



PUBLIC NOTICE

Federal Communications Commission
1919 M St., N.W.
Washington, D.C. 20554

News media information 202 / 418-0500
Fax-On-on-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

FCC 96-42
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COMMISSION TAKING TOUGH MEASURES AGAINST FRIVOLOUS PLEADINGS

By this Public Notice, the Federal Communications Commission reminds parties to our proceedings and their attorneys that our rules prohibit the filing of frivolous pleadings or pleadings filed for the purpose of delay in proceedings before the Commission or its staff. See e.g., 47 C.F.R. § 1.52. The Commission intends to fully utilize its authority to discourage and deter the filing of such pleadings and to impose appropriate sanctions where such pleadings are filed.

A pleading may be deemed frivolous under 47 C.F.R. § 1.52 if there is no "good ground to support it" or it is "interposed for delay." See also Implementation of Cable Television Consumer Protection Act, 9 FCC Rcd 2642, 2657 (1993) (frivolous complaint is one "filed without any effort to ascertain or review the underlying facts" or "based on arguments that have been specifically rejected by the Commission . . . or [having] no plausible basis for relief"). In the past, the Commission generally has issued warnings against the future filing of such pleadings. See e.g., Western Communications, Inc., 59 FCC 2d 1441, 1456 n.21 (1976); Western Maine Cellular, Inc., 7 FCC Rcd 8648 (Mob. Svs. Div. 1992). However, all Bureaus and Offices are encouraged to fully utilize the Commission's sanctions powers, which include the authority to strike such pleadings pursuant to 47 C.F.R. § 1.52 or other applicable rules and to issue forfeitures under 47 U.S.C. § 503 for violations of 47 C.F.R. § 1.52 or other applicable rules.

In addition, all Bureaus and Offices are encouraged to refer under seal incidents of attorneys who are found to have filed frivolous pleadings in violation of 47 C.F.R. § 1.52 to the Office of General Counsel pursuant to our decision in Opal Chadwell, 2 FCC Rcd 3458 (1987). See Order, 10 FCC Rcd 10330 (1995) (codifying the procedures concerning attorney misconduct previously announced in Opal Chadwell). The General Counsel will determine the appropriate action to be taken. Such action might include initiation of a proceeding under 47 C.F.R. § 1.24 (censure, suspension or disbarment of attorneys practicing before the Commission), referring the matter to the appropriate state bar, or consulting with the Department of Justice. See Opal Chadwell, 2 FCC Rcd at 3458.

Action by the Commission February 2, 1996, by Public Notice (FCC 96-42) by Chairman Hundt, Commissioners Quello, Barrett, Ness and Chong.

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