

United States Postal Service

§ 963.6

39 U.S.C 3008(d) may submit to the Manager a petition for hearing on the alleged violation. The petition must be in writing, signed by the petitioner or his or her attorney, and filed with the Manager on or before the 15th day after receipt of the complaint. The petition shall state the reasons why the petitioner believes the complaint to be erroneous. No petition received after the 15th day will be considered to have been filed on time, unless it was duly sent to the Manager via certified mail, deposited in the U.S. mail on or before the 15th day. The Manager will forward each timely petition to the Recorder, Judicial Officer Department, U.S. Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078.

(b) *Notice of hearing.* Upon receiving a petition, the Recorder shall schedule a hearing for a date not later than 30 days after the date of receipt, issue and send a notice of hearing to the parties, and send a copy of the petition to the General Counsel of the U.S. Postal Service.

(c) *Answer.* The General Counsel shall file with the Recorder an answer to the petition within 15 days after the date of receiving a copy thereof. A certified copy of the material documents from the Manager's case file (i.e., of the PS Forms 1500, *Application for Listing and/or Prohibitory Order*, 2152, *Prohibitory Order*, and 2153, *Complaint*, underlying mail pieces, and pertinent return receipts) shall be appended to the answer.

(d) *Filing and copies of documents.* With the exception of the initial petition, all documents shall be filed with the Recorder in triplicate at the address set forth above. The Recorder shall promptly provide copies to the other party to the proceeding and to the presiding officer.

(e) *Summary Judgment.* Upon motion of either the General Counsel or the petitioner, or on his or her own initiative, the presiding officer may find that the petition and answer present no genuine and material issues of fact requiring an evidentiary hearing, and thereupon may render an initial decision upholding or dismissing the complaint. The initial decision shall be-

come the final agency decision if a timely appeal is not taken.

[52 FR 18912, May 20, 1987; 52 FR 20599, June 2, 1987, as amended at 59 FR 10752, Mar. 8, 1994; 62 FR 4459, Jan. 30, 1997; 63 FR 66053, Dec. 1, 1998]

§ 963.4 Presiding Officer.

(a) The presiding officer shall be an Administrative Law Judge or an Administrative Judge qualified in accordance with law. The Judicial Officer assigns cases under this part. Judicial Officer includes Associate Judicial Officer upon delegation thereto. The Judicial Officer may, on his or her own initiative or for good cause found, preside at the reception of evidence.

(b) The presiding officer has authority to:

(1) Take such action as may be necessary properly to preside over the proceeding and render decision therein;

(2) Render an initial decision, if the presiding officer is not the Judicial Officer, which becomes the final agency decision unless a timely appeal is taken; the Judicial Officer may issue a tentative or a final decision.

[52 FR 18912, May 20, 1987, as amended at 62 FR 4459, Jan. 30, 1997]

§ 963.5 Appearances.

(a) *Petitioner.* A petitioner may appear and be heard in person or by attorney. An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer (see Part 951 of this chapter). When a petitioner is represented by an attorney, all pleadings and other papers to be served on petitioner after entry of the attorney's appearance shall be mailed to the attorney. A petitioner must promptly file notice of any change of attorney.

(b) *Postal Service.* The Postal Service will be represented by its General Counsel or any attorney designated by the General Counsel.

§ 963.6 Computation of time.

A designated period of time under these rules means calendar days, excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday,