

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
NEW YORK BRANCH OFFICE**

NEW YORK PAVING, INC.

and

Case No. 29-CA-254799

**CONSTRUCTION COUNCIL LOCAL 175,
UTILITY WORKERS UNION OF AMERICA,
AFL-CIO**

**ORDER GRANTING RESPONDENT'S
REQUEST TO POSTPONE HEARING**

On July 27, 2020, I issued an Order in the above case granting the motion of Counsel for the General Counsel (General Counsel) for the hearing to be conducted remotely by videoconference. On August 10, 2020, New York Paving, Inc. (NY Paving) filed a Request for Special Permission to Appeal my Order, and on August 18, 2020 I issued an Order postponing the hearing pending the Board's ruling on the Request for Special Permission to Appeal. The Board issued an unpublished Order on October 8, 2020, granting NY Paving's Request for Special Permission to Appeal and denying the Appeal on the merits. See *William Beaumont Hospital*, 370 NLRB No. 9 (2020); *XPO Cartage, Inc.*, 370 NLRB No. 10 (2020). The hearing is currently scheduled to begin on October 13, 2020, pursuant to an order issued by the Regional Director, Region 29, on August 14, 2020.

Last week, before the Board ruled on NY Paving's Request for Special Permission to Appeal my July 27, 2020 Order, a dispute arose between the parties regarding the October 13, 2020 hearing date. General Counsel contended that the hearing should proceed on October 13, 2020. NY Paving renewed an earlier request for an order postponing the hearing until three weeks after any decision on the special appeal is issued by the Board. Charging Party Construction Council Local 175, Utility Workers Union of America, AFL-CIO (Local 175), consented to an adjournment of the hearing for three or four weeks from the October 13, 2020 hearing date, noting that the parties had made substantial progress in an effort to settle not only the instant case but long-standing underlying issues between them.

Based upon the parties' positions, the unprecedented nature of the circumstances involving remote Agency hearings by videoconference, and the parties' representations regarding the progress made toward a settlement, I find that it is appropriate to adjourn the hearing from the October 13, 2020 date. The parties are to consult amongst themselves and decide upon sufficient hearing dates during the weeks of October 19 and 26, 2020, and November 2 and 9, 2020, to complete the trial in this matter, taking into account that videoconference hearings usually require more time

than is necessary for an in-person trial presentation. The parties are then to report the dates to me, and I will issue a scheduling order. A separate Case Management Order with Instructions for Videoconference Hearing will issue today. Finally, the parties are to consult with one another to determine a specific date and time for a Zoom videoconference next week during the periods when I am available, as discussed in my October 6, 2020 e-mail.

Dated: New York, New York
October 9, 2020

A handwritten signature in cursive script, reading "Lauren Esposito", enclosed in a rectangular box.

Lauren Esposito
Administrative Law Judge