

HH. BENCH DECISION AND POST-HEARING BRIEF INQUIRY/SUGGESTIONS

OVERVIEW:

At the end of the hearing the ALJ will either render a bench decision if so moved by the parties pursuant to § [2423.31\(d\)](#), or address what issues s/he may want the parties to address in a post-hearing brief.

OBJECTIVE:

To provide guidance concerning either the discussion of post-hearing briefs at the end of a hearing or the bench decision.

1. BRIEF INQUIRY/SUGGESTIONS:

If the case is decided by a post-hearing recommended decision and order, prior to the close of the hearing, the ALJ sets a date for the filing of briefs. At this time it is appropriate for the Trial Attorney to solicit from the ALJ what issues s/he may want the parties to address specifically in their briefs. The ALJ may indicate that it would be appropriate for the parties to limit their briefs to specific topics and/or legal issues. During the closing stages of the hearing the Trial Attorney has thought about the filing of a post-hearing brief and is prepared to discuss this matter with the ALJ.

2. BENCH DECISION:

If the case is decided by a bench decision it is particularly important for the Trial Attorney to listen attentively to the ALJ's announcement of the decision orally at the end of the hearing. A copy of the oral decision will appear in the transcript and be excerpted for transmission to the Authority in accordance with §§ [2423.31\(d\)](#) and [2423.34\(b\)](#).

The Trial Attorney takes notes, as necessary, during the ALJ's announcement of the bench decision. These notes will be useful when reading the transcript and in determining whether to file exceptions to the ALJ's decision and recommended order.

1999 Bench Decisions

See American Federation of Government Employees, Local 400, Case No. DE-CO-80520, ALJD Rpt. No. 143 (1999) (ALJ granted parties' joint motion for a bench decision and found that Respondent violated § [7116\(b\)\(1\)](#) and (8) of the Statute); Puerto Rico Air National Guard, 156th Airlift Wing (AMC), Carolina, Puerto Rico, OALJD 99-24 (Apr. 28, 1999) (where Respondent alleged no jurisdiction at the pre-hearing conference and failed to appear at the hearing, the ALJ issued a bench decision finding that Respondent interfered with unit employees right to engage in information picketing thereby violating § [7116\(a\)\(1\)](#)); U.S. Department of Veterans Affairs, Veterans Affairs Medical Center, Coatesville, Pennsylvania, OALJD 00-13 (Jan. 11, 2000) (ALJ found violation of § [7116\(a\)\(1\)](#), (5) and (8) by failing to comply with an arbitrator's order, by refusing to recognize the union's designation of its president as its representative, and by refusing to grant him access and to hold arbitration hearings at a location off of the premises).

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[Part 1, Chapter Q](#) concerning Pre-hearing Conference;

[Part 2, Chapter GG](#) concerning Closing Argument; and

[Part 3, Chapter F](#) concerning Exceptions.