

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 9**

<b>AREA WIDE PROTECTIVE</b>	)	
	)	
	)	
<b>and</b>	)	Case Nos. 06-CA-252223,
	)	06-CA-253068, 06-CA-253078,
<b>INTERNATIONAL BROTHERHOOD OF</b>	)	and 06-RC-252844
<b>ELECTRICAL WORKERS,</b>	)	
<b>LOCAL UNION NO. 978</b>	)	
	)	

**MOTION TO RESCHEDULE HEARING**

Pursuant to Sections 102.16 and 102.24(a) of the Rules and Regulations of the National Labor Relations Board (“NLRB” or “Board”), Respondent Area Wide Protective (“AWP” or the “Company”), through its undersigned counsel, hereby petitions to delay the start of the Hearing currently scheduled to begin on October 19, 2020 (the “ULP trial”) by just one week, until October 26, 2020, or at whatever date thereafter is most convenient for Judge Goldman’s schedule.

Whereas AWP was initially prepared to proceed with the ULP Trial on October 19, 2020, Counsel for the General Counsel filed a 10(j) Petition on September 15, 2020 in the Southern District of West Virginia, and requested a hearing before that Court. Given the nature of 10(j) relief, AWP has been required to divert its attention from preparing for the ULP Trial, to opposing the 10(j) Petition. AWP submitted its Opposition to the 10(j) Petition October 2, 2020 and Counsel for the General Counsel’s reply, should they choose to file one, is due next week. AWP presumes that the Court will grant Counsel for the General Counsel’s request for a hearing, and as such it is highly likely that the 10(j) proceeding will overlap with the October 19, 2020 ULP Trial before Judge Goldman. Given this overlap, AWP is highly prejudiced, as the timing

of the 10(j) Petition interfered with AWP's ability to prepare for the ULP Trial. In comparison, there will be little harm to Counsel for the General Counsel or the alleged discriminatees if the ULP Trial is postponed by just a single week, as the alleged unlawful activity occurred in late 2019.<sup>1</sup>

There are also a number of detailed, time-consuming issues which must be resolved prior to the start of the ULP Trial. Specifically, AWP has filed a Petition to Revoke a trial subpoena issued by the Counsel for the General Counsel, which must be resolved before the ULP Trial commences. Additionally, AWP anticipates that it will file a number of motions in limine regarding the evidence the Counsel for General Counsel intends to present at trial. The Parties are also in the midst of good faith settlement discussions, which could result in the withdrawal of the complaint in this matter. However, should the Parties not be able to reach an agreement regarding the resolution of this matter, AWP may need to file a *UPMC* Motion for a unilateral settlement approval of many of the allegations.

Preparation for the ULP Trial will also be much more labor-intensive than typical ULP hearings. Counsel for the General Counsel informed the Parties and Judge Goldman that they anticipate having more than ten witnesses and will need at least four days for the case in chief. AWP will have a similar amount of witnesses—so that the Parties will have no less than 15 witnesses combined—and will need at least another four days to present its portion of the case. Given the above, AWP believes that its request for a one-week extension to the start of the ULP Trial is reasonable, and will allow both Parties to devote the time and attention necessary to address the issues many issues which must be resolved before the start of the hearing. In lieu of

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<sup>1</sup> Although Judge Goldman is not deciding the merits of the 10(j) Petition, AWP notes that 10(j) relief is intended to allow for injunctive relief pending a ruling on the merits, and thus is generally sought well before a unfair labor practices trial—not just week before, when the parties should be focusing on preparation for trial.

the trial, AWP suggests that October 19, 2020 be utilized as a status call with regards to the 10(j) proceeding, as opposed to the first day of trial. Despite the reasons articulated above, AWP understands that the Counsel for the General Counsel and the Union will likely oppose this motion.

### **CONCLUSION**

For the foregoing reasons, AWP respectfully requests that the hearing date be rescheduled for a date after October 26, 2020.

Dated: October 5, 2020

Respectfully submitted,

*/s/ Crystal S. Carey*

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing AWP, Inc.'s, Motion to Reschedule Hearing was served this 5th day of October, 2020 via electronic mail upon the following:

Jonathan D. Duffey  
Counsel for the General Counsel  
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/s/ Crystal S. Carey  
Crystal S. Carey