

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 4**

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LEHIGH UNIVERSITY

CASES: 04-CA-243399  
04-CA-247234

and

HOLLY FERENO

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**LEHIGH UNIVERSITY’S AMENDED MOTION FOR A CONTINUANCE OF  
HEARING**

Pursuant to Sections 102.16 102.24 of the Rules and Regulations of the National Labor Relations Board, as amended, Counsel for Lehigh University (hereinafter “Respondent” or the “University”) hereby requests that the Hearing on the above Consolidated Complaint, currently scheduled for November 4, 2020, be continued and in support thereof avers as follows:

1. Ms. Holly Fereno, former employee of the University, filed a Charge against the University on June 14, 2019 alleging that the University violated Section 8(a)(1) of the National Labor Relations Act. The Charge was given Case No.: 04-CA-243399.

2. On July 30, 2019, the undersigned Counsel for Respondent filed a Response to Charge Against Employer, which Response also contained Affirmative Defenses.

3. On September 27, 2019, Holly Fereno filed an Amended Charge which, *inter alia*, removed from the original Charge the allegation that she was constructively discharged. The Amended Charge continued to allege that Respondent violated Section 8(a)(1).

4. On August 28, 2019, Holly Fereno filed a separate Charge with Region Four in which she alleges a violation of Section 8(a)(1) of the National Labor Relations Act. The Charge was given Case No.: 04-CA-247234.

5. On November 22, 2019, Region Four issued an Order Consolidating the above cases, and in the same document, filed a Consolidated Complaint and Notice of Hearing. The hearing was scheduled to take place on February 18, 2020.

6. On December 6, 2019, the University timely filed its Answer and Affirmative Defenses to Consolidated Complaint.

7. A hearing was originally scheduled for February 18, 2020. Due to a conflict in which counsel for Respondent was moderating a Continuing Legal Education panel involving Chief Judge Juan R. Sanchez of the U.S. District Court for the Eastern District of Pennsylvania, the Respondent filed a Motion for Continuance, which was not objected to by counsel for the Board or counsel for Ms. Fereno. The hearing was continued.

8. Due to the unprecedented global pandemic of COVID-19, counsel for Holly Fereno, Region Four, and the University agreed to continue the hearing on the Consolidated Complaint indefinitely.

9. By Order of Region Four dated October 6, 2020, the hearing was scheduled for November 4, 2020.

10. A pretrial conference was held by The Honorable Arthur J. Amchan on October 19, 2020.

11. As counsel for Respondent informed Administrative Law Judge Amchan during the pretrial conference, the parties are continuing to explore a potential resolution of this matter. Multiple teleconferences occurred between counsel for Respondent and counsel for Region Four before the pretrial conference and those conferences are continuing at this time.

12. Additionally, and as provided in the University's initial Motion, the in person fall academic semester at the University concludes on November 24, 2020 and most students will leave campus at that time. On that basis, the University sought that the hearing currently scheduled for November 4, 2020, be rescheduled for a date after November 24, 2020.

13. In addition to the factors set forth in the initial Motion, and based on the evolving and changing nature of the pandemic, the University asserts that it is in the best interest of the campus community for University employees and in particular, the employees at the Health and Wellness Center, Academic Affairs and Human Resources to focus their time and energy on their essential job duties and responsibilities. The Health and Wellness Center employees provide medical services to the students, including services related to the pandemic, the flu and other common illnesses and injuries. It is essential that the Health and Wellness Center continues its comprehensive operations that support the health and well-being of the University community and provide care for students including, assessment, diagnosis and treatment related to COVID-19. After November 24, 2020, University employees, including the Health and Wellness Center employees, will be in a better position to turn their attention away from the operations at the Health and Wellness Center and focus on the issues related to the hearing, including being available to appear and testify at a hearing.

14. Additionally, the parties require the Court's assistance to resolve outstanding issues related to the subpoenas that have been issued in this case, namely Respondent's Petition to Revoke the Board's Subpoena Duces Tecum. In addition, on Monday, October 26, 2020, Respondent served a Subpoena Duces Tecum on Charging Party and no response has been submitted.

15. The parties also require the Court's assistance to resolve issues related to confidentiality. On October 26, 2020, the Region informed the University that it opposed the University's proposed Confidentiality Agreement. While counsel for the Charging Party has not related her position, she agreed to a Confidentiality Agreement that is similar in content to the proposed Agreement in another matter. A federal Judge approved the Confidentiality Agreement in that matter. In this case, the University seeks a similar Confidentiality Agreement/Protective Order that protects the privacy of all students/employees, especially nonparties in this matter. The University requests a conference to address a confidentiality agreement or to seek a protective order.

16. The Consolidated Complaint does not request relief in the form of back pay, back benefits, or reinstatement. The only remedy available is a notice posting. Therefore, a short delay would not be prejudicial to Charging Party.

17. Counsel for Region Four, Attorney Bonett, has informed us that he opposes the Motion.

18. Counsel for Charging Party, Attorney Kamber Todd, has informed us that she is unable to agree to the request for an extension.

NOW THEREFORE, for all the foregoing reasons, the University respectfully requests that the hearing currently scheduled for November 4, 2020 at 10:00 by zoom technology be continued and that a new date after November 24, 2020 be ordered.

Respectfully submitted

**WHITE AND WILLIAMS LLP**



Dated: October 28, 2020

By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I, Nancy Conrad, Esquire, do hereby certify that on this 28<sup>th</sup> day of October, 2020, I filed electronically with the Board, and served by email to the following persons a true and correct copy of the forgoing Amended Motion For Continuance of Hearing:

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