

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19
DIVISION OF JUDGES**

XCEL PROTECTIVE SERVICES, INC.

and

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

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

OCTOBER 18, 2019

**REPLY TO GENERAL COUNSEL’S OPPOSITION TO RESPONDENT’S
REQUEST FOR POSTPONTMENT OF HEARING**

On October 18, 2019, Counsel for the General Counsel filed an Opposition to Respondent XCEL Protective Services, Inc.’s (“XCEL”) request for a one-week postponement of the resumption of the hearing in this matter. XCEL responds briefly to this Opposition.

First, Counsel for the General Counsel states incorrectly that since the hearing recessed on September 27, 2019, resumption of the hearing “has been repeatedly delayed.” This is simply not true. The parties and the judge agreed upon the date of November 5, 2019 to resume the hearing based upon the schedules of witnesses, counsel and the judge. Subsequently Judge Giannopoulos stated that he was unavailable on that date and scheduled a conference call to determine a new date to resume the hearing. On September 30, 2019, the undersigned e-mailed Counsel for the General Counsel and Counsel for the Union to ask if October 28 through 30, 2019 would work for continued trial dates, but neither responded. During the conference call with Judge Giannopoulos the parties agreed upon November 12, 2019 to resume the hearing without objection from any party.

At no point has XCEL attempted to delay this hearing as improperly asserted by Counsel for the General Counsel. In fact, it bears emphasis that, despite being retained fewer than four weeks prior to the start of the trial, the undersigned did not at any point attempt to continue the trial date.

Second, Counsel for the General Counsel's implication that because the undersigned "belongs to one of the nation's largest labor and employment law firms," the firm should be able to substitute another attorney for the undersigned should not even be considered. It is not always possible to obtain coverage, despite the size of a firm, based on the needs of the client and the history of the matter. This should go without saying.

Third, Counsel for the General Counsel's recitation of the settlement negotiations history is disingenuous at best. She claims that XCEL did not respond to her settlement proposal for two weeks yet leaves out the crucial point that a mere *two days* after the hearing recessed on September 29, 2019, the undersigned reached out to Counsel for the Union to resume settlement negotiations. Moreover, Counsel for the Union and the undersigned arrived at a tentative economic agreement until Counsel for the Union unexpectedly changed course and insisted upon a Board settlement on October 11, 2019—after Counsel for the Union and the undersigned had been engaged in settlement negotiations for two weeks. Because the parties have been forced to start the process from scratch, the additional week may be helpful in the settlement negotiation process.

Notably absent from Counsel for the General Counsel's Opposition is any legitimate reason why the request for postponement should not be granted. Indeed, she fails to provide any reason why she cannot be present for the hearing and appears to be objecting solely for the sake

of objecting, which is disappointing given the fact that the undersigned has expressed a legitimate reason for requiring a postponement.

Because the undersigned has professional conflicts that he cannot resolve on November 12 and 14, 2019—and Counsel for the General Counsel has failed to provide any reason to prohibit a one-week postponement—XCEL respectfully requests that a one-week postponement of the resumption of this hearing be granted.

RESPONDENT,

/s/ Jason R. Stanevich

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CERTIFICATION

This is to certify that a copy of the foregoing document has been delivered, on this 18th day of October 2019, via e-mail to all counsel and *pro se* parties of record as follows:

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