

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

MATHESON POSTAL SERVICES, INC.

and

Case 20-CA-186264

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 150

COUNSEL FOR THE GENERAL COUNSEL'S OPPOSITION TO
CHARGING PARTY'S MOTION TO RESCHEDULE

Pursuant to Section 102.24(a) of the Rules and Regulations of the National Labor Relations Board (the Board), the General Counsel opposes Charging Party's Motion to Reschedule (Motion) filed with the Associate Chief Administrative Law Judge in San Francisco, California on March 23, 2017, seeking to postpone the hearing in this matter, currently scheduled to begin April 4, 2017. The Charging Party seeks a postponement because of a scheduling conflict for Business Agent Jeff Carter, who is a necessary witness for the General Counsel's case. Mr. Carter's scheduling conflict does not, however, outweigh the General Counsel's interest in a timely resolution of this proceeding. In light of Respondent's Counsel's representation that he is unavailable until the Fall, any delay in this proceeding will necessarily be substantial. Accordingly, Counsel for the General Counsel requests that Respondent's Motion be denied.

The Complaint and Notice of Hearing in this matter scheduling the hearing for April 4 issued on January 26, 2017. As the Complaint alleges Respondent's failure to bargain prior to

implementing discipline in violation of Section 8(a)(5), *Total Security Management*, 364 NLRB No. 106 (Aug. 26, 2016), the case necessarily requires testimony about the communications between Respondent and the Charging Party's Business Agent, who in this case is Mr. Carter. Thus, the Charging Party has been on notice for nearly three months that Mr. Carter's testimony would be required on April 4. *Cf. Don't Stop*, 298 NLRB 961, 962 (1990) (denying continuance to permit witness to appear where complaint named witness as sole actor who committed unfair labor practices). Despite ample notice of the hearing date and Mr. Carter's role as a key witness, the Charging Party inexplicably waited to file its Motion until less than two weeks before the opening of the hearing, when the General Counsel, Respondent and the affected employee are ready to proceed.

The Charging Party's simple assertion that Mr. Carter "has been summoned to an important meeting in Southern California" fails to provide a compelling reason to reschedule a long-noticed hearing. The Charging Party has not explained why Mr. Carter's presence is indispensable to its activities in Southern California during the week of the hearing or why he is unable to make himself available for even one day of that week, the April 4 hearing date. Thus, the Charging Party has failed to establish that Mr. Carter is unavailable. The mere coincidence of there being another event that Mr. Carter would now rather attend should not outweigh the interests of the affected employee, who has adjusted his work schedule with his new employer to testify, and the interests of both the General Counsel and Respondent, who have expended resources in preparing for the hearing as scheduled, including making travel arrangements, obtaining a hearing room, and securing a court reporter.

As the Charging Party has long had notice that Mr. Carter's testimony would be required on April 4 and has provided no supporting details to establish that Mr. Carter is legitimately

unavailable, rather than merely inconvenienced, Counsel for the General Counsel opposes Charging Party's Motion to Reschedule and respectfully requests that the Motion be denied.

DATED AT San Francisco, California, this 27th day of March, 2017.



Joseph D. Richardson
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**AFFIDAVIT OF SERVICE OF: COUNSEL FOR THE GENERAL COUNSEL'S
OPPOSITION TO CHARGING PARTY'S MOTION TO RESCHEDULE**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on March 27, 2017, I served the above-entitled document(s) by **electronic mail**, as noted below, upon the following persons, addressed to them at the following addresses:

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March 27, 2017

Date

Susie Louie, Designated Agent of NLRB

Name

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Signature