

To: MSPB Washington Regional Office
Fr: David W. Noble, Jr.
Re: Dkt. No. DC-0752-11-0880-I-1
Dt: October 24, 2011
By fax: 703-756-7112

Attached for filing are *Appellant's Motion to Postpone Hearing*, and *October 24, 2011 Declaration of David W. Noble, Jr.*, and a certificate of service.

cc: Stephen W. Furgeson

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MERIT SYSTEMS PROTECTION BOARD
Washington D.C. Field Office

David W. Noble Jr.,
Appellant

v.

United States Postal Service,
Agency.

Docket No. DC-0752-11-0880-I-1

AJ: Turbitt

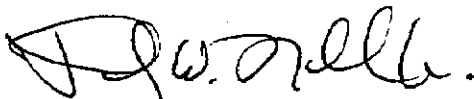
Date: October 24, 2011

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Appellant's Motion to Postpone Hearing.

For the reasons stated in the accompanying declaration, appellant moves for a postponement of the hearing presently scheduled for November 4, 2011. Before bringing this motion appellant contacted the agency, which did not without equivocation indicate whether it would oppose the motion.

Respectfully submitted,



David W. Noble, Jr.

October 24, 2011 Declaration of David W. Noble, Jr.

I, David W. Noble, Jr., make this declaration based on personal knowledge:

1. By order dated October 20, 2011 the Administrative Judge set a hearing for November 4, 2011 for Noble v. U.S. Postal Service. I will require more time to take discovery and prepare my case than would be allowed by a November 4th hearing. Therefore, I request that the Administrative Judge postpone the hearing until after discovery has been taken and any issues pertaining thereto have been resolved.

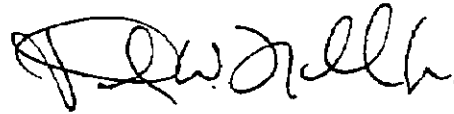
2. I served written interrogatories and requests for production of documents on the Postal Service on September 12, 2011. Those discovery requests were made within the time limits prescribed by the Acknowledgment Order and by 5 C.F.R. § 1201.73(f)(1). Under MSPB regulations the Postal Service had up to twenty days to respond, or until October 2, 2011.

3. Based on my extensive experience litigating against Stephen W. Furgeson, I expected that the Postal Service's response to my discovery requests would be late and incomplete. I was correct. The agency served its refusal to comply with any of my discovery requests on October 4, 2011. As a result, I filed a motion to compel discovery. Although the administrative judge granted my motion in part, I have still not received any of the material I requested.

4. I served follow-up requests for discovery, including requests for admission, interrogatories, notices of deposition, and requests for production of documents, on October 14, 2011. The Postal Service has up to twenty days to respond, or until about November 4, 2011. Although it has not yet formally notified me, the Postal Service has informally indicated that it will object to my attempt to take depositions. As with the first discovery request, therefore, I will have to file at least one motion to compel discovery, which will probably take until Thanksgiving or later to resolve.

5. After I have received the discovery material I will need about a week to integrate the material into the presentation I am planning for the hearing. Based on all of the above I expect to be ready to proceed by sometime in early December. I request, therefore, that the Administrative Judge postpone the hearing scheduled for November 4th and reschedule the hearing after discovery has been concluded.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on October 24, 2011.

A handwritten signature in black ink, appearing to read "D. W. Noble, Jr.", written in a cursive style.

David W. Noble, Jr.

Certificate of Service

I certify that on October 24, 2011 I sent *Appellant's Motion to Postpone Hearing and October 24, 2011 Declaration of David W. Noble, Jr.* by facsimile transmission to Stephen W. Furgeson at 301.955-0701 and to the Honorable Daniel Madden Turbitt at the MSPB Washington Regional Office at 703.756-7112.



David W. Noble, Jr.