would not recognize an unsigned paper as valid notice of contest and that the contestant's unsigned notice of contest was not in the form required by the applicable statute (2 USC § 201).[16]

G. PLEADING

§ 23. Generally

The pleadings in an election contest include the response of contestee to contestant's notice. This response must be made within 30 days after the service of the notice.[17]

Certain defenses, at the option of contestee, may be raised by motion prior to answer. They are: (1) insufficiency of service of notice of contest, (2) lack of standing of contestant, (3) failure of the notice to state grounds sufficient to change the result of the election, and (4) failure of contestant to claim a right to contestee's seat.[18]

A motion for more definite statement is permitted under the Federal Contested Elections Act.[19]

If a motion to dismiss is entered and denied, or if its disposition is postponed until a hearing on the merits, the answer is to be served within 10 days after notice of such action. If a motion for more definite statement is granted, the answer is to be served within 10 days after service of the more definite statement.[20]

Except for the notice of contest, every paper required to be served is to be served on the attorney representing the party, or, if he is not so represented, on the party himself, in the manner specified by the controlling statute.[1]

Proof of service, while not affecting the validity of such service, is a necessary procedural step under the Federal Contested Elections Act. Papers filed subsequent to the notice of contest are to be accompanied by proof of service by affidavit showing the time and manner thereof.[2]

A motion to suppress a deposition may be sought on the ground that the reasons given for a re-

16. The requirement as to contestant's signature is presently embodied in 2 USC § 382(b).

17. 2 USC § 383.

Notice of contest, see §§ 20, et seq., supra.

18. 2 USC § 383(b).

19. 2 USC § 383(c).

20. 2 USC § 383(d).

1. 2 USC § 384.

2. 2 USC § 384(c).

fusal to sign it require rejection of it in whole or in part.[3]

A motion to quash or modify a subpena compelling the production of documents, or to deny it conditionally, is permitted under the Federal Contested Elections Act. It provides that the Committee on House Administration, on motion timely made, may (1) quash or modify the subpena if it is unreasonable or oppressive, or (2) deny it conditionally on the advancement by the subpena proponent of the reasonable cost of producing the material sought.[4]

The manner in which the pleadings and other papers in a case are to be filed with the Clerk is prescribed by the Federal Contested Elections Act.[5]

Motion for Directed Verdict

§ 23.1 Where testimony had not been collected by the Clerk, printed, and laid before the House, and the contested election had not yet been referred to the Committee on House Administration, contestant's motion for a "directed verdict" was premature.

In the 1957 Iowa contested election of Carter v LeCompte (§ 57.1, infra), the Clerk's letter transmitting the testimony and required papers was not referred by the Speaker to the Committee on Elections and laid before the House until Aug. 26, 1957, four days before adjournment of the first session of the 85th Congress. On that date the contest was formally presented to the House. Earlier, however, the contestant had filed a motion for a "directed verdict" with the Committee on House Administration, which ruled that it was premature, as a contrary ruling would have been in violation of the rules of the House [then clause 9(k) of Rule XI] requiring contested elections to be referred to the Committee on House Administration, and also in violation of the old federal statute [then 2 USC § 201 et seq.] requiring that testimony be collected by the Clerk, printed and laid before the House for reference.

Motion for Default Judgment

§ 23.2 The House has refused to take action on a contestant's motion to enter a default against the contestee for his failure to answer the notice of contest within the time prescribed by law.

3. 2 USC § 386(h).
4. 2 USC § 388(e).
5. 2 USC § 393.

In Woodward v O'Brien (§ 54.6, infra), a 1947 Illinois contest, contestant submitted a letter stating that contestee had not answered the notice of contest within the required period, and that a default should be entered against contestee by the House. This letter was referred to the appropriate committee, but the committee took no action on it and indeed recommended that the notice be dismissed for failure to take testimony within the required period.

§ 24. Answer

The Federal Contested Elections Act provides that when a notice of contest is served in the manner prescribed, contestee must respond with a written answer, and that such answer must be served on contestant within 30 days. The answer must admit or deny the averments relied on by contestant. If contestee is without knowledge or information sufficient to form a belief as to the truth of an averment, he must so state, such statement having the effect of a denial. This answer must set forth affirmatively any other defenses, in law or fact, relied on by contestee.[6]

Contestee must sign and verify his answer by oath or affirmation.[7] Under the controlling statute, the failure of contestee to answer the notice of contest is not to be deemed an admission of the truth of the averments in the notice.[8]

Failure to Make Timely Answer

§ 24.1 Contestee's failure to file an answer within the requisite 30 days did not prevent him from ultimately prevailing and having the contest dismissed.

In Mankin v Davis (§ 54.2, infra), a 1947 Georgia contest, a contestant who had not been a candidate in the general election, but only during the primary, timely filed an election contest notice and brief. The contest was dismissed, the contestee's reply having been given due consideration even though not filed within the requisite time period.

Answer Filed for Information Only

§ 24.2 Contestee's answer, filed with the Clerk for information only, can be included in

6. 2 USC § 383.

7. 2 USC § 383.

8. 2 USC § 385.