

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 90-61

August 13, 1990

TO: All Regional Directors, Officers-in-Charge  
and Resident Officers

FROM: Joseph E. DeSio, Associate General Counsel

SUBJECT: Filing of Briefs with the Board Pursuant to  
Section 102.46 of the Board's Rules and Regulations

The Executive Secretary's Office has advised that on occasion counsel for the General Counsel has filed a brief in support of an administrative law judge's decision after a respondent has filed exceptions. When this has occurred, the brief has been rejected as untimely since Section 102.46(a) of the Board's Rules and Regulations provides that "Any party may, within the same period, [allowed for filing exceptions] file a brief in support of the administrative law judge's decision." [Emphasis supplied.]

At other times, while denominated a brief in support of the judge's decision, the brief is intended to be (and actually is) an answering brief to respondent's exceptions. In accordance with Section 102.46(d)(1) of the Board's Rules and Regulations, an answering brief is due within 14 days from the last date on which exceptions may be filed.

Please remind your legal staff that (1) briefs in support of the judge's decision can be filed only during the time period that exceptions may be filed and (2) where the intention is to respond to exceptions, the brief should be identified as an answering brief (or a reply brief) and not as a brief in support of the judge's decision.

J. E. D.

Distribution:

Regional - All Professional Employees  
NLRBU

MEMORANDUM OM 90-61