

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

OMNOVA SOLUTIONS, INC.,)	
)	
Employer,)	
and)	Case No. 26-RD-1182
)	
HADEN SELF,)	
)	
Petitioner,)	
and)	
)	
UNITED STEELWORKERS)	
INTERNATIONAL, LOCAL 748L)	
)	
Union.)	

**OMNOVA SOLUTIONS INC.'S RESPONSE IN OPPOSITION TO THE
UNION'S REQUEST FOR EXENSION OF TIME**

OMNOVA Solutions, Inc., (the Company) respectfully requests that the National Labor Relations Board (the Board) deny United Steelworkers International, Local 748L's (the Union) request to extend the deadline for filing exceptions to the Hearing Officer's Report and Recommendations on Challenged Ballots. In support of its request, the Company states as follows:

1. The Union went on economic strike on May 21, 2010. Eighteen months later, the strike continues. Shortly after the strike started, the Company first hired temporary replacement workers and then converted them to permanent replacement workers on September 13, 2010. The only replacement workers hired after that date were permanent replacements.

2. Petitioner filed a decertification petition on May 10, 2011 and a pre-election hearing was held on May 24, 2011. At the pre-election hearing, the Union first articulated its arguments that the Company's replacement workers were temporary and that the strikers should

be allowed to vote in the election. The Regional Director for Region 26 declined to hear the Union's arguments and issued a Decision and Direction of Election on June 10, 2011.

3. The Union filed a request for review, asking the Board to decide voter eligibility before the election, and asking the Board to overturn its rulings in *Jones Plastic & Engineering Co.*, 351 NLRB 61 (2007) and *Wahl Clipper*, 195 NLRB 634 (1972). The Board denied the Union's request without prejudice, noting that the Union could raise the same issues in a post-election proceeding.

4. A mixed manual-ballot election was held in July 2011. Both parties challenged some of the ballots, and a hearing on the challenges was held September 13, 2011. In its post hearing brief, the Union once again argued that the Board should overrule *Jones Plastic* and *Wahl Clipper*.

5. The Hearing Officer issued a Report and Recommendations on Challenged Ballots in November 2, 2011, finding that the replacement workers are permanent replacements and that the striking workers were ineligible to vote in the election. Under Board Rule 102.69(f) and (i)(2), exceptions to the report must be filed by November 16, 2011.

6. On November 10, the Union submitted a letter requesting a 30 day extension to file its exceptions and supporting brief. The Union's request should be denied for several reasons.

- a. First, this case has been pending for over sixth months. One of the Board's main priorities is to resolve representation elections and to give effect to employee choice. Here, the outcome of an election and employee choice hangs in the balance and there is no reason to delay final resolution.

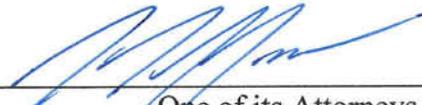
- b. Second, the Union has known of the issues in this case since May 2011, and has already briefed its arguments twice in the last six months. The Union has known the facts and applicable law from the start and has had ample time to consider and brief its legal arguments. Indeed, given the known facts and controlling applicable law, the Union knew well how the Hearing Officer would rule.
- c. Third, the Union requests a 30 day extension, which would give it three times the amount of time normally provided under Rule 102.69(f).

7. Consequently, the Company respectfully requests that the Board deny the Union's request to extend the deadline for filing a request for review of the Hearing Officer's Report and Recommendations on Challenged Ballots.

Respectfully submitted,

OMNOVA SOLUTIONS, INC.

By: _____



One of its Attorneys

David P. Radelet
Christopher A. Johlle
Joshua D. Meeuwse
Franczek Radelet P.C.
300 South Wacker Drive
Suite 3400
Chicago, Illinois 60606
(312) 786-6172 (direct)
fx: (312) 986-9192

Dated: November 14, 2011

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he caused a copy of the foregoing OMNOVA SOLUTIONS INCORPORATED'S RESPONSE IN OPPOSITION TO THE UNION'S REQUEST FOR EXTENSION OF TIME to be served upon the following individuals, on this 14th of November, 2011:

VIA ELECTRONIC FILING:

Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.,
Washington, D.C. 20570-0001

VIA E-MAIL:

Ronald Hooks
Regional Director
National Labor Relations Board (Region 26)
80 Monroe Avenue, Suite 350
Memphis, Tennessee 38103
Ronald.Hooks@NLRB.gov

Counsel for the Union
Lynn Agee
USW Special Counsel
3340 Perimeter Hill Drive
Nashville, TN 37211
lagee@usw.org

Petitioner
Haden Self
laself@cableone.net



Joshua D. Meeuwse