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organization of which it is an affiliate or constituent unit.

(c) The full name and address of the person against whom the charge is made (hereinafter referred to as the "respondent").

(d) A clear and concise statement of the facts constituting the alleged unfair labor practices affecting commerce.

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§ 102.14 Service of charge.

(a) *Charging party's obligation to serve; methods of service.* Upon the filing of a charge, the charging party shall be responsible for the timely and proper service of a copy thereof upon the person against whom such charge is made. Service may be made personally, or by registered mail, certified mail, regular mail, or private delivery service. With the permission of the person receiving the charge, service may be made by facsimile transmission or by any other agreed-upon method.

(b) *Service as courtesy by Regional Director.* The Regional Director will, as a matter of courtesy, cause a copy of such charge to be served by regular mail on the person against whom the charge is made. Such charges may, with the permission of the person receiving the charge, be served by the Regional Director by facsimile transmission. In this event the receipt printed upon the Agency's copy by the Agency's own facsimile machine, showing the phone number to which the charge was transmitted and the date and time of receipt shall be proof of service of the same. However, whether serving by facsimile, by regular mail, or otherwise, the Regional Director shall not be deemed to assume responsibility for such service.

(c) *Date of service of charge.* In the case of service of a charge by mail or private delivery service, the date of service is the date of deposit with the post office or other carrier. In the case of service by other methods, including hand delivery or facsimile transmission, the date of service is the date of receipt.

[60 FR 56235, Nov. 8, 1995]

29 CFR Ch. I (7-1-03 Edition)

COMPLAINT

§ 102.15 When and by whom issued; contents; service.

After a charge has been filed, if it appears to the regional director that formal proceedings in respect thereto should be instituted, he shall issue and cause to be served on all other parties a formal complaint in the name of the Board stating the unfair labor practices and containing a notice of hearing before an administrative law judge at a place therein fixed and at a time not less than 14 days after the service of the complaint. The complaint shall contain:

(a) A clear and concise statement of the facts upon which assertion of jurisdiction by the Board is predicated, and

(b) A clear and concise description of the acts which are claimed to constitute unfair labor practices, where known, the approximate dates and places of such acts and the names of respondent's agents or other representatives by whom committed.

[51 FR 23745, July 1, 1986]

§ 102.16 Hearing; change of date or place.

(a) Upon his own motion or upon proper cause shown by any other party, the Regional Director issuing the complaint may extend the date of such hearing or may change the place at which it is to be held, except that the authority of the Regional Director to extend the date of a hearing shall be limited to the following circumstances:

(1) Where all parties agree or no party objects to extension of the date of hearing;

(2) Where a new charge or charges have been filed which, if meritorious, might be appropriate for consolidation with the pending complaint;

(3) Where negotiations which could lead to settlement of all or a portion of the complaint are in progress;

(4) Where issues related to the complaint are pending before the General Counsel's Division of Advice or Office of Appeals; or

(5) Where more than 21 days remain before the scheduled date of hearing.

(b) In circumstances other than those set forth in subsection (a) of this section, motions to reschedule the hearing

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should be filed with the Division of Judges in accordance with §102.24(a). When a motion to reschedule has been granted, the Regional Director issuing the complaint shall retain the authority to order a new date for hearing and retain the responsibility to make the necessary arrangements for conducting such hearing, including its location and the transcription of the proceedings.

[54 FR 51197, Dec. 13, 1989; 54 FR 52506, Dec. 21, 1989]

§ 102.17 Amendment.

Any such complaint may be amended upon such terms as may be deemed just, prior to the hearing, by the regional director issuing the complaint; at the hearing and until the case has been transferred to the Board pursuant to §102.45, upon motion, by the administrative law judge designated to conduct the hearing; and after the case has been transferred to the Board pursuant to §102.45, at any time prior to the issuance of an order based thereon, upon motion, by the Board.

§ 102.18 Withdrawal.

Any such complaint may be withdrawn before the hearing by the regional director on his own motion.

§ 102.19 Appeal to the general counsel from refusal to issue or reissue.

(a) If, after the charge has been filed, the regional director declines to issue a complaint or, having withdrawn a complaint pursuant to §102.18, refuses to reissue it, the regional director shall so advise the parties in writing, accompanied by a simple statement of the procedural or other grounds for his action. The person making the charge may obtain a review of such action by filing an appeal with the general counsel in Washington, DC, and filing a copy of the appeal with the regional director, within 14 days from the service of the notice of such refusal to issue or reissue by the regional director, except as a shorter period is provided by §102.81. If an appeal is taken the person doing so should notify all other parties of his action, but any failure to give such notice shall not affect the validity of the appeal. The appeal shall contain

a complete statement setting forth the facts and reasons upon which it is based. A request for an extension of time to file an appeal shall be in writing and be received by the general counsel, and a copy of such request filed with the regional director, prior to the expiration of the filing period. Copies of the acknowledgment of the filing of an appeal and of any ruling on a request for an extension of time for the filing of an appeal shall be served on all parties. Consideration of an appeal untimely filed is within the discretion of the general counsel upon good cause shown.

(b) Oral presentation in Washington, DC, of the appeal issues may be permitted a party on written request made within 4 days after service of acknowledgment of the filing of an appeal. In the event such request is granted, the other parties shall be notified and afforded, without additional request, a like opportunity at another appropriate time.

(c) The general counsel may sustain the regional director's refusal to issue or reissue a complaint, stating the grounds of his affirmance, or may direct the regional director to take further action; the general counsel's decision shall be served on all the parties. A motion for reconsideration of the decision must be filed within 14 days of service of the decision, except as hereinafter provided, and shall state with particularity the error requiring reconsideration. A motion for reconsideration based upon newly discovered evidence which has become available only since the decision on appeal shall be filed promptly on discovery of such evidence. Motions for reconsideration of a decision previously reconsidered will not be entertained, except in unusual situations where the moving party can establish that new evidence has been discovered which could not have been discovered by diligent inquiry prior to the first reconsideration.

[32 FR 9548, July 1, 1967, as amended at 51 FR 23746, July 1, 1986]