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Attorneys for MATHESON TRUCKING
COMPANY, INC.

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD – REGION 20

TEAMSTERS LOCAL 150,

Claimant,

v.

MATHESON TRUCKING COMPANY,
INC.,

Respondent.

NLRB Case No.: 20-CA-186264

**MATHESON TRUCKING COMPANY,
INC.’S OPPOSITION TO TEAMSTERS
LOCAL 150’S MOTION FOR
RESCHEDULE OF THE APRIL 4, 2017
HEARING; AND DECLARATION OF
ADAM C. ABRAHMS IN SUPPORT
THEREOF**

Respondent Matheson Trucking Company, Inc. (hereinafter “Matheson”) hereby provides its opposition to the International Brotherhood of Teamsters, Local 150’s (“Union”) or (“Local 150”) Motion To Reschedule (“Motion”) as follows.

I. PRELIMINARY STATEMENT.

On March 22, 2017, the Union requested a continuance of the hearing set for April 4, 2017. This untimely request came *forty-one days* after the deadline to request a continuance and *fifty-five days* after the notice of the hearing date was served. The Union’s belated request, which consists entirely of vague, unsubstantiated and conclusory allegations, asserts without evidence, specifics or an accompanying affidavit that one of its business agent, Jeffrey Carter (“Carter”), is unavailable on the hearing date. However, it provides none of the substantive details necessary to establish that an actual, unavoidable

scheduling conflict exists or that the purported conflict was caused by anticipated and uncontrollable intervening circumstances, as required by the National Labor Relations Board's procedures. Nor does the Union establish that Carter is an indispensable witness to the General Counsel's case, a contention Counsel for the General Counsel contests. Thus, the Union's untimely request to continue the hearing does not establish the requisite good cause and should be denied.

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY.

On October 13, 2016, Local 150 filed an unfair labor practice charge ("Charge") alleging that Matheson suspended Lead Driver Phillip Zepp without notifying the Union or providing it with an opportunity to bargain over Zepp's discipline. The Region issued the Complaint and Notice of Hearing ("Notice") on January 26, 2017, which set the hearing for April 4, 2017. *See* Complaint and Notice of Hearing dated January 26, 2017, attached hereto as Exhibit A. On the at same date, Counsel for the General Counsel timely served Matheson and both the Union's Counsel and the Union itself, directing that service to Carter, giving all parties, and Carter himself, plenty of notice of the Hearing date.

Attached to the Notice was a document entitled "Procedures in NLRB Unfair Labor Practice Hearings," which set forth important procedural rules for the hearing, including the procedures to request a continuance. *See* Exhibit A at MATHESON-000009. Also served with the Notice was another document with the words "IMPORTANT NOTICE" in conspicuously bold, large and capitalized font at the top of the page. This document provides, in relevant part:

A motion to change the date of the hearing should be made within 14 days from the service of the Complaint. Thereafter, it will be assumed that the scheduled hearing date has been agreed upon and that all parties will be prepared to proceed to the hearing on that date. Later motions to reschedule the hearing will generally not be granted in the absence of a proper showing of unanticipated and uncontrollable intervening circumstances.

See Exhibit A at MATHESON-000010 (italics and underline in original).

During the pretrial conference on March 22, 2017, ***nearly two full months*** after the hearing had been set, the Union, ***for the first time***, requested that the hearing be continued due to Carter's unavailability. *See* Declaration of Adam C. Abrams ("Abrahms Decl."), at ¶ 3. Later that day, the Union

filed its Motion to Reschedule (“Motion”). The Union asserts that Carter is an essential witness to the General Counsel’s case, but Counsel for the General Counsel apparently disagrees as both Counsel for the General Counsel and Matheson oppose the request. *Id.*

The Motion vaguely alleges, without any supporting evidence, that “Mr. Carter has been summoned to an important meeting in Southern California” during the week of April 3-7, 2017 and cannot attend the hearing in Sacramento. ***The Motion attaches no declaration or other evidence substantiating this ambiguous allegation.*** Moreover, other than a conclusory allegation that Counsel for the General Counsel cannot effectively present its case without Carter – a claim Counsel for the General Counsel evidently refutes – the Motion provides no substantive details as to why Carter’s ill-timed sojourn to Southern California constitutes good cause to continue a hearing scheduled two months earlier.

III. THE UNION HAS FAILED TO ESTABLISH GOOD CAUSE TO CONTINUE THE HEARING.

As stated in the Notice, “[p]ostponements ***will not be granted*** unless good and sufficient grounds are shown.” *See* Exhibit A at MATHESON-000009 (emphasis in the original). Motions for a Continuance must set forth the grounds constituting good cause in detail and must be filed within 14 days of the service of the Complaint. *See* Exhibit A at MATHESON-000009-10. Any motion to continue the hearing filed after this deadline will be denied, absent a “showing of ***unanticipated and uncontrollable intervening circumstances.***” *See* Exhibit A at MATEHSON-000010 (emphasis added).

For example, in *Adno Fashions, Inc. d/b/a/ Don’t Stop*, 298 NLRB 961, 962 (1990) *Don’t Stop*, like Local 150 here, had notice of the hearing date months prior. However, *Don’t Stop*’s general manager, who was its chief witness, opted to attend an appointment with a “very large prospective account” rather than the hearing. *Id.* The Board affirmed the denial of the continuance and the administrative law judge’s reasoning that Respondent had ample notice of the hearing date, and its general manager made a considered business judgment that the benefit to *Don’t Stop* of meeting with the prospective customer outweighed the detriment of not appearing at the hearing. *Id.*; *see also Quebecor Group Inc.*, 258 NLRB 961, fn. 1; *Greenpark Care Center*, 236 NLRB 683, fn. 3.

To satisfy the good cause standard, the Union must show, through actual evidence rather than mere allegations, that Carter has another mandatory engagement he must personally attend that cannot be rescheduled and that arose due to unexpected circumstances beyond either his or the Union’s control. As

detailed below, the Union's vague allegation that Carter has an "important meeting" and wants to go to Southern California from April 3-7, 2017 does not establish an actual, unavoidable scheduling conflict caused by unanticipated circumstances beyond Carter's or the Union's control.

A. The Union Has Proffered No Evidence of a Scheduling Conflict.

As a preliminary matter, Union has not proffered any actual evidence of a scheduling conflict. Rather, its Motion consists entirely of unsubstantiated, vague and conclusory allegations. Carter works for the Union, and the Union presumably has easy access to him. The Union could have requested a declaration from Carter or obtained other evidence substantiating the alleged scheduling conflict, but it inexplicably chose not to. Unsubstantiated allegations by an attorney do not establish facts, much less good cause, for a last minute continuation, and the Union's dubious decision not to proffer corroborating evidence casts substantial doubt on the validity of its claims. This failure to provide supporting details to explain the absence of its witness, necessitate the denial of the continuance. *See Riverdale Nursing Hope*, 317 NLRB 881 (1995), *Skyline Builders, Inc.*, 340 NLRB 109 (2003) and *Florida Coca-Cola Bottling Co.*, 321 NLRB 21, n.2 (1996).

B. The Union Had Ample Advance Notice of the Hearing Date and Has Not Provided Any Justification For Its Failure to Ensure Carter's Attendance or Timely Request a Continuance.

The Regional Director served notice of the hearing date on January 26, 2017, yet the Union did not file its Motion until *fifty-five days* after service of the notice and *forty-one days* after the deadline to request a continuance. *See* Exhibit A. The Union's Motion fails to establish the Union took the required steps to ensure the presence of Carter and thus, under Board law, the continuance must be denied. *Batchelor Electric. Co.*, 254 NLRB 1145, n.1 (1981).

Moreover, the Union's Motion provides no justification why it waited so long to file its motion or why could not request a continuance earlier. Where, as here, the requesting party had ample advance notice of the hearing date and fails to provide a reasonable justification for its delay in requesting a continuance, the continuance should be denied. *See Quebecor Group, Inc.*, 258 NLRB 961, fn. 1 (1981) (unavailability of Respondent's key witness did not establish good cause for continuance where Respondent had notice of the hearing 13 days prior and did not provide sufficient justification for its witness' unavailability) ; *Don't Stop*, 298 NLRB at 962; *Greenpark Care Center*, 236 NLRB 683, fn. 3.

C. **The Union's Untimely Motion and Vague, Unsubstantiated and Conclusory Allegations Do Not Establish Good Cause to Continue the Hearing.**

Because the Union filed its Motion *forty-one days* after the deadline to request a continuance, it not only has to show that good cause for a continuance exists, but it must also establish that the scheduling conflict arose from “unanticipated and uncontrollable intervening circumstances.” See Exhibit A at MATEHSON-000010. The Union’s Motion plainly fails to meet this standard. The Union’s Motion does not articulate the purpose of the meeting, the exact date of the meeting, why Carter must personally attend this meeting, why the meeting cannot be rescheduled, when this “meeting” was initially scheduled, or why the Union could not provide notice of Carter’s conflict sooner. Without these crucial details, the Union’s unverified allegations do not even establish an actual scheduling conflict rendering Carter unavailable, much less a conflict caused by unanticipated and intervening circumstances.

Moreover, as a business agent for Local 150, Carter’s primary jurisdiction is the Sacramento area, and the Joint Council covering Local 150 – Joint Council 7 –serves Northern California, the Central Valley and Northern Nevada. Presumably, any Union business Carter must personally oversee would be within the jurisdiction of Local 150 or Joint Council 7. It is difficult to surmise, and the Union has not explained, why Carter has suddenly been called away for Union business in Southern California when neither Local 150 nor Joint Council 7 serves that area. Moreover, Local 150 has *ten* business agents, and the Union has proffered no reason why another business agent cannot attend the meeting in lieu of Carter. Abrahms Decl. at ¶ 4. As in *Don’t Stop*, the Union had ample notice of the hearing date, and if it decides that Carter’s presence at the meeting in Southern California is more important than his presence at the hearing, then Matheson should not be made to bear the prejudice and difficulties inherent in an eleventh hour, months-long continuance. *Don’t Stop*, 298 NLRB at 962.

In fact, it is not clear from the Union’s cryptic allegation whether Carter’s “meeting” is even business-related.¹ If the meeting is a personal commitment, this certainly does not justify a continuance based on Union’s belated request. See *Greenpark Care Center*, 236 NLRB 683, fn. 3 (no good cause for continuance where Respondent had approximately two months advance notice of the hearing date and Respondent’s key witness was on vacation during the hearing). The Union had ample time – nearly two

¹ For all we know Carter is planning on “meeting” with friends or family at Disneyland for the week.

full months – to confirm its witnesses’ availability and alert the parties to any scheduling conflict. Matheson should not have to suffer the consequences of the Union’s inexcusable lack of diligence.

The Motion does not even articulate the exact date of Carter’s alleged meeting. It merely states that Carter will be in Southern California during the week of the hearing without specifying whether alleged meeting – whatever its purpose – falls on one or more of those days. Without the exact date of the alleged meeting, the Union has not demonstrated that Carter is actually unavailable on the hearing dates. The hearing will likely take two full days to complete, and Matheson is willing to structure witness testimony to accommodate Carter’s schedule, even if that means taking him out of order. Yet the Union has not even attempted to justify why he cannot be available, let alone provide a reason why Mr. Carter cannot remain in or return to Sacramento to testify and then go to or return to Southern California. Sacramento is a short one-hour, so the Union should have no difficulty arranging for Carter to testify either April 4 or April 5.

D. The Union Has Not Shown Why Carter is an Essential Witness to the General Counsel’s Case.

The Union alleges, without explanation, that the General Counsel cannot “effectively” present its case without Carter. However, the Union has not explained what facts Carter is expected to testify about, nor has it clarified why such facts cannot be established through other testimony or documentary evidence. Without these details, the Union has not established that Carter is, in fact, an essential witness. Moreover, even if the Union had established Carter’s indispensability, which it clearly has not, the Union’s failure to establish an actual scheduling conflict caused by unanticipated and uncontrolled intervening circumstances nevertheless precludes a last minute continuance given that the Union had ample advance notice of the hearing, as the Board has repeatedly affirmed. *Don’t Stop*, 298 NLRB at 962 (continuance denied despite unavailability of key witness where Respondent has sufficient advance notice of the hearing date); *Quebecor Group, Inc.*, 258 NLRB 961, fn. 3 (same); *Greenpark Care Center*, 236 NLRB 683, fn. 3 (same).

E. Matheson Will Be Prejudiced By A Continuance.

Not only has Matheson has purchased non-refundable plane tickets for its counsel and expended substantial resources preparing and ensuring the availability of its witnesses – efforts that would have to be repeated if the hearing is continued – but Matheson’s lead trial counsel will not be available for the

continued hearing until early fall due to his heavily impacted schedule. *See* Abrahms Decl. at ¶¶ 5-6. Delaying the hearing for many months will prejudice all parties as key witnesses may forget essential facts or leave Matheson's employment. Such a significant delay would work a much greater harm on all the parties than proceeding to hearing without Carter, particularly given that the General Counsel apparently concurs that it can effectively present its case without Carter's testimony, as evidenced by its intent to oppose the Union's request for continuance.

IV. CONCLUSION

For the foregoing reasons, Matheson respectfully requests that the Union's Motion to Reschedule be denied.

DATED: March 27, 2017

EPSTEIN BECKER & GREEN, P.C.

By:



Adam C. Abrahms
Christina C. Rentz
ATTORNEYS FOR MATHESON
POSTAL SERVICES, INC.

DECLARATION OF ADAM C. ABRAHMS

I, Adam C. Abrahms, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California. I am a partner with the law firm Epstein Becker & Green, P.C., counsel of record for Matheson Trucking Company, Inc. (“Matheson”). I have personal knowledge of the facts stated in this declaration, and if called as a witness, I could and would competently testify thereto.

2. Attached hereto as Exhibit “A” is a true and correct copy of the Complaint and Notice of Hearing, and all attachments thereto, served by the Regional Director of Region 20 on January 26, 2017.

3. I attended the pretrial conference in Case No. 20-CA-186264 on March 22, 2017 at 11:00 a.m. During this pretrial conference, Jeffrey R.A. Edwards, Counsel for the International Brotherhood of Teamsters, Local 150 (“Union”), notified me for the first time that the Union intended to move for a continuance of the hearing due to the unavailability of its business agent, Jeffrey Carter. I stated my intent to oppose the Union’s motion to continue the hearing. After the pretrial conference, the Union served its Motion to Reschedule, which noted Counsel for the General Counsel also opposed a continuance of the hearing.

4. I have personally reviewed the Union’s website, http://www.teamsters150.org/index.cfm?zone=/unionactive/private_view_page.cfm&page=Secretary2DTreasure202620Agents, which shows that the Union has 10 business agents working for it.

5. On Friday, March 17, 2017, I purchased a non-refundable plane ticket to fly from Los Angeles, California to Sacramento, California on the evening April 2, 2017 so I could prepare for Matheson’s witnesses for on April 3 and appear at the Hearing on April 4.

6. Due to my heavily impacted trial, arbitration and collective bargaining schedule, the earliest I would be available for hearing if the current hearing date is continued would be August 21, 2017.

7. Specifically, I will be unavailable the following dates for the following reasons:
- a. April 6 and 7 - collective bargaining negotiations
 - b. Week on April 10 - preparing for arbitration
 - c. Week of April 17 - labor arbitration

- d. Week of April 24 - collective bargaining negotiations
- e. Week of May 1 - prepare for jury trial
- f. Week of May 8 - jury trial
- g. Week of May 15 - jury trial
- h. Week of May 22 - pre-planned travel to Washington DC for Board Meeting
- i. Week of May 29 - prepare for arbitration
- j. Week of June 5 - labor arbitration; prepare for following arbitration
- k. Week of June 12 - labor arbitration; prepare for following arbitration
- l. Week of June 19 - labor arbitration; prepare for following arbitration
- m. Week of June 26 - civil suit mediation; labor arbitration
- n. Week of July 3 - engaged harassment trainings; prepare for arbitration
- o. Week of July 10 - labor arbitration
- p. Week of July 17 - family vacation
- q. Week of July 24 - pre-planned travel to New York for Board Meeting
- r. Week of July 31 - engaged harassment trainings; prepare for arbitration
- s. Week of August 7 - labor arbitration; prepare for following arbitration
- t. Week of August 14 - labor arbitration;

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of March, 2017, at Los Angeles, California.

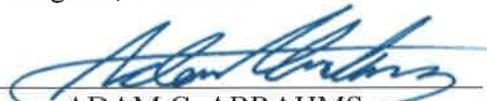

ADAM C. ABRAHMS

EXHIBIT “A”

JAN 31 2017

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

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by International Brotherhood of Teamsters, Local 150 (Charging Party or Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Matheson Postal Services, Inc. (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Charging Party on October 13, 2016, and a copy was served on Respondent by regular mail on October 17, 2016.

(b) An amended charge in this proceeding was filed by the Charging Party on December 27, 2016, and a copy was served on Respondent by regular mail on December 27, 2016.

2. (a) At all material times, Respondent has been a California corporation with an office and place of business located at 455 Bannon Street, Sacramento, California (Bannon Street Facility) and has been engaged in the business of providing freight, cargo, and mail transportation to non-retail customers.

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(b) During the 12-month period ending December 31, 2016, Respondent, in conducting its operations described above in subparagraph 2(a), purchased and received materials or services valued in excess of \$50,000 directly from points located outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

5. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and have been agents of Respondent within the meaning of Section 2(13) of the Act:

Josh Matheson	-	Vice President, Corporate Operations
Lori Wilson	-	Terminal Manager
Phil Venturelli	-	Matheson Control Center Manager
Brock Vann	-	Director of Postal Operations

6. Respondent, by Lori Wilson, at Respondent's Bannon Street Facility:

(a) On an unknown date in September 2016, threatened employees with reduction in hours due to their Union activities.

(b) On an unknown date in September 2016, created an impression among employees that their Union activities were under surveillance by Respondent.

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7. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Lead Drivers and Drivers employed by Respondent whose home terminal is located at 455 Bannon Street, Sacramento, California; excluding Administrative and Maintenance Staff, Guards, and Supervisors as defined in the Act.

(b) On September 9, 2015, the Charging Party was certified as the exclusive collective-bargaining representative of the Unit.

(c) At all times since September 9, 2015, based on Section 9(a) of the Act, the Charging Party has been the exclusive collective-bargaining representative of the Unit.

8. (a) On or about October 7, 2016, Respondent, by Lori Wilson and Josh Matheson, placed Phillip Zepp on unpaid administrative leave and suspended him from work.

(b) The subject set forth above in subparagraph 8(a) relates to wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purposes of collective bargaining.

(c) Respondent engaged in the conduct described above in subparagraph 8(a) without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct.

9. By the conduct described above in paragraph 6, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

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10. By the conduct described above in paragraph 8, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

11. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for the unfair labor practices set forth above in paragraph 8, the General Counsel seeks an order requiring that the employees be made whole, including, but not limited to, payment for consequential economic harm they incurred as a result of the Respondent's unlawful conduct.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be received by this office on or before February 9, 2017, or postmarked on or before February 8, 2017. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon

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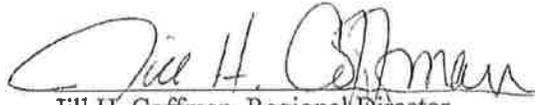
(Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on April 4, 2017, at 9:00 a.m. at a location to be determined in Sacramento, California, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

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DATED AT San Francisco, California, this 26th day of January, 2017.

A handwritten signature in black ink, appearing to read "Jill H. Coffman". The signature is fluid and cursive, written over a horizontal line.

Jill H. Coffman, Regional Director
National Labor Relations Board, Region 20
901 Market Street, Suite 400
San Francisco, California 94103-1735

Attachments

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. You may be represented at this hearing by an attorney or other representative. If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered.

(OVER)

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My business address is 1925 Century Park East, Suite 500, Los Angeles, CA 90067-2506.
3. I served copies of the following documents (specify the title of each document served):
 - **MATHESON TRUCKING COMPANY, INC.'S OPPOSITION TO TEAMSTERS LOCAL 150'S MOTION FOR RESCHEDULE OF THE APRIL 4, 2017 HEARING; AND DECLARATION OF ADAM C. ABRAHMS IN SUPPORT THEREOF**
4. I served the documents listed above in item 3 on the following persons at the addresses listed:

Attorneys for International Brotherhood of Teamsters, Local 150

Jeffrey R.A. Edwards, Esq.
David Kruckenberg, Esq.
Mastagni Holstedt
1912 I Street
Sacramento, California 95811
T: 916.446.4692 | F: 916.447.4614
E: jedwards@mastagni.com

5. a. **By Personal Service.** I personally delivered the documents on the date shown below to the persons at the addresses listed above in item 4.
- b. **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 4 and:
 1. placed the envelope for collection and mailing on the date shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Los Angeles, California.

- c. **By overnight delivery.** I enclosed the documents on the date shown below in an envelope or package provided by an overnight delivery carrier and addressed to the person at the addresses in item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d. **By messenger service.** I served the documents on the date shown below by placing them in an envelope or package addressed to the person on the addresses listed in item 4 and providing them to a professional messenger service for service. (A declaration by the messenger must accompany this proof of service or be contained in the Declaration of Messenger below.)
- e. **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents on the date shown below to the fax numbers of the

persons listed in item 4. No error was reported by the fax machine that I used. A copy of the fax transmission, which I printed out, is attached.

- f. **By e-mail or electronic transmission.** I caused the documents to be sent on the date shown below to the e-mail addresses of the persons listed in item 4. I did not receive within a reasonable time after the transmission any electronic message or other indication that the transmission was unsuccessful.

6. I served the documents by the means described in item 5 on (date): **March 27, 2017.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

3/27/17
DATE

Ellie Cook
(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)