

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 27**

**AMPERSAND PUBLISHING, LLC d/b/a SANTA  
BARBARA NEWS-PRESS**

**and**

**Case 31-CA-028589  
31-CA-028661  
31-CA-028667  
31-CA-028700  
31-CA-028733  
31-CA-028734  
31-CA-028738  
31-CA-028799  
31-CA-028889  
31-CA-028890  
31-CA-028944  
31-CA-029032  
31-CA-029076  
31-CA-029099  
31-CA-029124**

**GRAPHIC COMMUNICATIONS CONFERENCE,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS**

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**COUNSEL FOR THE GENERAL COUNSEL'S OPPOSITION TO RESPONDENT'S  
REQUEST FOR A SHORT CONTINUANCE OF COMPLIANCE HEARING**

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On November 25, 2019, Ampersand Publishing, LLC d/b/a Santa Barbara News-Press (Respondent) requested a continuance of the compliance hearing scheduled to commence on December 10, 2019<sup>1</sup> in the above-captioned matter. Respondent requests a continuance primarily based on a series of allegedly “irremediable” conflicts in Respondent’s counsel Christopher Frost’s schedule from December 3 through 13. Counsel for the General Counsel (General Counsel) opposes Respondent’s request for a continuance based on the following:

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<sup>1</sup> All dates hereinafter are in 2019.

1. On September 5, the Regional Director for Region 27 (Regional Director) issued an Order Scheduling Hearing, scheduling the compliance hearing in this matter for December 10. The Order Scheduling Hearing further states: “The hearing will continue on consecutive days until concluded.”
2. Respondent has not proffered any information to demonstrate, or even suggest, that Mr. Frost’s conflicting responsibilities between December 3 through 13, as described in its request for a continuance, arose before September 5, such that they could not have been scheduled in the first instance to accommodate Mr. Frost’s participation in the December 10 compliance hearing.
3. Respondent has not proffered any information to demonstrate, or even suggest, that Mr. Frost’s scheduled responsibilities between December 10 through 13, as described in its request for a continuance, are in fact immovable at this time. Respondent provided no evidence or argument to justify postponing the December 10 compliance hearing in this matter in lieu of Mr. Frost simply rescheduling his other responsibilities.
4. Mr. Frost is a partner with the law firm Eisner, LLP. Another partner from that same firm, Michael Eisner, also entered an appearance in the above-captioned cases with Region 27 as early as April 6, 2017, around the onset of the compliance stage of the matter. Mr. Eisner has never indicated his removal from these cases and he continues to be served with all formal documents in the matter.
5. Respondent’s request for a continuance only describes Mr. Frost’s scheduling conflicts from December 3 through 13. Respondent’s request does not state or suggest that Michael Eisner also has scheduling conflicts with the December 10 compliance hearing. Respondent has not proffered any reason why Michael Eisner, or another partner from the

firm Eisner, LLP, cannot represent Respondent at the December 10 compliance hearing if Mr. Frost's scheduling conflicts are truly "irremediable," as Respondent asserts.

6. To the extent Respondent suggests that Mr. Frost's current scheduling conflicts arose because he has only recently learned that the compliance hearing may take several days past December 10, Respondent's surprise at this fact is a product of its own lack of planning and inquiry. Respondent never affirmatively inquired with the Regional Director or the General Counsel as to the anticipated length of the hearing, so as to avoid scheduling conflicts for the expected duration of the hearing on consecutive days after December 10. Moreover, the Regional Director and the General Counsel never otherwise stated or suggested to Respondent that the hearing would only last one day on December 10, or fewer than several days thereafter. Therefore, Respondent reasonably could have, and should have, planned for the compliance hearing to potentially last several days and made appropriate scheduling arrangements in advance.
7. Respondent also asserts as a basis for its request that the General Counsel has "demanded" a response from Respondent by December 6 on the Amendment to Compliance Specification. Respondent is incorrect to assert that the General Counsel has "demanded" a response. On November 15, the Regional Director issued an Amendment to the Compliance Specification (Amendment). The Amendment largely reduces Respondent's total liability for the bargaining expenses owed to the Union from a total of \$183,290 to \$111,774. The Amendment also states that Respondent "may file an answer" to the Amendment, and such answer must be received by December 6. Thus, the answer is optional. To date, Respondent has not requested any extension of the December 6 deadline to file an answer or proffered any explanation as to why it could not meet that deadline if

it chooses to file an answer. Respondent has not substantiated its suggestion that the Amendment, and/or Respondent's option to submit an answer to the Amendment by December 6, justifies a delay in the compliance hearing scheduled for December 10.

8. Respondent also states in its request for a continuance that "the NLRB is expecting a further production of documents by the first week of December." It is unclear what Respondent intends to suggest by this statement. The General Counsel has not subpoenaed Respondent to produce documents at the December 10 compliance hearing, nor has the General Counsel made any other demands or requests that Respondent produce documents in the first week of December 2019. Rather, in following up on the parties' pre-hearing conference call with Administrative Law Judge (ALJ) Dickie Montemayor, the General Counsel simply wrote to the parties and suggested that the parties schedule a conference call before the hearing to discuss potential joint stipulations and joint exhibits. Respondent has not and cannot substantiate how such a request would preclude it from preparing for or participating in the compliance hearing scheduled for December 10.

9. Respondent requests a continuance of several weeks, until early or mid-January 2020. However, Respondent has not provided any evidence or argument to demonstrate why it needs a continuance of several weeks if Mr. Frost's scheduling conflicts apparently end on December 13. Respondent has not stated or substantiated why it could not participate in a compliance hearing at an earlier date before January 2020, such as during the week beginning December 15.

Respondent was put on notice of the December 10 compliance hearing date months ago, but it has waited until just two weeks before the hearing to request a continuance. Respondent

has not demonstrated that all of its attorneys have genuine scheduling conflicts from December 10 through 13 that could not have been avoided and cannot now be rescheduled or resolved.

The purpose of the compliance hearing scheduled to begin on December 10 is to determine the liquidated amount of bargaining expenses and backpay that Respondent owes to the Union and to employees for various unfair labor practices that it committed approximately a decade ago. Respondent's request for a continuance does not raise any compelling basis to further delay a critical step in the Board's progress towards achieving a remedy in these cases.

Based on the foregoing, the General Counsel respectfully requests that Respondent's request for a continuance be denied.

Dated at Denver, Colorado, the 26th day of November, 2019

*/s/ Julia Durkin*

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## CERTIFICATE OF SERVICE

I hereby certify that the foregoing document, Counsel for the General Counsel's Opposition to Respondent's Request for a Short Continuance of Compliance Hearing, was served on November 26, 2019, as follows:

### **By E-Filing:**

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*/s/ Julia Durkin*

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