

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF ADMINISTRATIVE LAW JUDGES**

XCEL PROTECTIVE SERVICES, INC.

and

**INTERNATIONAL UNION, SECURITY,
POLICE, AND FIRE PROFESSIONALS
OF AMERICA, LOCAL 5**

**Cases 19-CA-232786
19-CA-233141
19-CA-234438
19-CA-237861
19-CA-241689**

**GENERAL COUNSEL'S OPPOSITION TO RESPONDENT'S
REQUEST FOR POSTPONEMENT OF HEARING**

On October 16, 2019, Xcel Protective Services, Inc. ("Respondent"), filed a Request for Postponement of Hearing ("Request") seeking a one-week delay in resumption of the hearing in this matter. That same day, Judge Giannopoulos issued an Order to Show Cause why Respondent's Request should not be granted.

Since the hearing recessed on September 27, 2019, resumption has been repeatedly delayed. At the conclusion of that first week of hearing, the parties discussed scheduling additional days. Although Counsel for the General Counsel ("CGC") proposed resuming the following week, Respondent's counsel stated they were not available then. CGC, Counsel for the Union, and the Judge then proposed resuming October 15, 2019, but Respondent's Counsel indicated they were not available until November 5, 2019. Resumption of the hearing was scheduled for that date. However, due to a scheduling conflict for the Judge, Respondent's Counsel agreed to postpone the hearing by a further week to November 12, 2019.

More than a week after agreeing to this new date, Respondent filed its Request to further postpone the hearing. Although Respondent's Counsel indicates that the scheduling conflict was unforeseen, it previously agreed to resume the week of November 12, as noted above.

Respondent's Counsel asserts that its unforeseen scheduling conflict is due to grievance arbitrations in Connecticut and New York. Since Counsel did not mention these arbitrations when it agreed to resume the hearing November 12, it appears that it may have agreed to schedule the arbitrations despite its preexisting commitment in this matter.

Furthermore, we note that Respondent's Counsel belong to one of the nation's largest labor and employment law firms, which employs, according to its own website, hundreds of attorneys at offices in 37 states. It appears from its website that more than 90 attorneys are employed in the firm's Connecticut and New York offices alone.

Finally, Respondent's reference to settlement negotiations appears somewhat overstated, at best. At the suggestion of the Judge, CGC provided Respondent's Counsel with an updated settlement proposal before the hearing recessed 3 weeks ago. However, Respondent's Counsel did not respond to CGC's settlement proposal for 2 weeks. Given that 3 weeks still remain before the scheduled resumption of hearing, more than enough time exists for good-faith settlement negotiations without any further postponement.

In sum, while one additional week may not seem unreasonable in the abstract, any added delay weighs heavily on the two alleged discriminatees and, as discussed above, there does not seem to be a compelling reason for pushing resumption out to a full 7 weeks after the conclusion

of the initial week of trial. Accordingly, CGC respectfully opposes the Request.

Dated at Seattle, Washington, this 18th day of October, 2019.

A handwritten signature in black ink, appearing to read 'Carolyn McConnell', written over a horizontal line.

Carolyn McConnell
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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19

XCEL PROTECTIVE SERVICES, INC.

and

**INTERNATIONAL UNION, SECURITY, POLICE,
AND FIRE PROFESSIONALS OF AMERICA,
LOCAL 5**

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**AFFIDAVIT OF SERVICE OF GENERAL COUNSEL'S OPPOSITION TO
RESPONDENT'S REQUEST FOR POSTPONEMENT OF HEARING.**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on October 18, 2019, I served the above-entitled document(s) by **E-FILE**, and **E-mail** upon the following persons, addressed to them at the following addresses:

E-FILE

The Honorable John T. Giannopoulos
Administrative Law Judge
Division of Judges
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October 18, 2019.

Date

/s/ DENNIS SNOOK
Dennis Snook, Designated Agent of NLRB

Name

Kathlyn L. Mills

Kathlyn L. Mills, Secretary
Signature