

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 8**

BFG FEDERAL CREDIT UNION,)	CASE NOS. 08-CA-151936
)	08-CA-155492
)	08-CA-155464
and)	08-CA-157897
)	08-CA-161543
)	
THE OFFICE AND PROFESSIONAL)	
EMPLOYEE INTERNATIONAL UNION,)	
LOCAL 1784)	

RESPONDENT’S EMERGENCY MOTION TO RESCHEDULE HEARING

Pursuant to NLRB Rules and Regulations §§ 102.16(b) and 102.24, BFG Federal Credit Union (“BFG” or “Respondent”), the Respondent herein, respectfully requests that the hearing presently set for August 22, 2016 be rescheduled. Sufficient grounds exist for this requested postponement to provide the parties additional time to *fully* explore the possibility of settlement.

BFG is desirous of working out a settlement in this case and has been heavily engaged in settlement discussions with the Union and the General Counsel. Since early July, Respondent has been in contact with the Region’s compliance officer regarding settlement proposals. On July 8, 2016, the parties attended an in-person meeting with counsel for the General Counsel and the Union’s representative to continue settlement discussions. As a follow up to this in-person settlement meeting, the parties attended several status calls with Judge Carissimi on July 12, 2016, July 28, 2016, August 10, 2016, and August 15, 2016 to discuss the progress of the parties’ settlement discussions.

In response to the status call on July 28, 2016, Respondent was asked by the Judge and counsel for the General Counsel to: (1) submit financial information demonstrating its inability to pay a settlement amount at 80% of the back pay demanded by the General Counsel with a

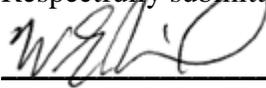
supporting affidavit as an explanation; and 2) provide the Union with information related to its length of service awards. At the bargaining session held during the evening of July 28, 2016, Respondent provided the Union with the length of service award information it requested and requested to bargain over the length of service awards. Respondent is still awaiting a response from the Union on the length of service awards with respect to settling that portion of the charge and to determine the award of length of service awards in the future. On August 3, 2016, Respondent provided counsel for the General Counsel with the requested financial information and a supporting affidavit from Respondent's Executive Vice President, Cheryl Foster. Three days later, on August 6, 2016, counsel for the General Counsel responded that they were reviewing the financial information and would follow up if they had any questions. On August 10, 2016, counsel for the General Counsel raised for the first time that they did not have the financial or accounting background to understand the financial information. Later that same afternoon, Respondent provided the General Counsel with an additional financial explanation and information that was requested related to the sale of real property. All this information was then sent to the Region's compliance officer.

Today, for the first time, Respondent was informed that the compliance officer cannot understand its financial information in or to complete an evaluation of Respondent's inability to pay claim. Respondent was further informed that one of its representatives would need to sit for a two-day deposition to explain its financials and complete a lengthy written evaluation responding to twenty-six questions containing several subparts before it could determine whether BFG was facing a legitimate inability to pay a large settlement. Less than one week before the start of the August 22, 2016 hearing, no evaluation questionnaire has yet been provided to BFG and no deposition of its representative has been set.

BFG contends that its inability to pay claim is meritorious and states that this request to postpone the hearing is necessitated in order to fully explore and timely determine whether settlement discussions could lead to settlement of the entire complaint. The late request for a two-day deposition and a lengthy evaluation questionnaire has severely disadvantaged BFG's ability to negotiate a settlement. Further, both the parties' and the Board's resources will be wasted if the hearing continues to go forward on August 22, 2016 before BFG's inability to pay claim can be adequately evaluated. Ultimately, the expenditure of this time and these resources will be rendered entirely moot if BFG's inability to pay is determined to be meritorious. In lieu of continuing with the hearing on August 22, 2016, Respondent states that it would be more efficient to set the two day deposition of its representative next week and allow it sufficient time to provide a response to the compliance department's twenty-six question evaluation.

The General Counsel does not consent to this request; however, his counsel Melanie R. Bordelois, Esq. and Olivia M. Kotter, Esq. have both indicated they are available for a hearing during September 13-16. Thus, given BFG's willingness to continue settlement discussions once its inability to pay claim is fully evaluated and in the interests of conserving the parties' and the Board's time and resources, justice would be served by the granting of this Motion. BFG is submitting this request at this juncture because it was only notified today that the Region's compliance officer could not evaluate its financial information. BFG respectfully requests that the hearing be re-scheduled to begin no earlier than September 13, 2016.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This Emergency Motion to Reschedule Hearing was electronically filed with the Chief Administrative Law Judge. Copies of the foregoing were sent by first class U.S. mail on this 15th day of August, 2016 to the following in accordance with Form NLRB-4338:

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