

OFFICE OF THE GENERAL COUNSEL
DIVISION OF OPERATIONS-MANAGEMENT

MEMORANDUM OM 94-107

December 21, 1994

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

FROM : William G. Stack, Associate General Counsel

SUBJECT: Service of Documents by Certified Mail

In conjunction with the our initiatives in response to the National Performance Review, several committees of Field personnel and managers in my headquarters offices, reviewed casehandling and management practices to promote efficiencies and economies in operations. One area of scrutiny was field office use of certified mail and return receipts. Sending a piece of correspondence by certified mail costs \$1.00 in addition to the regular first class postage. The U.S. Postal Service charges \$1.10 for a return receipt in addition to the certified and first class postage costs. In Fiscal Year 1992 the Agency spent approximately \$321,304 for use of certified mail, of which approximately \$145,546 was attributable to return receipt expenses. In an era of diminishing resources, a reduction in these costs was quickly identified as a goal to be pursued, if possible.

Judicious use of certified mail in the field offices was counseled in Memorandum OM 92-66, "Fiscal Year 1993 Budget Cost Control Policies," dated October 20, 1992, and a survey of Field office use of certified mail was undertaken pursuant to Memorandum OM 92-74, dated December 11, 1992. The survey revealed that some Regions send documents and letters by certified mail when there is no requirement to do so. For example, some Regions will serve charging parties with complaints, exceptions and other documents by certified mail when there is neither a statutory or regulatory requirement nor a compelling practical reason to do so. In addition, Regions will often unnecessarily use certified mail to serve a party's attorney or representative. Finally, it is almost universally the case that a return receipt is requested, at extra expense, for any document sent by certified mail.

Under the Act¹ and the Board's Rules and Regulations² some documents may be served by registered or certified mail, personal service or telegraph. No change in current practice with respect to the service of these documents upon necessary persons is recommended. Accordingly, service by certified mail should continue for "charges, complaints and accompanying

¹Section 11(4), 29 U.S.C. 161(4)

²Section 102.113

notices of hearing, final orders, administrative law judges' decisions, [and] subpoenas" Compliance specifications and amendments to complaints and specifications should also be sent by certified mail.

However, except as provided above, on a routine basis documents should be served by regular mail only. In addition, because the form of service is mandated by the Act and Rules for parties only, certified mail should not be used to serve charging parties, discriminatees or other persons or parties, service to whom will not have to be proved. Use of regular mail to supply copies of those documents to those individuals when necessary, will suffice. Furthermore, while Section 102.113(b) of the Rules requires service of pleadings or other papers upon a party's attorney or other representative when service is required or permitted upon the party, the Rules do not require that a particular mode of service be employed. Therefore, attorneys or representatives also normally should be served only by regular mail.

While certified mail is to be used routinely only for service upon the charged party or respondent of the documents enumerated in the Act and Rules, Regional Directors retain the discretion to depart from the routine practice. Thus, in the face of special circumstances, Regional Directors may utilize certified mail for documents other than those specifically enumerated in the Act and Rules or for service upon others than the charged party or respondent.

Please alert any Regional Office employees who mail documents from the office to the foregoing instructions. Any questions regarding this memorandum may be addressed to me or to your Assistant General Counsel.


W. G. S.

cc: NLRBU