

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20**

**PAINTERS & ALLIED TRADES DISTRICT COUNCIL 36
AND SIGN DISPLAY & ALLIED CRAFTS LOCAL 510**

and

FREEMAN EXPOSITION, INC.

Case 20-CD-253060

and

TEAMSTERS LOCAL NO. 2785

CHARGING PARTY'S MOTION TO RESCHEDULE HEARING

The Charging Party, Freeman Exposition, Inc. (Freeman)—an integral and essential party to this Section 10(k) proceeding—hereby moves to reschedule the February 10, 2020¹ hearing for good cause shown. As discussed more fully below, the undersigned counsel, as well as Freeman's Deputy General Counsel and principal contact, Stephanie Hart, are unavailable the week of February 10, 2020 due to prior commitments that cannot be rescheduled. Freeman and the other parties in this case (to the undersigned's knowledge) were never notified that February 10 was a potential hearing date or afforded an opportunity to identify dates they were unavailable beyond the week of February 3. Holding a hearing the week of February 10 under these circumstances would not comport with due process and would deprive the hearing officer of critical evidence necessary to resolve the jurisdictional dispute.

On December 16, 2019, Field Attorney Matt Peterson sent an email to the parties to solicit their availability for a hearing the weeks of January 6, January 13, January 20, January 27, and February 3. In his email, Peterson specifically requested that the parties respond with their

¹ All dates referenced herein are in 2020, unless otherwise indicated.

availability those weeks by 10:00 a.m. the following day. At 9:14 a.m. the following day, the undersigned's secretary replied to Peterson's email and notified him that Freeman was available January 30-31 and February 6-7. Peterson replied shortly thereafter that he had forwarded the information concerning the parties' reported availability to the Regional Director to consider. A copy of the email exchange between Peterson and the parties is included as **Exhibit A**.

Despite never having solicited the parties' availability the week of February 10 or thereafter, on December 18, 2019, the Regional Director issued a notice setting the hearing for February 10. As alluded to above, the undersigned counsel and Freeman's principal contact, Stephanie Hart, have prior commitments the week of February 10 that cannot be rescheduled to accommodate a hearing in this matter. Specifically, the undersigned counsel is scheduled to attend initial bargaining sessions for a client in Wenatchee, Washington, the week of February 10. Those sessions have been scheduled for several months. Hart is scheduled to attend a corporate meeting in Phoenix, Arizona, February 10-11, for which travel has already been paid.

Because Freeman is in control of the work assignment in dispute in this case, it would seriously infringe on Freeman's due process rights to hold a hearing the week of February 10 without Freeman's Deputy General Counsel or its outside counsel present. See *UAW*, 239 NLRB 365, 369 (1978) ("The Supreme Court has held that the employer having control over the assignment of the work in dispute is an integral and essential party to a proceeding under Section 10(k) of the Act.") (citing *NLRB v. Plasterers Local Union No. 79*, 404 U.S. 116 (1971)).

Moreover, Freeman's absence from the hearing may deprive the hearing officer of critical testimony—including testimony about Freeman's work assignment preference and past practice—necessary to properly resolve the jurisdictional dispute. See *Longshoremen (ILWU) Local 50 (Brady-Hamilton Stevedore Co.)*, 244 NLRB 275, 276 (1979) ("[W]e have consistently placed

great weight on the factors of contract coverage and employer preference in making work assignment awards.”).

In addition to the above-stated reasons, the undersigned counsel communicated with opposing counsel to propose additional dates not previously offered which might be available for all parties. No mutually available date was found, but in the course of that communication, counsel for Teamsters Local 2785 indicated she had not yet received notice of the February 10 hearing. In reviewing the December 18 email correspondence from the Regional Director wherein the Notice of Hearing date was sent to the parties, it does not appear that the Teamsters were served with the Notice. A copy of the email from the Board is attached as **Exhibit B**.

For these reasons, Freeman respectfully requests that the February 10 hearing be rescheduled to one of the following dates for which Freeman and the undersigned counsel are available: February 13-14, March 12-13, 30-31, April 9-10.

Dated this 21st day of January, 2020



Todd A. Lyon
Attorney for Freeman Exposition, Inc.

Davis, Stephanie

From: Peterson, Matt <Matt.Peterson@nlrb.gov>
Sent: Tuesday, December 17, 2019 2:55 PM
To: Davis, Stephanie; Caren Sencer; jcohen@rsglabor.com; Lyon, Todd
Subject: Re: NLRB Case 20-CD-253060 (Painters DC 36/Sign Display Local 510 (Freeman Exposition))

Counsel,

Thanks for your efforts on availability. I've passed them on to the Regional Director to consider.

I'll be out of the office for the next two weeks.

In my absence, please contact Supervisory Attorney Kathleen Schneider with questions regarding this matter.

Thanks,

Matt

Matt Peterson
Field Attorney
National Labor Relations Board (NLRB), Region 20
901 Market Street, Suite 400
San Francisco, CA 94103
p (628) 221-8868
matt.peterson@nlrb.gov

The NLRB strongly encourages all parties to file documents electronically through our online E-File system:

<https://apps.nlrb.gov/eservice/efileterm.aspx>

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From: Davis, Stephanie <sdavis@fisherphillips.com>
Sent: Tuesday, December 17, 2019 9:14:58 AM
To: Peterson, Matt <Matt.Peterson@nlrb.gov>; Caren Sencer <csencer@unioncounsel.net>; jcohen@rsglabor.com <jcohen@rsglabor.com>; Lyon, Todd <tlyon@fisherphillips.com>
Subject: RE: NLRB Case 20-CD-253060 (Painters DC 36/Sign Display Local 510 (Freeman Exposition))

See Freeman's updated availability below in red.



Stephanie Davis
Legal Secretary

Fisher & Phillips LLP
 111 SW Fifth Avenue | Suite 4040 | Portland, OR 97204
 sdavis@fisherphillips.com | O: (503) 205-8040

Website

On the Front Lines of Workplace LawSM

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From: Peterson, Matt [mailto:Matt.Peterson@nlrb.gov]
Sent: Monday, December 16, 2019 4:15 PM
To: Caren Sencer <csencer@unioncounsel.net>; Davis, Stephanie <sdavis@fisherphillips.com>; jcohen@rsglabor.com; Lyon, Todd <tlyon@fisherphillips.com>
Subject: RE: NLRB Case 20-CD-253060 (Painters DC 36/Sign Display Local 510 (Freeman Exposition))

Counsel,

As time has passed since the parties' last stated availability, perhaps more dates have freed up between now and then.

Here is what I have, please complete/correct with your client's current availability, 10 am tomorrow latest if you want it considered:

Week Starting	Freeman Available	Painters Available	Teamsters Available
1/6	All dates No dates	No dates	No dates
1/13	No dates	No dates	No dates
1/20	No dates	All dates	All dates
1/27	30 and 31	All dates	No dates
2/3	2/6, 2/7	All dates	No dates

From: Caren Sencer <csencer@unioncounsel.net>

Sent: Monday, December 16, 2019 3:37 PM

To: Peterson, Matt <Matt.Peterson@nlrb.gov>; Davis, Stephanie <sdavis@fisherphillips.com>; jcohen@rsglabor.com;
Lyon, Todd <tlyon@fisherphillips.com>

Subject: RE: NLRB Case 20-CD-253060 (Painters DC 36/Sign Display Local 510 (Freeman Exposition))

The week of February 2 is unavailable for Local 2785. UPS panels are being held February 3-6 which require the principal officer (who will serve as the client representative in this matter) to be present and I am already on calendar for February 7.

Caren

From: Peterson, Matt [<mailto:Matt.Peterson@nlrb.gov>]

Sent: Monday, December 16, 2019 2:32 PM

To: Davis, Stephanie; Caren Sencer; jcohen@rsglabor.com; Lyon, Todd

Subject: RE: NLRB Case 20-CD-253060 (Painters DC 36/Sign Display Local 510 (Freeman Exposition))

(adding Mr. Lyon)

Thank you.

Everyone, please provide your availability the week of February 2 by COB today.

Absent a response and consensus from all by **10 a.m. tomorrow, 12/17**, the Region will choose the date.

Thanks,

Matt

Matt Peterson
Field Attorney
National Labor Relations Board (NLRB), Region 20
901 Market Street, Suite 400
San Francisco, CA 94103
p (628) 221-8868
matt.peterson@nlrb.gov

The NLRB now requires all parties to file documents electronically through our online E-File system:

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From: Davis, Stephanie <sdavis@fisherphillips.com>

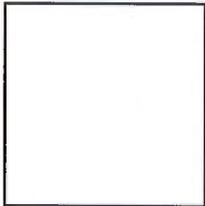
Sent: Monday, December 16, 2019 2:05 PM

To: Peterson, Matt <Matt.Peterson@nlrb.gov>; Caren Sencer <csencer@unioncounsel.net>; jcohen@rsglabor.com
Subject: FW: NLRB Case 20-CD-253060 (Painters DC 36/Sign Display Local 510 (Freeman Exposition))

Good afternoon,

Sorry for the delayed response. It sounds like the week of 1/27 is not available for the IBT 2785, but I wanted to respond just in case something changes. I believe we are available 1/30 and 1/31, but I am waiting for final confirmation from one party.

Please let me know if you still need to know our availability for that week. Thank you.



Stephanie Davis

Legal Secretary

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Website

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Begin forwarded message:

From: Caren Sencer <csencer@unioncounsel.net>

Date: December 15, 2019 at 10:21:19 PM PST

To: "Peterson, Matt" <Matt.Peterson@nlrb.gov>, "Lyon, Todd" <tlyon@fisherphillips.com>, Jonathan Cohen <jcohen@RSGLABOR.COM>

Subject: RE: NLRB Case 20-CD-253060 (Painters DC 36/Sign Display Local 510 (Freeman Exposition))

I am working with my client for dates but to be clear, we did not previously agree that we had availability the week of the 27th. I believe 510 suggested that week. Teamsters 2785 is not available that week as it is a pre planned UPS National Panel week.

Caren

From: Peterson, Matt [<mailto:Matt.Peterson@nlrb.gov>]

Sent: Friday, December 13, 2019 12:06 PM

To: Lyon, Todd; Jonathan Cohen; Caren Sencer

Subject: FW: NLRB Case 20-CD-253060 (Painters DC 36/Sign Display Local 510 (Freeman Exposition))

Counsel,

The Regional Director has again found reasonable cause to believe that Section 8(b)(4)(D) has been violated, and will be issuing a Notice of 10(k) hearing.

Please provide your availability during the week of January 27 (that week was previously available for Freeman and the Teamsters) by noon on Monday, December 16.

Thank you,

Matt

Matt Peterson
Field Attorney
National Labor Relations Board (NLRB), Region 20
901 Market Street, Suite 400
San Francisco, CA 94103
p (628) 221-8868
matt.peterson@nlrb.gov

***The NLRB now requires all parties to file documents electronically through our
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<https://apps.nlrb.gov/eservice/efileterm.aspx>

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Davis, Stephanie

From: Lyon, Todd
Sent: Tuesday, January 21, 2020 5:02 PM
To: Davis, Stephanie
Subject: Fwd: Painters & Allied Trades District Council 36 and Sign Display & Allied Crafts Local 510 (Freemen Exposition), 20-CD-253060
Attachments: NHR.20-CD-253060.Notice of 10k Hearing.docx.PDF; ATT00001.htm



Todd A. Lyon
Attorney at Law

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Begin forwarded message:

From: "Louie, Susie" <Susie.Louie@nlrb.gov>
Date: December 18, 2019 at 2:16:16 PM PST
To: "steve.bigelow@dc36.org" <steve.bigelow@dc36.org>, "bill.kuehnle@freemanco.com" <bill.kuehnle@freemanco.com>, "Lyon, Todd" <tlyon@fisherphillips.com>
Subject: Painters & Allied Trades District Council 36 and Sign Display & Allied Crafts Local 510 (Freemen Exposition), 20-CD-253060

Attached is the Notice of Hearing in the above matter.

Susie Louie
National Labor Relations Board

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20



**PAINTERS & ALLIED TRADES DISTRICT COUNCIL 36
AND SIGN DISPLAY & ALLIED CRAFTS LOCAL 510
(FREEMAN EXPOSITION, INC.)**

and

Case 20-CD-253060

FREEMAN EXPOSITION, INC.

and

TEAMSTERS LOCAL NO. 2785

NOTICE OF HEARING

PLEASE TAKE NOTICE that on the 10th day of February 2020, at 9:00 a.m. in the Natalie P. Allen Courtroom, 901 Market Street, Suite 400, San Francisco, California, and on consecutive days thereafter until concluded, a hearing officer of the National Labor Relations Board will conduct a hearing pursuant to Section 10(k) of the National Labor Relations Act. At the hearing, the parties will have the right to appear and present testimony regarding the dispute alleged in Case 20-CD-253060 involving the assignment of the following work: Loading, unloading, and transportation of equipment and materials using "runner" vehicles (box trucks, panel vans, stakebeds, and other vehicles 20 feet or shorter in length) during trade shows and other events produced by the South San Francisco Branch of Freeman Exposition, Inc.

Signed at San Francisco, CA this 18th day of December 2019.

A handwritten signature in cursive script, reading "Jill H. Coffman", is written over a horizontal line.

JILL H. COFFMAN
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 20
901 Market Street, Suite 400
San Francisco, CA 94103-1738