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**NLRB GENERAL COUNSEL ISSUES  
REPORT ON FY 2008 OPERATIONS**

Continuing a tradition of the Office of the General Counsel of the National Labor Relations Board, NLRB General Counsel Ronald Meisburg today released a report providing an overview of the operations of field and headquarters offices under his supervision during Fiscal Year 2008. In his third "Summary of Operations" since his appointment, General Counsel Meisburg discusses the achievements of the staffs in the casehandling and administrative functions within the authority of the Office of the General Counsel.

In issuing the Summary of Operations, Mr. Meisburg commended the staff of the Office of the General Counsel:

The accomplishments of any organization, in major part, are a reflection of the talent, dedication, and industry of the individuals who serve it. The employees of the Office of the General Counsel in the 51 NLRB field locations and in Washington Headquarters offices are responsible for the success of the Office of the General Counsel in the year just past. For all these accomplishments, they have my sincere thanks and respect.

Of special note in FY 2008:

- 95.1% of all initial elections were conducted within 56 days of the filing of the petition.
- Initial elections in union representation elections were conducted in a median of 38 days from the filing of the petition.
- A 96.87% settlement rate was achieved in the Regional Offices in meritorious unfair labor practice cases.
- The Regional Offices won 90.8% of Board and Administrative Law Judge unfair labor practice decisions in whole or in part in FY 2008.

- A total of \$70,001,594 was recovered on behalf of employees as backpay or reimbursement of fees, dues, and fines, with 1,564 employees offered reinstatement.
- The Agency reached all three of its overarching goals, closing 83.50% of all representation cases within 100 days (target 80%), 68.10% of all unfair labor practice cases within 120 days (target 68%), and 75.22% of all meritorious unfair labor practice cases within 365 days (target 75%). The target for each overarching goal was higher than in FY 2007.
- Agency representatives participated in over 525 outreach events during FY 2008.
- In FY 2008, Agency R case intake increased by 2.3%, Agency C case intake increased by 1.6%, and overall case intake was up by 1.7%.
- This record of performance was achieved with a Region Office staff of 821 employees, 34 less than the 855 employees in FY 2007.

In addition to his praise of Agency employees for their accomplishments during FY 2008, General Counsel Meisburg also acknowledged the cooperation and assistance of those who practice before the Agency. General Counsel Meisburg stated, "Those labor-relations practitioners who represented the parties to our proceedings in FY 2008 also have my thanks for their contributions to the success of the Agency."

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**OFFICE OF THE GENERAL COUNSEL**

**MEMORANDUM GC 09-03**

**October 29, 2008**

TO: All Employees, Office of the General Counsel

FROM: Ronald Meisburg, General Counsel

SUBJECT: Summary of Operations (Fiscal Year 2008)

Attached is a copy of the Summary of Operations for Fiscal Year 2008. The Summary reflects the superb work of all employees of the Office of the General Counsel in the Field and in Headquarters. Your performance in the just concluded fiscal year was not an easy accomplishment. You all deserve great praise for your outstanding performance.

Please accept my sincere appreciation and congratulations for the excellent manner in which you carry out the mission of the Agency year after year. While this Summary reflects the timeliness of your work, it does not include the high quality of that work or the courteous manner which it is performed. You have my gratitude and, I am certain, the gratitude of the labor-relations community for a job well done.

/s/  
R.M.

Attachment

cc: NLRBU  
NLRBPA

Distribution:  
Regional Offices  
Washington-Special  
Release to the Public

**MEMORANDUM GC 09-03**

## **SUMMARY OF OPERATIONS FISCAL YEAR 2008**

### **INTRODUCTION**

This summary continues my practice of providing an annual overview of the operations of the Office of the General Counsel.

As the summary reflects, the record of performance achieved by the staffs of the Headquarters and Regional Offices of the General Counsel in Fiscal Year 2008 based on preliminary statistical reports, was once again outstanding.

Of special note in FY 2008:

- 93% of all initial elections were conducted within 56 days of the filing of the petition.
- Initial elections in union representation elections were conducted in a median of 39 days from the filing of the petition.
- A 96.87% settlement rate was achieved in the Regional Offices in meritorious unfair labor practice cases.
- The Regional Offices won 90.8% of Board and Administrative Law Judge unfair labor practice decisions in whole or in part in FY 2008.
- A total of \$70,001,594 was recovered on behalf of employees as backpay or reimbursement of fees, dues, and fines, with 1,564 employees offered reinstatement.
- The Agency reached all three of its overarching goals, closing 83.50% of all representation cases within 100 days (target 80%), 68.10% of all unfair labor practice cases within 120 days (target 68%), and 75.22% of all meritorious unfair labor practice cases within 365 days (target 75%). The target for each overarching goal was higher than in FY 2007.
- Agency representatives participated in over 525 outreach events during FY 2008.
- In FY 2008, Agency R case intake increased by 2.3%, Agency C case intake increased by 1.6%, and overall case intake was up by 1.7%.
- This record of performance was achieved with a Region Office staff of 821 employees, 34 less than the 855 employees in FY 2007.

I extend my sincere appreciation to all staff members for their continued hard work and dedication to public service and for the cooperative manner in which they have responded to the priorities in casehandling. My thanks also to those who practice before us for the cooperation and assistance that they extended to us in our efforts to administer the Act effectively and efficiently.

/s/

Ronald Meisburg  
General Counsel

## **ORGANIZATION OF THE OFFICE OF THE GENERAL COUNSEL**

The Office of the General Counsel is composed of six major components. These components are responsible for the various casehandling, administrative and personnel functions of the office. The six components are: the Division of Operations-Management and Regional Offices, the Division of Advice, the Division of Enforcement Litigation, the Division of Administration, the Office of Equal Employment Opportunity and the Office of Employee Development.

The Division of Operations-Management includes Headquarters and Regional Office staffs. The Headquarters staff has the responsibility on behalf of the General Counsel for the operations of the Regional, Subregional and Resident Offices, and the coordination of the casehandling of those offices with the Washington Divisions of the Office of the General Counsel and the Board.

There are 32 Regional Offices, three Subregional Offices and 17 Resident Offices. Each Regional Office is headed by a Regional Director who is responsible for the management of the office and any attached Subregional or Resident Offices and for the investigation and initial determination of the merits of unfair labor practice cases and representation cases. The Regional Director is also responsible for resolving through settlement or litigation the unfair labor practice charges found to warrant further proceedings, and for the conduct of representation elections.

The Division of Advice has the function of rendering substantive legal advice to the General Counsel and to Regional Offices in cases presenting novel or complex issues, cases of national interest or cases which involve developing and changing areas of the law. The Division also processes requests for injunctive relief under Section 10(j) of the Act, litigates injunction cases in Federal appellate courts under Section 10(l) and 10(j), manages the General Counsel's Freedom of Information Act program and indexes and classifies Board and Court decisions under the Act.

The Division of Enforcement Litigation is responsible for the Agency's litigation in the United States Court of Appeals and the Supreme Court of the United States as well as for contempt and miscellaneous litigation in Federal and State Courts.

The Office of Appeals is a major component of the Division of Enforcement Litigation. This office reviews appeals from Regional Directors' refusals to issue complaint in unfair labor practice cases and recommends proposed action to be taken thereon by the General Counsel. It also processes appeals from the Regional Directors' denial of requests for documents under the Freedom of Information Act.

The Division of Administration is under the general supervision of the General Counsel and has been delegated responsibility for the development, direction and coordination of administrative staff support functions for both the Board and the General Counsel.

The Office of Equal Employment Opportunity is dedicated to providing timely professional assistance and advice to managers, supervisors, and employees with respect to understanding and promoting diversity in the workplace. Its mission includes providing assistance to all Agency employees to avoid or resolve discrimination and

harassment complaints. In so doing, the OEEEO serves as EEO counselor to Agency employees and manages the EEO complaint processing system for the Agency.

The Office of Employee Development reports directly to the General Counsel and is responsible for the training needs of Agency employees. It is the mission of the OED to develop an agency-wide approach to training, to assist managers in providing employees with needed development opportunities and to help managers and supervisors manage their own careers and obtain developmental opportunities.

## **I. General Information**

The information set forth below reflects the work of the various casehandling Divisions during Fiscal Year 2008 based on preliminary statistical reports of case actions during the year.<sup>1</sup>

During the last quarter of FY 2007, the Agency implemented three overarching casehandling goals. These goals complement the interim goals under which the Office of the General Counsel has operated for over 45 years. I am pleased to report that the Agency reached all three of its overarching goals, closing:

- 83.50% of all representation cases within 100 days (target 80%),
- 68.10% of all unfair labor practice cases within 120 days (target 68%), and
- 75.22% of all meritorious unfair labor practice cases within 365 days (target 75%).

## **II. Regional Offices**

### Case Intake

The NLRB's processes can be invoked only by the filing of an unfair labor practice charge or a representation petition by a member of the public. The Agency has no authority to initiate proceedings on its own.

Total case intake during FY 2008 was 25,901, compared to 25,471 cases in FY 2007, representing a 1.7% increase in overall intake. Unfair labor practice case intake was 22,501, a 1.6% increase from the FY 2007 intake of 22,147. Representation case intake was 3,400 a 2.3% increase from the FY 2007 intake of 3,324. Petitions filed in unit deauthorization, unit amendment and unit clarification (UD, AC and UC) cases decreased by 11.9% from the previous year's intake with the filing of 245 petitions in FY 2008 compared to 278 filed in FY 2007.

In *Dana Corp.*, 351 NLRB No. 28 (September 29, 2007), the Board modified its recognition-bar doctrine, holding that an employer's voluntary recognition of a labor organization does not bar a decertification or rival union petition that is filed within 45 days of unit employees' receiving notice of the voluntary recognition. The Board crafted a new procedure for providing unit employees with notice of a voluntary recognition sufficient to trigger the 45-day period. An employer and/or union that is a party to the

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<sup>1</sup> Our experience is that despite the preliminary nature of these reports, the final statistics vary only slightly.

voluntary recognition must promptly notify a Regional Office of the Board in writing of the grant of voluntary recognition. The notification to the Regional Office must include a copy of the recognition agreement, which must be reduced to writing and must describe the unit and the date of recognition. Upon receipt of the requisite notice of voluntary recognition, the Region shall send an official NLRB notice to the Employer to be posted in conspicuous places at the workplace throughout the 45-day period.

The Agency received 419 requests for *Dana* notification during FY 2008. In five of these matters, a petition for certification was filed after notices to employees were posted. In 26 of these matters, a petition for decertification was filed after the notices were posted.

### Regional Professional Staff

The average professional staff handling the workload in the Regional Offices decreased during FY 2008 to 821 employees as compared to 855 in FY 2007. The Agency has engaged in limited hiring from FY 2002 through FY 2008 due to delays in the enactment of our final budgets and the decline in case intake. Despite this reduced hiring, the field offices were able to contain their inventory of pending cases, even achieving a slight decrease. There were 3,792 situations pending at the end of FY 2007. At the end of FY 2008, that number decreased to 3,570.

### Outreach Activities

Agency representatives in the field offices participated in over 525 outreach events during FY 2008 providing information to over 32,000 stakeholders. A significant number of these events addressed large groups of people, such as participating in radio talk shows in New Orleans and New York. The Agency also continues to receive requests for speakers through the Speakers Bureau located on the Agency's Website.

The majority of outreach events this fiscal year were in educational settings such as law schools, undergraduate universities and high schools. Other events involved community based activities, bar association related activities, and outreach activities to labor organizations, employer/management organizations, and government organizations. The Agency continues to engage in joint outreach activities with other federal agencies.

In addition, two-thirds of the Regional Offices have issued Regional Newsletters that have been very well received by their communities.

### Information Officer Inquiries

The Agency's Public Information Program continues to provide assistance to members of the public by answering questions posed, aiding them in filing charges and petitions with the Agency and by referring inquiries not covered by the NLRA to appropriate agencies or organizations.



The Agency's 51 field offices received 154,028 public inquiries in FY 2008, an 18.6% decrease from the 189,172 received during FY 2007. The public can contact the Agency through a toll-free telephone service designed to provide easy and cost-free access to information to the public. Callers to the toll-free number may listen to messages recorded in English and Spanish that provide a general description of the Agency's mission and connections to other government agencies or to Information Officers located in the Agency's Regional Offices. In FY 2008, the toll-free telephone service received 53,077 calls, of which 20,364 were connected to Regional Offices for further assistance. In FY 2007, the toll-free telephone service received 68,556 calls, of which 24,547 were for further assistance by the Regions.

Our Public Information program is particularly beneficial to the public because of the information and help it provides. It also prevents a large number of non-meritorious charges from being filed with the Agency.

The rate of charge acceptance (percent of inquiries from the public in which the contact results in an unfair labor practice charge being filed) was approximately 4.6% in FY 2008, which is slightly higher than the 3.8% rate experienced in FY 2007. Since the inception of the Public Information Program in 1978, the Agency charge acceptance rate has declined from 9.2%.

### Electronic Access

In FY 2006 the Agency first launched its interactive Website. Last year, the Website was greatly improved with expanded document collections, enhanced navigational structure, a searchable database of case information (ECIS) and new features allowing users to transact business with the Agency online. The new Website received 2,327,830 visitors and 10,034,397 page views in FY 2008.

The new "My NLRB" feature of the site now provides users with a web interface to various databases with case information and links to documents associated with selected cases. Users may register to be recognized by the system when they enter their user ID and password, which will make the E-filing process easier by automatically filling in certain information required on the online filing forms. The system also can save searches and other user preferences for registered users, who might want to follow the progress of certain cases. "My NLRB" received 177,288 visitors who viewed 1,868,355 pages during FY 2008.

In July 2008 the Board initiated a pilot project that will extend "My NLRB" to permit final Board and ALJ decisions to be issued electronically (E-Issuance) at the close of each business day by being listed on a daily e-docket sheet posted on the NLRB Website. Parties who voluntarily register for electronic service (E-Service) through "My NLRB" will receive, immediately upon posting of the e-docket sheet, an email constituting formal notice of the issuance of the Board or ALJ decision and an electronic link to the decision. The Board and ALJ decisions will be posted on the NLRB Website the first business day following posting of the e-docket sheet. Parties who do not register for E-Service will continue to receive service by traditional means, typically via U.S. Mail.

## Unfair Labor Practice Cases

### Settlements

The Agency's effectiveness and efficiency in administering the Act is greatly enhanced by its ability to obtain voluntary resolution of unfair labor practice cases, which, after investigation, are deemed worthy of prosecution. (See merit factor, below.) Over the years, the Agency has achieved an excellent settlement record due to the efforts of Agency staff and the cooperation of the Bar. In FY 2008, the Regions obtained 7,246 settlements of unfair labor practice cases, representing a rate of 96.8% of total merit cases, compared to 7,214 settlements in FY 2007 and a rate of 97.0%. Over the last 10 years the settlement rate has ranged from between 91.5% and 99.5%.

### Complaints

In FY 2008 the Regional Offices issued 1,149 complaints as compared to 1,182 in FY 2007. The median time to issue complaints was 98 days in FY 2008, which is the same median experienced in FY 2007. The median number of days from issuance of complaint to opening of the unfair labor practice hearing was 86 days in FY 2008, compared to a median of 88 days in FY 2007.

### Merit Factor

The percentage of unfair labor practice cases in which a Regional Director determines that formal proceedings are warranted is called the merit factor. In FY 2008 the merit factor was 36.1%, roughly the same as the merit factor of 36.6% in FY 2007. Since 1980, the merit factor has fluctuated between 32% and 40%.

### Litigation Results

The Regional Offices won 90.8% of Board and Administrative Law Judge decisions in whole or in part in FY 2008, significantly higher than the 85% rate experienced in FY 2007. Over the last 10 years, the percentage of wins, in whole or in part, has ranged between 78% and 90.8%.

### Remedies

The Regional Offices recovered \$70,001,594 on behalf of employees as backpay or reimbursement of fees, dues, and fines in FY 2008, compared to \$110,388,806 in FY 2007. In FY 2008, a total of 1,564 employees were offered reinstatement, compared to 2,456 in FY 2007.<sup>2</sup>

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<sup>2</sup> Remedies secured may vary from year-to-year because occasional cases involve extraordinarily large amounts of money or large numbers of employees.

## Section 10(l) Activity

The Regional Offices filed three petitions for 10(l) injunctions with the appropriate district courts in FY 2008, the same number filed in FY 2007. One petition was dismissed, the second was withdrawn, and the third is still pending before the district court.

### Representation cases

#### Elections

The Regions conducted 2,085 initial representation elections in FY 2008, of which 91.8% were held pursuant to agreement of the parties, compared to 2,080 initial elections and a 91.2% election agreement rate for FY 2007. Actual performance thus continues to exceed our goal, which is to conduct 85% of elections pursuant to voluntary election agreements.

In FY 2008, the median time to proceed to an election from the filing of a petition was 38 days, one day less than the 39 median days achieved in FY 2007, and below our target median of 42 days.

Most critically, 95.1% of all initial representation elections were conducted within 56 days of the filing of the petition in FY 2008, compared to 93.9% in FY 2007, and above our target of 90%.

In 73 cases post-election objections and/or challenges were filed requiring the conduct of an investigative hearing. Decisions or Supplemental Reports issued in those cases in 72 median days. In 45 cases post-election objections and/or challenges were filed that could be resolved without a hearing. Decisions or Supplemental Reports in those cases issued in 28 median days. The goal in hearing cases is 80 median days and in non-hearing cases 32 median days.

#### Regional Director Decisions

In FY 2008, Regional Directors issued 169 pre-election decisions in contested representation cases after hearing in a median of 36 days, well below our target median of 45 days. In FY 2007 Regional Directors issued 186 pre-election decisions in a median time of 36 days.

### III. Division of Enforcement Litigation

#### Appellate and Supreme Court Litigation Branch

In FY 2008, the Appellate and Supreme Court Litigation Branch received 103 cases. Private parties filed petitions to review the Board's order in 63 of the 103 cases, and the Regional Offices referred the remaining 40 cases for court enforcement. In FY 2007, the total intake of enforcement and review cases was 119 cases and dispositions totaled 117. Oral arguments were presented in 66 cases in FY 2008, compared with 55 cases in FY 2007. As in FY 2007, the Board filed no petitions for rehearing in FY 2008. The Branch filed two responses to petitions filed against the Agency in FY 2008, the same as in FY 2007. The Branch also handled 32 summary enforcement cases and 19 consent cases in FY 2008; in FY 2007, the Branch handled 36 summary enforcement cases and 18 consent cases.

The median time for filing applications for enforcement was 24 days in FY 2008, compared with 25 days in FY 2007, and well within our goal of 30 days. The briefing schedule in appellate cases is set by the Courts and in FY 2008, the median time for both enforcement and review cases from receipt of cases to filing of briefs was 176 days, compared to 175 days in FY 2007.

In FY 2008, the United States Courts of Appeals decided 72 enforcement and review cases involving the Board, compared with 67 in FY 2007. Of these cases, 88.9% were enforced in whole or in part in FY 2008, and 80.6% were won in full, compared with success rates in whole or in part and in whole in FY 2007 of 97.0% and 86.6%, respectively. In FY 2008, 4.2% of enforcement and review cases were remanded entirely, compared with 3.0 % in FY 2007. Also in FY 2008, 6.9% of cases were lost in full; in FY 2007, no cases were lost in full.

In FY 2008, the Supreme Court decided one case in which the Board filed an amicus brief. The Court agreed with the Board's position in that case. Oppositions to private parties' petitions for certiorari were filed in two cases; in three cases, a waiver of response was filed. In FY 2007, two oppositions were filed, and a waiver of response was filed in five cases. In FY 2008, as in 2007, the Board did not file any petitions for *certiorari* in the Supreme Court.

In FY 2008, the Court denied six private party petitions for certiorari. In FY 2007, the Supreme Court decided no Board cases on the merits; it denied seven private party petitions for certiorari and granted none.

### Special Litigation Branch

In FY 2008, the Special Litigation Branch experienced an intake of 233 cases and closed 226 cases. This compares with an intake of 223 cases and the closing of 233 cases in FY 2007. In FY 2008, ethics cases addressing contacts with represented persons or other issues during Board proceedings comprised 150 of the 233 cases received and 155 of the 226 cases closed. In FY 2007 ethics cases comprised 155 of the total 223 cases received and 156 of the 233 cases closed.

In FY 2008, the Branch co-supervised the issuance of a new FOIA manual for the Agency, and authored a memorandum to the Regions detailing new procedures to be followed before the bankruptcy courts. The Branch also filed 34 briefs: 11 appellate court briefs, 16 district court briefs, five bankruptcy court briefs, and two state court briefs. The Branch also sent 116 memos to the Board and Regional Offices, including 98 ethics memos. In FY 2007 the Branch filed 35 briefs, nine to the appellate courts, 13 to the district courts, and 13 to bankruptcy courts. In FY 2007 the Branch also sent 104 memos to the Board and Regional Offices, including 93 ethics memos.

In FY 2008, the Branch participated in five oral arguments and received 18 decisions, as follows: nine in appellate courts (all wins), five in district courts (all wins), three in bankruptcy courts (all wins), and one in state court (a win). This compares with FY 2007 when the Branch participated in seven oral arguments and received 13 decisions, as follows: six in appellate courts (four wins and two losses), five in district courts (four wins and one loss), and two in bankruptcy courts (one win and one loss).

### Contempt Litigation and Compliance Branch

In FY 2008 277 cases were referred to the Contempt Litigation and Compliance Branch for consideration for contempt or other appropriate action to achieve compliance with the Act, compared to 333 cases in FY 2007. Of the 135 contempt or other formal submissions, voluntary compliance was achieved in 48 cases during the fiscal year, without the necessity of filing a contempt petition or other initiating papers, and 32 other cases settled after the filing of a formal pleading in court, but before trial. In 46 other cases, it was determined that contempt or other proceedings were not warranted. In FY 2007, voluntary compliance was achieved in 27 of the 132 formal submissions without the necessity of filing a contempt petition or other initiating papers, and 18 cases were settled after the filing of formal pleadings in court, but before trial. In 39 other cases, it was determined that contempt or other proceedings were not warranted.

Fifteen civil contempt or equivalent adjudications were awarded in favor of the Board in FY 2008 (including one assessing fines and three issuing writs of body attachment), compared to 14 in FY 2007. During FY 2008, the Contempt Litigation and Compliance Branch also obtained 23 other court orders in aid of compliance, compared to 29 in FY 2007. During FY 2008, the Branch collected \$5,443,592 in backpay or other compensatory damages, while recouping \$6,096 in court costs and attorneys' fees incurred in contempt litigation. In FY 2007, the Branch collected \$17,945,292 in

backpay or other compensatory damages, while recouping \$320,481 in court costs and attorneys' fees incurred in contempt litigation. In FY 2008, the Branch also conducted 79 asset/entity database investigations, pursuant to requests from the Regions, as compared to 161 in FY 2007.

#### Office of Appeals

In FY 2008, the Office of Appeals received 2,108 appeals from Regional Directors' refusals to issue complaints, a 2.8% decrease from the 2,168 appeals received in FY 2007. In FY 2008, the office disposed of 2048 appeals, a 10.4% decrease from the 2286 cases decided in FY 2007. The Office closed 97.2% of intake; the goal is to close at least 90%. The rate of reversal of Regional Directors' dismissals was 0.9%, a decrease from the 1.4%, in FY 2007.

Median time to process appeals in FY 2008 was 18 days; 11 days less than the time it took in FY 2007, when the median was 29 days. Median time to process 18 sustained appeals was 78 days in FY 2008, 9 days less than the 87 days in FY 2007 necessary to process 33 sustained appeals. The goal for processing sustained appeals is 90 median days.

In FY 2008, the Office of Appeals also received 32 appeals under the Freedom of Information Act and closed 33, a 28% increase over the 25 appeals received under the Freedom of Information Act in FY 2007 with 25 appeals closed.

#### **IV. Division of Advice**

##### Regional Advice Branch

During FY 2008, the Division of Advice processed its cases in a median of 20 days, as compared to 21 days in FY 2007. Also, during FY 2008, the Division received 666 cases and closed 666 cases, compared to 769 cases received and 799 cases closed in FY 2007. The median age of cases pending at the end of FY 2008 was 25 days, as compared to 26 days in FY 2007.

##### Injunction Litigation Branch

In FY 2008, the Injunction Litigation Branch received 86 cases from Regional Offices to consider for discretionary injunctive relief under Section 10(j) of the Act, as compared to 68 cases received in FY 2007. During the period October 1, 2007 through December 27, 2007, the Board authorized Section 10(j) relief in four cases, and denied none. Thereafter, based on the Board's delegation of Section 10(j) authority to the General Counsel on December 28, 2007, the General Counsel authorized 24 cases during the remainder of FY 2008. Thus, there were a total of 28 authorized Section 10(j) cases in FY 2008, as compared to 25 authorized cases in FY 2007. Eighteen cases were settled or withdrawn prior to the Board/General Counsel acting on the request. Eight cases were settled after Board/General Counsel authorization. Regional

Offices filed 10(j) petitions in 18 cases. The “success rate”, i.e., the percentage of authorized Section 10(j) cases in which the Agency achieved either a satisfactory settlement or substantial victory in litigation was 84% in FY 2008, compared to 87% in FY 2007.

In addition to requests for Section 10(j) authorization, the Injunction Litigation Branch handled 174 other cases during FY 2008, compared to 167 such cases in FY 2007. These cases involved litigation advice to Regions in their litigation of 10(j) and 10(l) cases, first contract bargaining cases submitted under Memoranda GC 06-05, 07-08, and 08-09, appeals from district court decisions in 10(j) or 10(l) cases, and contempt of district court decrees. The Branch handled one appeal that was pending at the beginning of the fiscal year and eight appeals that were filed during FY 2008, compared to five appeals that were pending at the beginning of FY 2007 and two appeals that were filed during FY 2007. Of these nine appellate cases in FY 2008, the Branch satisfactorily resolved four appeals before decision, and had five appeals pending at the end of FY 2008. This compares to seven cases in FY 2007, in which the Branch satisfactorily resolved six cases before decision and had one case pending at the end of FY 2007. The Branch also handled two requests for contempt proceedings in FY 2008, the same number as processed in FY 2007.

#### **V. The Office of Equal Employment Opportunity (OEEO)**

The Office of Equal Employment Opportunity (OEEO) handled nine complaints of alleged discrimination filed during FY 2008. At the beginning of the fiscal year, there were nine cases pending investigation. At the end of FY 2008, there were three cases pending investigation. The median number of days that cases were pending under investigation was 124 days in FY 2008, as compared to 133 days in FY 2008. In FY 2008, the OEEO issued final Agency decisions in two complaints and achieved settlements in seven formal complaints. At the close of FY 2008, there were four cases pending hearing at the EEOC, and one case pending in the United States District Court.

#### **VI. Office of Employee Development (OED)**

The Agency’s Office of Employee Development (OED) has initiated and developed numbers of programs to ensure ongoing development for the managers, supervisors, professionals, and support staff in our 51 field offices as well as in Headquarters. Included among these programs is a comprehensive legal writing training program tailored to the work of the Agency and a cutting edge program to develop and publish over 40 Professional Development Modules on labor law topics for office leaders in the field and Headquarters to present to professionals.

The 32 Professional Development Modules developed to date include instructor notes for the core presentation on the particular training topic, an exercise or other practice activity, plus checklists and resource materials for the participants’ use. All modules are made available on the Agency Intranet. The substantive material is first developed by field and Headquarters managers, reviewed by technical experts at

Headquarters, and then prepared for publication by OED staff. In FY 2008, the Regions made a total of 127 presentations using the modules. The Agency also continued its mentoring program for all new employees and for employees new to their positions.

The Agency's comprehensive Legal Writing program has provided instructor led writing and editing training in Headquarters by members of the Georgetown Legal Writing Academy and individual coaching for writers and editors. For field employees, OED provided facilitator led training using a videotaped Legal Writing Program by an Emory University professor that was developed to meet the Agency's particular needs. Most recently, OED recorded a panel of the Agency's Chief and Associate Chief Administrative Law Judges providing advice on how to enhance legal writing and trial skills. This last program will be made available to the Agency's attorneys and to the public on the Agency's Website.

The Agency continues to employ the NLRB Management Development Program, (MDP), a flexible program designed to ensure that the Agency has well-qualified candidates for future managerial vacancies. All new supervisors have been assigned a mentor for a minimum of one year and also complete management readings and a CD ROM version of Ken Blanchard's "Situational Leadership" training. Experienced supervisors, managers, and executives are required to complete a minimum of two management developmental activities annually. They can select from a number of development opportunities, such as external seminars, videoconferences, 360 degree feedback and internet/CD ROM based training.

To provide "just in time" training, OED provides a variety of training opportunities to all staff. For example, OED Field Division provides weekly video conference training on information technology topics, substantive compliance issues and administrative topics, conducted by subject matter experts. Forty-eight of these sessions were conducted in FY 2008.