

NATIONAL LABOR RELATIONS BOARD

ST. XAVIER UNIVERSITY ADJUNCT FACULTY ORGANIZATION, IEA-NEA)	
)	
Petitioner,)	
)	Case No. 13-RC-22025
AND)	
)	
SAINT XAVIER UNIVERSITY,)	
)	
Employer)	

**PETITIONER’S MOTION TO RECONSIDER REQUEST FOR ADDITIONAL
EXTENSION OF TIME IN WHICH TO FILE BRIEF IN SUPPORT OF
REGIONAL DIRECTOR’S DECISION**

NOW COMES Petitioner, St. Xavier University Adjunct Association, IEA-NEA, and respectfully requests the Board to Reconsider its “Final” order extending time for Petitioner to file a Brief in Support of the Regional Director’s Decision in this matter to **September 2, 2011**. In support of the same, Petitioner states as follows:

1. On August 16, 2011, the undersigned counsel sought an extension of time in which to file a Brief in support of the Regional Director’s Decision in the captioned matter. At the time, Petitioner’s Brief was set to be filed on August 19, 2011. As a solo practitioner and the only attorney working on this matter, the undersigned counsel was compelled to seek additional time to file her brief when she broke her arm on August 3, 2011. After learning that, in fact, her arm was not broken but instead her elbow was shattered, counsel was hospitalized for surgery on August 12-13, 2011.
2. Due to the nature of her injury, the undersigned counsel has been virtually unable to perform lawyering functions during the entire month of August. The undersigned counsel is now in physical therapy to re-learn use of her right arm but at this time remains incapable of working more than ½ days.

3. The Record in this case is significant in size, as well as complexity. The transcript from the Hearing is over 500 pages long and well over 1000 pages of exhibits were introduced into evidence. The complexity of the facts and law involved herein is demonstrated by the Employer's Brief seeking review in this matter – a document that is 45 pages long and was prepared by two lawyers and an undetermined number of support staff.¹

4. In light of the above issues, the undersigned counsel sought a 6 week extension of time in which to file her response brief. Respondent objected to granting counsel any extension beyond two weeks, *e.g.* through September 2, 2011. Before the undersigned counsel had an opportunity to respond to Respondent's objections, this Board acceded to Respondent's request and limited the undersigned counsel to a two week extension of time in which to file her brief, *e.g.* through September 2.

5. Although Petitioner insists that it will be prejudiced if a further extension of time were granted to the Petitioner, Petitioner is mystified regarding what prejudice would befall Respondent by Petitioner's request²; the additional time will, to be sure, extend the time by which the instant matter is resolved. However, it is *Petitioner* who is seeking representation, and *Petitioner* who is prejudiced by delay in having the Regional

¹ Notably, the briefing schedule in this matter was expedited due to the fact that Respondent declined to file a Brief in support of its position in this matter and instead requested to rely exclusively on the brief that it had filed upon seeking review. Had Respondent filed a Brief in support of its position, that filing would have delayed the timing of Petitioner's Brief. At the time that Petitioner suggested the August 19, 2011 filing date *no* date for filing a response brief had been set, Petitioner's Request for additional time in which to file – is its first real request for additional time.

² Indeed, Respondent's counsel simply states that granting Petitioner additional time would be "unfair" since they wrote their brief in two weeks. However, as noted above, it was Respondent's choice (or misreading of the Rules) that resulted in the decision to file its brief with its request for review instead of waiting to file a brief in support. Second, there is nothing "fair" about an accident resulting in loss of use of one's right arm. Petitioner is frankly nonplused by this argument.

Director's Decision affirmed. Respondent has failed to identify how delay of an action that they seek to prevent from *ever* happening – *e.g.* certification of the petitioned-for unit – prejudices them.

6. Irrespective of any alleged prejudice or mere inconvenience that the Sisters of Mercy would endure due to the instant request for additional time, the undersigned counsel is physically handicapped by virtue of her shattered (and now surgically removed) elbow bone and cannot complete the brief in the time previously granted by this Board.

7. In addition to preparing the brief in this matter, the undersigned counsel has a Response Summary Judgment brief due on September 9, 2011, and is managing other significant cases before the NLRB Regional offices.

8. In order to prepare an appropriate brief on the issues raised in this matter, Petitioner's counsel respectfully submit that the Board **reconsider** it prior "final order" extending the due date to September 2, 2011, and instead grant Petitioner through and including **September 14, 2011** for filing its Brief in Support of the Regional Director's Decision.

Respectfully submitted,

St. Xavier University Adjunct Assn, IEA-NEA

By: s/s Laurie M. Burgess, its counsel

Laurie M. Burgess
Burgess Law Offices
25 E. Washington
Suite 1400
Chicago, IL 60602
312/456-0500

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NOTICE OF FILING AND CERTIFICATE OF SERVICE

To: Ms. Amy Gaylord
Franczek, Radelet P.C
300 S. Wacker Drive
Chicago, IL 60606-6785

Ms. Kathleen A. Rinehart
555 East Wells Street
Suite 1900
Milwaukee, WI 53202-3819

Please take notice that on August 29, 2011, the undersigned counsel caused to be filed with the NLRB Office of the Executive Secretary, a copy of Petitioner’s Request for Additional Extension of Time in which to file Brief in Support of Regional Director’s Decision, a copy of which is herewith served on you.

I, Laurie M. Burgess, counsel for the Petitioner, certify that on August 29, 2011, I e-filed and served a copy of the foregoing Motion for Additional Extension of time on the above party through its counsel, NLRB Office of the Executive Secretary, and Region 13 via telefax.

s/s Laurie M. Burgess

Laurie M. Burgess
Burgess Law Offices
25 E. Washington
Suite 1400
Chicago IL 60602
312/456-0500