

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM

January 3, 1996

TO : All Regional Directors

FROM : B. Allan Benson, Acting Associate General Counsel

SUBJECT: Trials Scheduled for the Week of January 8, 1996

Administrative litigation of unfair labor practice cases may not be initiated or resumed in the absence of funding. Accordingly, cases scheduled for trial during periods of government shutdown have been postponed indefinitely pursuant to Memorandum OM 95-74, dated September 22, 1995. Due to the length of the shutdown and the inability to prepare, most trials currently scheduled to open during the week of January 8, 1996 should now be postponed indefinitely by service upon all parties of the Order of Chief Administrative Law Judge David S. Davidson, attached to OM 94-74. For your convenience a copy of that order is attached.

If there are cases currently scheduled to **open** during the week of January 8, 1996 that you are currently prepared to litigate if funding becomes available in the interim and that you wish not to postpone at this time, please advise me as soon as possible by telephone or Fax transmission of the case name, number and date scheduled.

In addition, if you have cases scheduled to **resume** during the week of January 8, please advise me by telephone or Fax of the name of the case, the case number and the date scheduled for the resumption of the trial. In addition, please inform me whether you are prepared to hold the date for the resumption of the trial if funding becomes available by Friday, January 5, or whether you will seek a postponement from the presiding administrative law judge.

In the event the shutdown continues, litigation for subsequent weeks should be handled in the same manner.

Thank you for your continuing assistance.

B. A. B.

Attachment

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

In the matter of all unfair labor practice cases scheduled for hearing after October 9, 1995

It is likely to remain uncertain when funds will become available for the operations of the National Labor Relations Board during the fiscal year beginning October 1, 1995. There is a possibility that on or after October 1, there will be a period of time during which the operations of the NLRB will not be funded by an Act of Congress. In that event, it may become necessary to postpone hearings scheduled to commence on or after October 2, 1995.

Under Section 102.16 of the Board's Rules and Regulations, with limited exceptions, authority to postpone a hearing within 21 days of a scheduled hearing date rests with the Chief Administrative Law Judge. In order to avoid the need to file with this office a number of motions to postpone which would routinely be granted, I am issuing this order which will apply to all cases scheduled for hearing after October 9, 1995. Cases in which hearings are scheduled during the week beginning October 2, 1995, will be addressed separately. Accordingly, IT IS ORDERED THAT

1. In every case with a hearing scheduled to begin during the week of October 9, 1995, if by the close of business on Wednesday, October 4, there has been no appropriations bill enacted into law or legislation authorizing the Board to operate during the week of October 9, then the hearing will be postponed indefinitely.
2. In every case with a hearing scheduled to begin on or after October 16, 1995, if by the close of business on the second Friday preceding the scheduled hearing date there has been no appropriations bill enacted into law or legislation authorizing the Board to operate during the week in which the hearing is scheduled, then the hearing will be postponed indefinitely.
3. In each such case, this Order shall take effect when the Regional Director serves a copy on each of the parties.

Dated at Washington, D.C. September 22, 1995

David S. Davidson,
Chief Administrative Law Judge

Re¹:

¹ Case name and number to be entered by Region before service on parties