

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 94-19

March 11, 1994

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

FROM: William G. Stack, Associate General Counsel

SUBJECT: Procedures Relating to Section 102.24  
of the Board's Rules and Regulations

This memorandum is designed to clarify appropriate procedures to be followed by Regional Offices in processing Summary Judgment cases and Motions to Dismiss filed with the Board.

Section 102.24(b) of the Rules and Regulations provides that such motions "shall be filed no later than 28 days prior to the scheduled hearing." This section further provides that "if a party desires to file an opposition to the motion prior to issuance of a notice to show cause in order to prevent postponement of the hearing," [emphasis supplied] such opposition shall be filed no later than 21 days prior to the hearing.

When a Regional Office files a technical 8(a)(5) or a no-answer summary judgment case but fails to postpone the scheduled hearing, it creates the potential that a motion filed within 28 days of the still scheduled hearing will be rejected as untimely. In fact, where the Region issues a complaint in a technical 8(a)(5) case anticipating that it will also file a Motion for Summary Judgment, there is no apparent reason why a hearing should be scheduled at all. While a hearing may be initially scheduled in a no-answer case because the respondent's failure to file an answer cannot be determined ahead of time, the hearing should be postponed (and the Judge's Division promptly notified) once respondent's failure to file an answer becomes clear.

In cases in which respondent files a Motion for Summary Judgment, the Region should prepare and file its response as soon as possible (no later than 21 days before the hearing). It is not necessary to await an order to show cause. Indeed, an immediate response will assist the Board and expedite action on respondent's motion. In either event, the Regional Office should promptly call the Executive Secretary's Office and advise whether and when opposition will be received.

If you have any questions regarding these procedures, please contact me or your Assistant General Counsel.

  
W. G. S.

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