

## National Labor Relations Board

## § 102.35

(d) Motions to consolidate or sever proceedings after issuance of complaint shall be filed as provided in §102.24 and ruled upon as provided in §102.25, except that the regional director may consolidate or sever proceedings prior to hearing upon his own motion. Rulings by the administrative law judge upon motions to consolidate or sever may be appealed to the Board as provided in § 102.26.

[32 FR 9549, July 1, 1967, as amended at 36 FR 9132, May 20, 1971]

### HEARINGS

#### § 102.34 Who shall conduct; to be public unless otherwise ordered.

The hearing for the purpose of taking evidence upon a complaint shall be conducted by an administrative law judge designated by the chief administrative law judge in Washington, DC, or by the associate chief judge, San Francisco, California, by the associate chief judge in New York, New York, or by the associate chief judge in Atlanta, Georgia, as the case may be, unless the Board or any member thereof presides. At any time an administrative law judge may be designated to take the place of the administrative law judge previously designated to conduct the hearing. Such hearing shall be public unless otherwise ordered by the Board or the administrative law judge.

(49 Stat. 449; 29 U.S.C. 151-166, as amended by (61 Stat. 136; 29 U.S.C. Sup. 151-167), (65 Stat. 601; 29 U.S.C. 158, 159, 168), (73 Stat. 519; 29 U.S.C. 141-168), (88 Stat. 395-397; 29 U.S.C. 152, 158, 169, 183))

[45 FR 51193, Aug. 1, 1980, as amended at 62 FR 1668, Jan. 13, 1997]

#### § 102.35 Duties and powers of administrative law judges; stipulations of cases to administrative law judges or to the Board; assignment and powers of settlement judges.

(a) It shall be the duty of the administrative law judge to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice affecting commerce as set forth in the complaint or amended complaint. The administrative law judge shall have authority, with respect to cases assigned to him, between the time he is designated and transfer

of the case to the Board, subject to the Rules and Regulations of the Board and within its powers:

(1) To administer oaths and affirmations;

(2) To grant applications for subpoenas;

(3) To rule upon petitions to revoke subpoenas;

(4) To rule upon offers of proof and receive relevant evidence;

(5) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(6) To regulate the course of the hearing and, if appropriate or necessary, to exclude persons or counsel from the hearing for contemptuous conduct and to strike all related testimony of witnesses refusing to answer any proper question;

(7) To hold conferences for the settlement or simplification of the issues by consent of the parties, but not to adjust cases;

(8) To dispose of procedural requests, motions, or similar matters, including motions referred to the administrative law judge by the Regional Director and motions for default judgment, summary judgment, or to amend pleadings; also to dismiss complaints or portions thereof; to order hearings reopened; and upon motion order proceedings consolidated or severed prior to issuance of administrative law judge decisions;

(9) To approve stipulations, including stipulations of facts that waive a hearing and provide for a decision by the administrative law judge. Alternatively, the parties may agree to waive a hearing and decision by an administrative law judge and submit directly to the Executive Secretary a stipulation of facts, which, if approved, provides for a decision by the Board. A statement of the issues presented should be set forth in the stipulation of facts and each party should also submit a short statement (no more than three pages) of its position on the issues. If the administrative law judge (or the Board) approves the stipulation, the administrative law judge (or the Board) will set a time for the filing of briefs. In proceedings before an administrative law judge, no further briefs shall be filed except by special leave of