

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

AP GREEN INDUSTRIES, INC.

and

Cases 9-CA-151564
9-CA-154799

UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY,
ALLIED-INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION, AFL-CIO/CLC,
LOCAL 2324-05

COUNSEL FOR THE GENERAL COUNSEL'S
MEMORANDUM IN OPPOSITION TO RESPONDENT MOTION FOR CONTINUANCE

Counsel for the General Counsel opposes Respondent's Motion for Continuance of Trial Date, filed on March 8, 2016^{1/}, and respectfully urges that such motion should be denied.

Respondent seeks such continuance on the grounds that it retained new counsel. In general, it asserts that it has been prejudiced by the change in the trial date in this matter from April 12 to March 21. It argues that it lost valuable time in which to prepare for the hearing, which was subsequently compounded by the scheduling of mediation and the hearing in the related 10(j) proceeding for later in the same week. Respondent's request should be rejected for the following reasons:

1. Respondent's purported need for a continuance is mostly self-created in that it chose on its own accord to use different counsel to handle the unfair labor practice trial less than 2 weeks prior to the scheduled hearing. Consequently, any burden resulting from its personal decision to elect, at such a late date, to use different trial counsel should be borne by Respondent and not its laid-off employees or the statutory interest in expediting these proceedings.

Respondent is no more prejudiced by the demands of litigating both the alleged unfair labor

^{1/} Hereinafter all dates occurred in 2016, unless otherwise noted.

practice and the 10(j) petition in the same week than is Counsel for the General Counsel.

Indeed, Counsel for the General Counsel learned of the change to an earlier trial date at the same time as Respondent. Finally, it should be noted that, notwithstanding the Regional Director's decision to move the hearing date up by 3 weeks, the current March 21 trial date is still almost a month later than the original February 24 trial date in this matter.

2. The Region has filed on behalf of the Board a petition for Section 10(j) injunctive relief with the U.S. District Court for the Southern District of Ohio (Court). Section 102.94 of the Board's Rules and Regulations mandates that 10(j) cases be processed expeditiously. Moreover, the need to develop an administrative record upon which the Court can make a "reasonable cause" determination in the 10(j) proceeding compels a prompt administrative hearing. It is far more efficient and prudent to rely on the record from the administrative hearing for such purpose rather than waste time and resources duplicating the effort before the Court. Finally, any Board-approved delay in these proceedings would likely be construed against the Board in the Court's eyes as it tends to conflict with the argument that this matter warrants swift, injunctive relief.

3. Balancing the equities, the public's interest in quickly resolving the allegation that the Respondent failed and refused to bargain in good faith, and that it continues to engage in an unlawful lockout of its 42 employees outweighs Respondent's need for a continuance.

Based upon the foregoing, it is respectfully urged that Respondent's Motion be denied.

Dated at Cincinnati, Ohio this 11th day of March 2016.

Respectfully submitted,

/s/ Zuzana Murarova

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Certificate of Service

March 11, 2016

I certify that on this date I served the attached Counsel for the General Counsel's Memorandum in Opposition to Respondent's Motion for Continuance by electronic mail upon the following persons at the following e-mail addresses:

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Respectfully submitted,

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