

## I. RELATIONSHIP WITH THE CHARGING PARTY REPRESENTATIVE

### OVERVIEW:

The Trial Attorney must establish a working relationship with the Charging Party's representative and also ensure that the Charging Party understands that you represent the GC, not the Charging Party.

### OBJECTIVE:

To provide guidance concerning a Trial Attorney's pre-hearing responsibilities as they relate to establishing a relationship with the Charging Party representative in settlement discussions and the preparation of witnesses.

#### 1. SETTLEMENT DISCUSSIONS:

- a. Advise the OALJ of name, address, and phone number of the Charging Party's representative for inclusion in all settlement discussions.
- b. The Trial Attorney apprises all parties of the remedy that will be sought by the GC at the hearing. If Charging Party's representative has a differing view, either with respect to the remedy to be sought at hearing or the terms of a settlement agreement, inform the Charging Party of the right to fully state his or her views and opinions.
- c. Inform Charging Party's representative of § [2423.25](#)(b) which provides for the RD to accept a post-complaint formal or informal settlement agreement that effectuates the policies of the Statute without agreement of the Charging Party.

**2. PREPARATION OF WITNESSES:**

- d. *Inform Charging Party's representative of GC's burden of proof.*

The GC has responsibility of presenting the evidence in support of complaint to prove the allegations of the complaint by a preponderance of the evidence.

- e. *The Charging Party's representative has no right or obligation to be present and participate in the preparation of unit employee witnesses.*

If the Charging Party requests to be present, determine whether it would be helpful to have the person's presence.

**3. OVERALL RELATIONSHIP THE SAME AS WITH ANY OTHER PARTY:**

The Trial Attorney's overall relationship with the Charging Party representative is the same as with any other party to the proceeding with respect to:

- a. *Not providing access to, or copies of, affidavits supplied by any witness.*

§ [2423.8\(d\)](#); See [Internal Revenue Service, Boston District Office, Boston, Massachusetts and Internal Revenue Service, Andover Service Center, Andover, Massachusetts](#), 5 FLRA No. 96, 5 FLRA 700, 701 n.2 (1981) (pre-hearing disclosure of documents supplied by Charging Party witness during the investigation is violative of regulatory policy and affects weight accorded to the testimony).

- b. *Pretrial release of: witness list, documents, and theories of case.*  
See [Part 1, Chapter N](#) concerning Pre-hearing Disclosure.

**4. RELEASE OF AFFIDAVITS OR DOCUMENTS TO CHARGING PARTY:**

Situations warranting the release of an affidavit of a Charging Party witness, or the release of documents contained in the file to the Charging Party representative:

- Affiant gives permission for release of the affidavit to the Charging Party representative.
- A copy of the document has already been, or should have been, supplied to the Charging Party representative.
- The documents were discovered pursuant to a subpoena request.

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**[Part 1, Chapter D](#) concerning Remedy;**

**[Part 1, Chapter N](#) concerning Pre-hearing Disclosure;**

**[Part 2, Chapter E](#) concerning the Role of the Charging Party Representative at the Hearing;  
and**

**[Part 2, Chapter Y](#) for Guidance on Handling Difficult Situations with Respondent or Charging Party Representative.**

RESERVED