

MICHAEL HORTON v. U.S. General Accounting Office

Docket No. 01-09

Date Issued: September 10, 2002

Cite as: Horton v. GAO, Docket No. 01-09 (9/10/02)

Before: Jeffrey S. Gulin, Administrative Judge

Headnotes:

Evidence

Hearing Procedures – Pre/Post-hearing

Timeliness – General

ORDER

**PERSONNEL APPEALS BOARD
U.S. GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C.**

MICHAEL HORTON,
Petitioner
v.
UNITED STATES GENERAL
ACCOUNTING OFFICE,
Respondent

Docket No. 01-09

September 10, 2002

ORDER

Pursuant to the scheduling Order of May 2, 2002 (copy attached), as well as Board regulations, the parties were required to file the following pre-trial submissions by Monday, September 9, 2002:

- (1) An original and three copies of the witness list, including "the subject matter of the proposed testimony of each witness, as well as each witness' address, telephone number and current employer." Order of May 2 at 2.
- (2) Two copies of each proposed exhibit, "to be presented in binders," and including tabs and "an index of documents." Order of May 2 at 2.

Respondent GAO timely complied with the filing requirements; Petitioner submitted only a single "Witness and Exhibit List" by facsimile. Petitioner's List contained no description of the proposed testimony of any witness, nor any means for the Agency to contact proposed witnesses. Further, Petitioner failed to submit any proposed exhibits and, indeed, did not even supply a list

of proposed exhibits, relying instead on general catchall language in an attempt to encompass "any and all documents produced during discovery."¹

Petitioner's deficient filing is in direct contravention of the Order of May 2, 2002. Moreover, her failure to timely provide these required submissions impedes the orderly preparation of Respondent and the Administrative Judge for the hearing scheduled to commence on September 18, 2002. Petitioner's counsel recently has been cautioned that "further evidence of a cavalier attitude toward established deadlines and Board filing requirements may result in negative consequences for her client, including but not limited to rejection of the filing at issue." Order of August 19, 2002 at 1-2.

Accordingly, Petitioner must supply the Board and Respondent with proper witness lists and exhibit books, in full compliance with the Order of May 2, 2002, by **4:00 p.m. on Thursday, September 12, 2002. These submissions must be in Board hands, including the requisite number of copies, by that time.** Failure to fully comply with the requirements will result in an Order to Show Cause why the case should not be dismissed for failure to prosecute. See 4 C.F.R. §28.24.

SO ORDERED.

Date: 9-10-02

 /s/
Jeffrey S. Gulin
Administrative Judge

¹ Petitioner submitted a "Revised Witness and Exhibit List" by facsimile overnight. The revision included seven additional named individuals but did not supply any of the required information that was missing in the first submission.