEOUS |
|---|---|---|---|
| | | | |
| BURNVOTE | BURNS AND ROE DIRECTION OF ELECTIONS | Election following Board decision | (disk 3) |
| LEGALORD | LEGAL AID BUREAU OF MARYLAND | Order denying motin to reconsider and reopen decision in 5-RC-13497 | (disk 3) Order following Health Care & Retirement decision |
| MACKVOTE | MACK TRUCK. INC. | Language, Globe election voting groups | (disk 1) Decision at RC-13889 (disk 1) |
| STAUFORD | D.F. STAUFFER BISCUIT CO. | Order motion to withdraw from stipulations, reopen hearing | (disk 3) |
| RC13655 | INSTRUMENT CONTROL CORP. | Representative complement | (disk 2) |
| RC13691 | B. GREEN & CO. | Eligibility of laidoff employees; Supervisor | (disk 2) |
| RC13700 | FLAME INSULATION | Helpers included in Section 9 unit, although excluded from Deklewa 8(f) unit Construction eligiblity, Whitty/Daniel formula | (disk 2) NOTE: Eligibility formula later changed in Steiney and Co., 308 NLRB No, 190 (Sept. 1992), overruling Whitty |
| RC13701 | POTOMAC EDISON ELECTRIC | Scope of Unit in electric power company | (disk 2) |
| RC13714 | SOUTH PENN GAS COMPANY | Supervisor | (disk 2) |



04/04/97
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| | | | |
|---|---|---|---|
| RC13732 | QAT, INC., AND TRANSPORTATION UNLIMITED | Single-Employer, driver leasing company | (disk 1) |
| RC13750 | SULLIVAN ENTERPRISES | Construction Employer, jobsite nearly completed | (disk 1) |
| RC13776 | DIVERSCO | Supervisor (uncontested) | (disk 2) |
| RC13779<br><br>See, Harrah's Lake Tahoe, 307/No. 29; Red & White Cab, 123/83; Sida of Hawaii, 191/194; Airport Distributors, 280/1144; Mutual Rough Hat, 86/440; | SCIENCE APPLICATIONS<br><br>Everett Plywood, 105/17; Coastal Plywood, 102/300; S-B Printers, 227/1274; Alderwood Products, 81/136; Brookings Plywood, 98/794. | Employee owership of shares in Employer -- conflict of interest issue<br><br>Advice memo, Oklahoma Aerotronics, 17-CA-15783, from WPL Advice. | (disk 1)<br>See, Alanis Airport Services, 316 NLRB No. 185 (4/14/94); conflict of interest, employee ownership of competitor ER |
| RC13783 | UNITED GLAZED | Representative Complement of employees to have an election | (disk 1) |
| RC13788 | EXECUTIVE SECURITY | Jurisdiction - Res Care Federal contractor | (disk 1) |
| RC13784 | BROADWAY SERVICES, INC. | Scope of Unit Multi-location | (disk 1) |
| RC13789 | UNITED COUPON COMPANY | Scope of Unit, single location, printing plant | (disk 2) |
| RC13797 | ADVANCED MARKETING SERVICES, INC. | Supervisor | (disk 1) |
| RC13799 | D & T LIMOUSINE SERVICES | Juridiction - Railway Labor Act<br><br>Multi-location Scope of Unit | (disk 1)<br><br>Issued 11/92 |

| | | | |
|---|---|---|---|
| RC13809 | RICHFOOD, INC. | Relatives of manager; Unit Composition | (disk 1) |
| RC13816 | CLEMENTS PASTRY COMPANY | Supervisor | (disk 2) |
| RC13822 | KESSEL LUMBER COMPANY | No issue hearing | (disk 2) |
| RC13826 | JAMES JULIAN, INC. | Deklewa - 9(a) status | (disk 1) |
| RC13827 | J.M. FRY COMPANY | No issue, agree to inclusions | (disk 2) |
| RC13831 | CON AGRA POULTRY, INC. | Jurisdiction - Agricultural EEs Composition of unit | See NLRB v. Cal-Maine Farms, 5th Cir., 9/1/93, enf'g 307 NLRB No. 66. Also, Produce Magic, 311 NLRB No. 173, 8/16/93 and Holly Farms v. NLRB (4th Cir, 3/95). (Disk 1) |
| RC13843 | CRESTMONT CLEANING AND SUPPLY CO. | Pending ULP Settlement not bar election | (disk 1) |
| RC13849 | WALTER DAVIS AND SONS CONSTRUCTION CO. | Dismiss petition, imminent completion of construction project | (disk 2) |
| RC13853 | ALLEN SERVICES/DRUMMOCK INC. | Dismiss petition new employer not a successor | disk 4 |
| RC13868 | FAIRVIEW VILLAGE NURSING HOME | Dismiss petition, imminent sale to new Company | (disk 2) |
| RC13868A | FAIRVIEW VILLAGE NURSING HOME | Reinstate dismissed petition | (disk 1) |
| RC13868B | FAIRVIEW VILLAGE NURSING HOME | Supplemental Decision Amending Certification | (disk 2) |

| Subject | File Name |
|---|---|
| Cases including **dispatchers** in driver units | Dispatch |
| Clerical Employees: Plant Clericals v. Office Clericals | Clerical |
| Community of Interest Standards | Community |
| ***Daniel Construction*** eligibility formula for construction industry employers | Daniel |
| Effect of Bargaining History on Scope of Unit | Bargain |
| Effective Recommendation; citation to ***ITT Lighting Fixtures*** | Effectv |
| GC Brief in ***Jeffboat*** | Jeffboat |
| Horse Racing Industry; Regulation and reasons for declining jurisdiction | Downs_1 |
| Joint Employer Status | Joint_ER |
| Managerial Employee Status | Managers |
| Person in dispute is the only supervisor on duty during a shift | Onlysup |
| Quality assurance employees citations to ***Lundy Packing***, 314 NLRB 1042 (1994); ***Virginia Mfg., Co.***, 311 NLRB 992 (1993) | Quality |
| Relatives of management; Action Automotive standard | Relative |
| Representative Complement of employees | Rep_comp |
| Section 2(11) Supervisor: factors in disjunctive, burden of proof, conflicting/inconclusive evidence | Supervsr |
| Section 2(12), "professional" employees | Profesnl |
| Section 9(b) - An Appropriate Unit | Section9 |

| | |
|---|---|
| Single Employer Relationship | Singl_ER |
| Single Location Unit Presumptively Appropriate | Singl_UT |
| Technical Employees | Tech_EE |
| Temporarily Working as Supervisor | Temp_Sup |
| | |
| | |

## Explanation of Region 14 Chart on Representation Case Decisions

Region 14 maintains all Regional Director Representation Case decisions on the common drive under a separate directory named "dde". In addition, the Deputy Regional Attorney maintains a chart that is also kept on the common drive. The chart lists the case name, number and disposition and issues of each decision issued, as well as the name under which the document was saved and the date of issuance.

Decision writers can use the chart to quickly find other decisions involving similar issues. That can be done either by simply scanning the chart, or by using the Edit Find feature of Word. To use Edit Find, you open the document, click on Edit on the menu bar, click on Find, and then enter the word or phrase you want to find such as "warehouse" or "contract bar" and click on Find Next. Word will search the document and highlight each time the requested word or phrase is found.

Once the decisions with similar issues are identified, the decision writer can open the decision(s) on the common drive and read or cut and paste the pertinent sections.

A sample page of the chart is attached.

10/16/97

# 1997 Regional Director Representation Case Decisions

| No | CASE NAME | CASE NO. | DDE or D&O | DISPOSITION & ISSUES | FILE NAME | DATE ISSUED |
|---|---|---|---|---|---|---|
| 97-1 | Becker Group, Inc. | RC--11773 | DDE | Expanding unit -- premature petition; held not premature | dde\11733 | 1/24/97 |
| 97-2 | Young Women's Christian Associations of Metropolitan St. Louis | RC--11739 | DDE | Jurisdiction - Res Care; jurisdiction asserted Unit inclusion -- adult literacy supervisor (voted subject to challenge) | dde\11739 | 1/31/97 |
| 97-3 | Leiserv, Inc. d/b/a Brunswick Four Seasons Bowl | RC--11745 | DDE | Scope of unit (wall to wall or unit limited to lane maintenance, janitors, pin setter techs and prom attendants). Election directed in wall to wall excluding bookkeeper and league records ee. Footnote on insufficient showing of interest | dde\11745 | 2/28/97 |
| 97-4 | Wild Oats Community Markets | RC--11742 | DDE | Inclusion of meat and seafood dept. ees; Petitioner sought to exclude them. Voted subject to challenge | dde\11742dde | 2/28/97 |
| 97-5 | Wal-Mart Stores, Inc. | RC--11759 | D & O | Separate unit of 4 meatcutters and alternative unit of all meat dept. ees found inappropriate. Petition dismissed | dde\rc11659 | 4/16/97 |
| 97-6 | Huffy Bicycle Company | RC--11765 | DDE | Labor organization status of UOC -- (Unification Organizing Committee) | dde\rc11765 | 4/23/97 |
| 97-7 | Transportation Maintenance Services, L.L.C. | RD-- 1568 | DDE | recognition bar issue; no bar found | dde\rd1568 | 5/29/97 |
| 97-8 | Gilster Mary Lee Corporation | RC--11783 | DDE | appropriate unit (warehouse only vs. Warehouse and production); inclusion of cleaning ees and load planners; 2(11) status of lead persons | dde\rc11783 | 6/9/97 |
| 97-9 | Mark Twain Hotel, L.L.C. | RC--11791 | DDE | exclusion of walkabouts as guards; 2(11) status of front desk manager and housekeeping supervisor | dde\11791 | 6/13/97 |
| 97-10 | Purcell Tire and Rubber Company | RC--11801 | DDE | 2(11) status of foremen | dde\11801 | 7/16/97 |
| 97-11 | Industrial Construction and Engineering Co. | RC--11830 | D&O | Construction industry; multiple sites; petitioned for group of insulators; unit found inappropriate. Petition dismissed | dde\11830 | 9/19/97 |

10/16/97

# 1997 Regional Director Representation Case Decisions

| No | CASE NAME | CASE NO. | DDE or D&O | DISPOSITION & ISSUES | FILE NAME | DATE ISSUED |
|---|---|---|---|---|---|---|
| 97-1 | Becker Group, Inc. | RC--11773 | DDE | Expanding unit -- premature petition; held not premature | dde\11733 | 1/24/97 |
| 97-2 | Young Women's Christian Associations of Metropolitan St. Louis | RC--11739 | DDE | Jurisdiction - Res Care; jurisdiction asserted Unit inclusion -- adult literacy supervisor (voted subject to challenge) | dde\11739 | 1/31/97 |
| 97-3 | Leiserv, Inc. d/b/a Brunswick Four Seasons Bowl | RC--11745 | DDE | Scope of unit (wall to wall or unit limited to lane maintenance, janitors, pin setter techs and prom attendants). Election directed in wall to wall excluding bookkeeper and league records ee. Footnote on insufficient showing of interest | dde\11745 | 2/28/97 |
| 97-4 | Wild Oats Community Markets | RC--11742 | DDE | Inclusion of meat and seafood dept. ees; Petitioner sought to exclude them. Voted subject to challenge | dde\11742dde | 2/28/97 |
| 97-5 | Wal-Mart Stores, Inc. | RC--11759 | D & O | Separate unit of 4 meatcutters and alternative unit of all meat dept. ees found inappropriate. Petition dismissed | dde\rc11659 | 4/16/97 |
| 97-6 | Huffy Bicycle Company | RC--11765 | DDE | Labor organization status of UOC -- (Unification Organizing Committee) | dde\rc11765 | 4/23/97 |
| 97-7 | Transportation Maintenance Services, L.L.C. | RD-- 1568 | DDE | recognition bar issue; no bar found | dde\rd1568 | 5/29/97 |
| 97-8 | Gilster Mary Lee Corporation | RC--11783 | DDE | appropriate unit (warehouse only vs. Warehouse and production); inclusion of cleaning ees and load planners; 2(11) status of lead persons | dde\rc11783 | 6/9/97 |
| 97-9 | Mark Twain Hotel, L.L.C. | RC--11791 | DDE | exclusion of walkabouts as guards; 2(11) status of front desk manager and housekeeping supervisor | dde\11791 | 6/13/97 |
| 97-10 | Purcell Tire and Rubber Company | RC--11801 | DDE | 2(11) status of foremen | dde\11801 | 7/16/97 |
| 97-11 | Industrial Construction and Engineering Co. | RC--11830 | D&O | Construction industry; multiple sites; petitioned for group of insulators; unit found inappropriate. Petition dismissed | dde\11830 | 9/19/97 |

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NATIONAL LABOR RELATIONS BOARD
Region

Re:

_____ hereby designates
(Party)

_____
(Name and Job Title)

to act as its observer during the conduct of the election in the above case.

I certify that the above-named individual is not a supervisor within the meaning of Section 2(11) of the Act.

_____
(Name of Employer, Union or RD Petitioner)

By : _____
(Representative)

_____
(Title)

It should be noted that the use of a supervisor as an observer may result in the setting aside of the election. Section 2(11) of the National Labor Relations Act states: "The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

Attachment H

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX

Employer

and Case 6-RC-

Petitioner

CHALLENGED BALLOT PROCEDURE FOR THE PRESERVATION OF THE SECRECY OF THE VOTE

If the Request for Review of the Regional Director's Decision and Direction of Election which has been filed by
has not been acted upon the Board in Washington, D. C. before the date of the election, it will be necessary for the Board agents conducting the election to challenge all voters in accordance with the Agency's well established challenged ballot procedure. At the conclusion of the final polling session, the Board Agents will not tally the ballots but will impound all ballots cast until the Request for Review is decided.

Although there exists the possibility that the Regional Director's determination may be reversed in whole or in part, voters will be casting their ballots to be represented or not in the unit described in the Notice of Election.

Each voter will be given an identical unmarked ballot and should mark it in accordance with his or her choice. A voter whose ballot is challenged will be given a challenged ballot envelope which includes a stub which will be completed by the Board agent with certain information to identify the voter. After marking the ballot in the voting booth and placing the ballot into the challenged ballot envelope, the voter will exit the booth and show the Board agents and observers that the folded ballot is in the envelope. At no time should the voter show the Board agents or the observers how the ballot is marked. The voter will then seal the envelope and place it in the ballot box with all other ballots which have been cast.

The stubs of the challenged ballot envelopes which contain the identifying information will be used to determine which challenged ballots should be counted after the Board acts on the Employer's Request for Review. The ballots of challenged voters who are found to be eligible to vote will be separated based on the information on the stubs. At the time of the ballot count, the challenged ballot envelopes of all voters who are found to be eligible will have the stubs torn off and the ballots will be mixed with the other ballots cast <u>without revealing the choices of individual challenged voters</u>. The ballots will <u>then</u> be counted and the secrecy of the ballots will thus be preserved.

Attachment I

United States Government
NATIONAL LABOR RELATIONS BOARD
Region 33
300 Hamilton Boulevard - Suite 200
Peoria, IL 61602-1246
Telephone (309) 671-7080
Facsimile (309) 671-7095

August 16, 1996

Re:
Case 33-RC-

Dear Mr. :

This is to advise you of your responsibilities in connection with the Objections you have filed to the election conducted in this matter, and to advise you that the Objections have been assigned to me for investigation.

Pursuant to Section 102.69(a) of the Board's Rules and Regulations, you are directed, on behalf of the Regional Director, to furnish in writing within seven (7) days of the Objections due date, your evidence in support of the Objections. In order to be timely submitted, your evidence must be received in the Regional Office by close of business at 5:00 p.m. EST (EDT) on **August 23, 1996.** Your evidence shall identify all witnesses and provide a brief summary of the testimony each witness will give. If your Objections are based in whole or in part on any documents, those documents must be submitted along with an identification of the parts specifically alleged as objectionable and an explanation as to why they are objectionable. So that there can be no doubt as to the precise evidence you are relying on in support of your Objections, each objection should be addressed individually with an explanation provided as to what specific evidence and witnesses, if any, will be offered in support of each objection.

Your failure to submit by the above date evidence sufficient to provide a prima facie case in support of your Objections will result in my recommending that the Objections be overruled. Should you require additional time in which to submit your evidence, such request must be made in writing and received by the Regional Office before the date your prima facie evidence is due, and must be supported by good cause.

Attachment J

After the above requirements are met, should it become necessary for me to interview certain of your representatives or witnesses, or to review certain documents or records, it is expected that you will make such persons or documents available by not later than August 28, 1996 so that the investigation can be completed timely.

In the event the Regional Office makes a determination that a hearing is necesary to resolve any or all issues raised by the Objections, a hearing is tentatively scheduled for the period August 28, 29 or 30, 1996. In the event a hearing is necessary, further notice will issue in advance of the hearing. If the above hearing dates present a conflict in scheduling, it is suggested you immediately bring this matter to the attention of the Region as well as the nature of the conflict and alternative hearing dates. Requests for postponement of the hearing will be granted only for good cause and consistent with the requirements set forth in Form NLRB-4338.

If you have any questions concerning this matter, please contact me as soon as possible.

Very truly yours,

Field Examiner

CERTIFIED MAIL NO.
RETURN RECEIPT REQUESTED

cc:

United States Government
NATIONAL LABOR RELATIONS BOARD
Region 33
300 Hamilton Boulevard - Suite 200
Peoria, IL 61602-1246
Telephone (309) 671-7080
Facsimile (309) 671-7095

August 16, 1996

Re:
Case 33-RC-

Dear Mr.

Please be advised that on today's date, the Petitioner filed Objections to the election in the above-subject case. Pursuant to Section 102.69(a) of the Board's Rules and Regulations, a copy of the Objections is hereby served on you.

In order that I might complete my investigation in a timely fashion, I am requesting that you submit to me your written statement of position and any evidence you have in support thereof by not later than **August 23, 1996.** You should submit copies of all documents used by the parties in communicating with the employees regarding the election if such documents relate directly or indirectly to the issues raised by the Objections. Should it become necessary for me to take further evidence on this matter, your witnesses and evidence should be available to me by not later than **August 30, 1996.**

In the event the Regional Office determines that a hearing is necessary to resolve any or all issues raised by the Objections, a hearing is tentatively scheduled for the period **August 28, 29 or 30, 1996.** In the event a hearing is necessary, further notice will issue in advance of the hearing. If the hearing dates present a conflict in scheduling, it is suggested that you immediately bring this matter to the attention of the Regional Office as well as the nature of the conflict and alternative hearing dates. Requests for postponement of the hearing will be granted only for good cause and consistent with the requirements set forth in form NLRB-4338.

Your cooperation is appreciated.

Very truly yours,

Field Examiner

Enclosures

cc:

United States Government
NATIONAL LABOR RELATIONS BOARD
Region 33
300 Hamilton Boulevard - Suite 200
Peoria, IL 61602-1246
Telephone (309) 671-7080
Facsimile (309) 671-7095

August 20, 1996

Re:
Case 33-RC-

Dear

As you are aware, the challenged ballots in the election conducted in the above-captioned case are sufficient in number to affect the results.

The investigation of the challenged ballots has been assigned to me. To the extent you have not already done so, please supply a statement of position with respect to the challenged ballots and all evidence you have in support of said position. The challenged ballots were cast by the following voters for the reasons set opposite their names: were all challenged by the Petitioner alleging they have not worked in the area sufficient days to be eligible to vote.

The foregoing submission should be made to reach this office by August 26, 1996. The timely submission of this evidence may obviate the need for further investigation. However, should it be necessary for me to take further evidence on this matter, it is requested that such evidence, including any witnesses, be made available to me by not later than September 6, 1996.

Notice of Tentative Hearing

In the event the Regional Director determines that a hearing is necessary to resolve any or all issues raised by the challenged ballots, a hearing is tentatively scheduled for the period September 7, 8 or 9, 1996. In the event a hearing is necessary, further Notice will issue at least five calendar days in advance of the hearing. If the above hearing date presents a

Attachment K

conflict in scheduling, it is requested you immediately bring this matter to the attention of the Region as well as the nature of the conflict and alternative hearing dates.

If you have any questions concerning the foregoing, please feel free to communicate with the undersigned.

Very truly yours,

Attorney

cc:

12/10/97

## Representation Case Templates Available

| NO. | TEMPLATE NAME | DESCRIPTION | TYPE |
|---|---|---|---|
| | | PETITIONS, DOCKETING and INITIAL PROCESSING | |
| 1. | RCPET.dot | RC petition -- with button which runs docketing letters, assignment sheet, etc. | Pop-up boxes and additional documents |
| 2. | RDPet.dot | RD petition -- with button that runs docketing letters, assignment sheet, etc. | Pop-up boxes and additional documents |
| 3. | R_OPN_LT.dot | Initial representation case opening letters with forms and attachments | Pop-up boxes |
| 4. | NewAC.dot | Docketing for AC petition (Includes service sheet; affidavit of service; letter to Employer and Union; Notice -Form 4338; Notice of Appearance and Form 4813; posting notice; and facsimile cover sheet) | Pop-up boxes |
| 5. | NewRC.dot | Docketing for RC petition (Includes service sheet; affidavit of service; single letter to Employer and petitioner; receipt for cards; Notice -Form 4338; Notice of Appearance and 4813 forms; posting notice; facsimile cover sheet; and option to bring in intervenor letter) | Pop-up boxes |
| 6. | RC.dot | Docketing for RC petition mailed into the R.O. -- includes separate docketing letters to Employer and Petitioner, assignment sheet, etc. (The same as the rcpet.dot except there is no petition.) | Pop-up boxes |
| 7. | NewRD.dot | Docketing for RD petition (Includes service sheet; affidavit of service; single letter to Employer, Union and petitioner; letter to Petitioner regarding showing of interest; Notice -Form 4338; Notice of Appearance and Form 4813; posting notice; facsimile cover sheet; and option to bring in intervenor letter) | Pop-up boxes |
| 8. | NewRM.dot | Docketing for RM petition (Includes service sheet, affidavit of service, letters to Employer and petitioner, receipt for cards, Notice -Form 4338, Notice of Appearance and Form 4813, posting notice, and facsimile cover sheet, and option to bring in intervenor letter) | Pop-up boxes |
| 9. | RMPet.dot | RM petition -- with button that runs docketing letters, assignment sheet, etc. | Pop-up boxes and additional documents |

Attachment L

| | | | |
|---|---|---|---|
| 10. | NewUC.dot | Docketing for UC petition (Includes service sheet, affidavit of service, letter to Employer and Union, Notice -Form 4338, Notice of Appearance and Form 4813, and facsimile cover sheet, and option to bring in intervenor letter) | Pop-up boxes |
| 11. | NewUD.dot | Docketing for UD petition (Includes service sheet, affidavit of service, letter to Employer, Union and petitioner, letter regarding showing of interest, Notice -Form 4338, Notice of Appearance and 4813 forms, posting notice, and facsimile cover sheet) | Pop-up boxes |
| 12. | Frm1801.dot | Appearance form | Pop-up boxes |
| 13. | INTVR_LT.dot | Intervenor letter | Form fields |

NOTICE OF HEARING and OTHER HEARING DOCUMENTS

| | | | |
|---|---|---|---|
| 1. | NoH.dot | Form NLRB-852, Notice of Representation Hearing and Index and Description of Formal Documents | Pop-up boxes |
| 2. | NOH_R.dot | Notice of Hearing form with affidavit of service, notice, NLRB-4338, CHIPS R-105, court reporter information | Pop-up boxes |
| 3. | RNOH.dot | Notice of Representation Hearing, affidavit of service and related documents | Pop-up boxes |
| 4. | ASMT_HR.dot | Memo assigning agent to hold representation hearing | Form fields |
| 5. | AffSvs.dot | Affidavit of Service (Form NLRB-877) with option to pull in a Notice (Form 4338) | Pop-up boxes and additional document |
| 6. | ORH_R.dot | Order rescheduling hearing form | Pop-up boxes |
| 7. | Frm856.dot | Form 856, Close of Hearing form | Pop-up boxes |
| 8. | Frm4237.dot | Form 4237, Obligated Cost of Hearing | Pop-up boxes |

STIPS and RELATED DOCUMENTS

| | | | |
|---|---|---|---|
| 1. | Stip.dot | Stipulated Election Agreement -- with buttons which allow you to later run:<br>Norris Thermador agreement<br>Letter mailing out the stip<br>Letter requesting Excelsior list<br>Election notice<br>Letter mailing out election notices | Pop-up boxes and additional documents |

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|---|---|---|---|
| | | Ballots, in English, Spanish or both English and Spanish<br>Tally of Ballots<br>Certification of Representative or Results | |
| 2. | StipR16.dot | Stipulated Election Agreement form | Pop-up boxes |
| 3. | ST_FOR_S.dot | Letter sending out a Stipulated Election Agreement for signature | Form fields |
| 4. | SIGN_STP.dot | Letter sending a signed copy of Stipulated Election Agreement after approval | Form fields |
| 5. | CLStip.dot | Letter confirming election arrangements after stip approved | Pop-up boxes |

REGIONAL DIRECTOR DECISIONS and RELATED DOCUMENTS

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|---|---|---|---|
| 1. | D&O.dot | Regional Director Decision and Order | Pop-up boxes |
| 2. | DDE.dot | Decision and Direction of Election form | Form fields |
| 3. | DDE_LT.dot | Letter confirming election arrangements pursuant to a Decision and Direction of Election | Pop-up boxes |
| 4. | DDE_MEM.dot | Memo requesting supervisor to assign case to agent to secure an election date after a Decision and Direction of Election has issued | Form fields |
| 5. | CLRD.dot | Letter confirming election arrangements after DDE issues | Pop-up boxes |

ELECTION RELATED LETTERS, NOTICES and BALLOTS

| | | | |
|---|---|---|---|
| 1. | 48_HR_LT.dot | Letter notifying parties when ballots will be mailed | Form fields |
| 2. | AD_NOT.dot | Letter sending out additional notices | Form fields |
| 3. | AD_S_NOT.dot | Letter sending out Spanish notices, when requested | Form fields |
| 4. | COR_NOT.dot | Letter sending out corrected notices | Form fields |
| 5. | ASMT_EL.dot | Memo assigning agent to hold representation election | Form fields |
| 6. | Frm4175.dot | Instructions to Eligible Employees Voting by United States Mail, Form NLRB-4175 | Form fields |
| 7. | ML_BL_CT.dot | Mail ballot Certification of Conduct of Election form | Form fields |

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|---|---|---|---|
| 8. | ML_NT_LT.dot | Letter and forms to send out notices for a mail ballot election | Form fields |
| 9. | MM_NT_LT.dot | Letter and forms to send out notices for a mail/manual election | Form fields |
| 10. | MN_NT_LT.dot | Letter and forms to send out notices for a manual election | Form fields |
| 11. | NOSIGBAL.dot | Letter returning mail ballot for signature | Form fields |
| 12. | Not-Elect.dot | Form NLRB-707, Notice of Election and letter forwarding Notices for posting | Pop-up boxes |
| 13. | X_LST_LT.dot | Letter sending out an ***Excelsior*** list | Form fields |
| 14. | BALLOT.dot | English ballot form | Pop-up boxes |
| 15. | BALLOT_3.dot | 3-Way ballot form | Pop-up boxes |
| 16. | BALLOT_S.dot | English/Spanish ballot form | Pop-up boxes |
| 17. | BALLOT2S.dot | Spanish ballot form | Pop-up boxes |
| 18. | COR_TAL.dot | Letter sending out Corrected Tally of Ballots | Form fields |

**CHALLENGES and OBJECTIONS**

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|---|---|---|---|
| 1. | CHAL_LT.dot | Letter regarding investigation of challenged ballots | Form fields |
| 2. | Chall.dot | Letter to parties requesting position regarding determinative challenges | Pop-up boxes |
| 3. | ChallMem.dot | Memo sending determinative challenges to the office safe | Pop-up boxes |
| 4. | OBJ_LT.dot | Two letters—one letter to party filing objections requesting evidence and a second letter notifying the other party that objections have been filed | Pop-up boxes |
| 5. | ObjFiled.dot | Letter serving objections on all parties and letter to objecting party requesting their evidence in support of the objections | Pop-up boxes |
| 6. | HOR-Obj.dot | Hearing Officer's Report on Objections/Challenges with prompts about whether election was pursuant to stip or DDE, whether challenges were determinative, who filed objections, etc. | Pop-up boxes |

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|---|---|---|---|
| 7. | ObjRpt1.dot | Report on Objections/Challenges or Supplemental Decision -- No hearing cases | Pop-up boxes |
| 8. | ObjRpt2.dot | Report on Objection /Challenges or Supplemental Decision - Hearing Directed - R case consolidated with C-case(s) for hearing | Pop-up boxes |
| 9. | ObjRpt3.dot | Report on Objection /Challenges or Supplemental Decision - Hearing Directed - R case alone | Pop-up boxes |
| 10. | ERRAT_RO.dot | Erratum correcting error on Report on Objections | Form fields |
| 11. | REV1_TAL.dot | Letter sending out Revised Tally of Ballots and setting aside the election | Form fields |
| 12. | REV2_TAL.dot | Letter sending out Revised Tally of Ballots and Stipulation to Resolve Challenged Ballots | Form fields |
| 13. | 2ND_ELEC.dot | Letter notifying parties of second election | Form fields |
| 14. | RR_ELEC.dot | Letter notifying parties of rerun election on ***Norris-Thermador*** case | Form fields |
| 15. | TAL_COC.dot | Letter sending out Tally of Ballots and Certification of Conduct of Election | Form fields |

**CERTIFICATION**

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|---|---|---|---|
| 1. | CERT2REP.dot | Certification of Representative form for two-way election | Form fields |
| 2. | CERT2RES.dot | Certification of Results for two-way election | Form fields |
| 3. | CERT3REP.dot | Certification of Representative form for three-way election | Form fields |
| 4. | CERT3RES.dot | Certification of Results for three-way election | Form fields |
| 5. | CertRep.dot | Certification of Representative in RC case | Pop-up boxes |
| 6. | CertRes.dot | Certification of Results in RC case | Pop-up boxes |
| 7. | RDRep.dot | Certification of Representative in RD case | Pop-up boxes |
| 8. | RDRes.dot | Certification of Results in RD case | Pop-up boxes |
| 9. | UDRes.dot | Certification of Results in UD case | Pop-up boxes |
| 10. | RET_AUTH.dot | Letter returning authorization cards | Form fields |

OTHER DOCUMENTS

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|---|---|---|---|
| 1. | BLOCK_LT.dot | Letter blocking a representation case | Form fields |
| 2. | WAIVER.dot | Waiver - Request to proceed | Pop-up boxes |
| 3. | Frm4865.dot | Statement of Reasons for Proposed Dismissal in R Cases | Pop-up boxes |