

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION 36**

HOOD RIVER DISTILLERS, INC.

Employer

and

DAVID COONTZ, an Individual

Petitioner

and

TEAMSTER LOCAL UNION NO. 670

Union

Case No. 19-RD-271944

MOTION FOR POSTPONEMENT OF HEARING

Pursuant to §102.63 of the Rules and Regulations of the National Labor Relations Board, Teamster Local Union No. 670 hereby respectfully moves for a postponement and resetting of the hearing date in the above-captioned matter, which is set to begin February 19, 2021.

The current version of Rule §102.63 states: “The Regional Director may postpone the hearing upon request of a party showing good cause.” The superseded 2014 amendment of these rules formerly allowed a Regional Director to postpone a pre-election hearing for two business days only on a showing of “special circumstances” or for more than two business days only upon a showing of “extraordinary” circumstances. By contrast, the current rules return to the “good cause” standard that existed prior to the 2014 amendments and provide the Regional Director with discretion to determine the appropriate length of postponement.

The Union requests a postponement for two separate and independent reasons. First, the Union’s principal officer, Secretary-Treasurer Michael Beranbaum, will be unavailable on February 19, 2021. On that day he will be serving as the chief negotiator in West Coast-wide collective bargaining on behalf of a multi-union bargaining group. In addition, Mr. Beranbaum

will be traveling to Texas on Monday, February 22, 2021 to perform work for the International Brotherhood of Teamsters. Mr. Beranbaum will be available by Zoom on February 23, 2021. Mr. Beranbaum's presence at the hearing is imperative because, as the principal officer of the Union in this consequential matter, he is the primary non-attorney representative of the Union, akin to its CEO. Mr. Beranbaum will need to participate in and observe the hearing in its entirety, and undersigned counsel will need to confer directly with Mr. Beranbaum regarding numerous matters during the hearing. In addition, Mr. Beranbaum will also likely be a critical Union witness at the hearing itself regarding the events that led to the current petition. As a result, there is "good cause" for postponement of the hearing for at least several days, until February 23, 2021, or the next feasible date for the parties and the Region.

Second, the Union seeks a postponement of this hearing because the composition of the bargaining unit and the legal status of many of the Employer's employees could shortly be in flux. As the Regional Director is aware, the Board has authorized the filing of a petition for injunctive relief under Section 10(j) of the Act, to be filed in federal court by Friday, February 12, 2021. Such petition, when filed, will seek injunctive relief including that Hood River Distillers (HRD) offer reinstatement to all employees who engaged in the unfair labor practice strike ending September 1, 2020, who have until this point been denied reinstatement by HRD. Given the Board's practice in Section 10(j) matters and the urgency accompanying a Section 10(j) petition, it is anticipated that the Board will seek an expedited hearing on its petition for injunctive relief and could receive a ruling on that petition within a few weeks after filing, or less. As a result, it is anticipated that the District Court could issue injunction shortly after the currently scheduled hearing of February 19, 2021 in the present RD matter. It would be an inefficient use of the Region's resources to conduct a full representation hearing on February 19, 2021, when the critical hearing issues of the composition of the bargaining unit and the legal status of a number of HRD employees – both replacement workers hired during the strike and former strikers who have not been reinstated in violation of the Act – stands to be

shifted dramatically in a matter of weeks following the representation hearing. Consequently, the Union submits that there is good cause for Regional Director to postpone the hearing in this matter until the District Court's anticipated ruling on the Section 10(j) petition.

I have conferred with counsel for HRD and with Petitioner, who is unrepresented, on February 8, 2021 about the Union's current request for postponement. The employer opposed any more than a two-day postponement in the RD hearing and generally opposes an indefinite postponement of the hearing pending resolution of the Regional Director's anticipated Section 10(j) petition in federal court. The Petitioner opposes any postponement of the RD hearing.

This motion is made in good faith and is based on good cause and not for purposes of unnecessary delay.

DATED this 9th day of February, 2021.

Respectfully submitted,

MCKANNA BISHOP JOFFE, LLP



Noah T. Barish

Of Attorneys for Teamsters Local Union 670

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the date stated below on the following parties:

E-FILE: National Labor Relations Board
Subregion 36
1220 SW 3rd Avenue, Suite 605
Portland, OR 97204

E-MAIL:

Janene Sumerfield
Human Resources Manager
Hood River Distillers, Inc.
660 Riverside Dr.
Hood River, OR 98648
Email: janenes@hrdspirits.com

Michael Beranbaum
Secretary-Treasurer
Teamster Local Union No. 670
PO Box 3048
Salem, OR 97302
Email: mberanbaum@teamster670.org

Dennis Westlind, Attorney
Bullard Law
200 SW Market St., Ste. 1900
Portland, OR 97201
Email: dwestlind@bullardlaw.com

David Coontz
c/o 660 Riverside Drive
Hood River, OR 97031
Email: coontz@usa.com

Kristin Bremer Moore, Attorney
Tonkon Torp LLP
888 SW 5th Ave., Ste. 1600
Portland, OR 97204-2030
Email: kristin.bremer@tonkon.com

DATED this 9th day of February, 2021.

MCKANNA BISHOP JOFFE, LLP



Noah T. Barish
of Attorneys for Teamsters Local Union 670