

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14**

USW LOCAL 13-857, Charging Party,

vs.

CONTINENTAL CARBON COMPANY,
Charged Party.

Case 14-CA-186718

**RESPONDENT CONTINENTAL CARBON COMPANY'S
MOTION TO POSTPONE HEARING**

Respondent Continental Carbon Company (“Respondent”) hereby moves, pursuant to Board Rule 102.16(b) and 102.24(a), to postpone the hearing in this matter from the currently scheduled date of September 6, 2017 for a brief period of three weeks, or until such time as the Parties agree on a mutual date. As grounds for this Motion, Respondent states as follows:

1. Counsel for Respondent, Jonathan G. Rector, has recently accepted an offer of employment as legal counsel for a business entity in Dallas, Texas, and will not be employed by the law firm of Littler Mendelson, P.C., as of September 1, 2017. Mr. Rector has been the legal counsel primarily responsible for representing Respondent in this matter since its inception. Respondent has secured substitute counsel to replace Mr. Rector at the hearing in this matter—Arthur T. Carter—who requires a brief postponement of three weeks in order to become familiar with the facts and witnesses involved in this case. Further, Mr. Carter will be on a long-planned trip to New York City from September 2, 2017 – September 6, 2017, for which travel arrangements have already been made and paid for. Mr. Carter will therefore be unable to attend the hearing on September 6, 2017.

2. The Parties are also considering settlement of some or all of the allegations in the

Complaint. Respondent made a formal counteroffer to the Union's proposed settlement on August 15, 2017, and the Union responded on August 16, 2017. The Parties are making progress on settlement discussions, and an additional three weeks would allow the Parties adequate time to see if the allegations can be resolved without the need for a hearing in this matter.

3. The Amended Complaint in this matter also makes the unusual allegation that Respondent's legal counsel should be deemed an "agent" of the Company at all relevant times. Although the Amended Complaint does not provide any detail regarding this allegation, Respondent understands that the Board intends to introduce email correspondence and testimony regarding settlement discussions that occurred between Respondent's legal counsel and counsel for the Union. Respondent's position is that this evidence is prohibited by F.R.E. 408, and has advised the Judge that it intends to file—at the very least—a motion in limine to exclude this evidence at the hearing, and to seek other affirmative relief on this allegation as appropriate. The Judge has advised the Parties that she will be traveling during the next two weeks, and that any rulings on preliminary matters could be delayed because of this travel. Postponing the hearing for a period of three weeks would therefore allow the Judge adequate time to rule on this preliminary matter, which could narrow the scope of triable issues at the hearing and conserve the resources of all Parties and witnesses.

4. The present case hearing has not been previously postponed, and an additional three weeks should not result in undue delay or prejudice to the Parties.

5. Respondent's counsel has been advised that the General Counsel and counsel for the Union oppose this motion.

6. If this motion for postponement is granted, Respondent (including its new counsel) is available for trial on any date during the weeks of September 25, 2017, October 2,

2017, and October 9, 2017. Other later dates are also available, should a later date be necessary.

Dated: August 16, 2017

LITTLER MENDELSON

A Professional Corporation

By: /s/ A. John Harper

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*Counsel for Respondent Continental Carbon
Company*

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2017, I electronically transmitted the attached document using the NLRB's E-Filing System and on Charging Party via CMRRR to the address below:

Katherine G. Horigan
Collective Bargaining and Benefits
United Steelworkers
60 Boulevard of the Allies
Pittsburgh, PA 15222

/s/ A. John Harper

A. John Harper

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