

To: MSPB Washington Regional Office  
Fr: David W. Noble, Jr.  
Re: Dkt. No. DC-0752-12-0054-I-1  
Dt: December 4, 2011  
By fax: 703-756-7112

Attached for filing are *Appellant's Opposed Motion to Cancel Deadline, December 4, 2011 Declaration of David W. Noble, Jr.*, and a certificate of service.

cc: Stephen W. Furgeson

RECEIVED MSPB  
2011 DEC -5 PM 9:00  
WRO

**MERIT SYSTEMS PROTECTION BOARD**  
Washington D.C. Field Office

WRD

2011 DEC -5 PM 9:00

RECEIVED HSPB

David W. Noble Jr.,  
Appellant  
  
v.  
  
United States Postal Service,  
Agency.

Docket No. DC-0752-12-0054-I-1

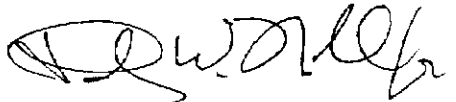
AJ: Turbitt

Date: December 4, 2011

**Appellant's Opposed Motion to Cancel Deadline.**

For the reasons stated in the accompanying declaration, appellant moves to cancel the deadline presently scheduled for December 7, 2011 for the appellant to show cause as to the issues of timeliness and jurisdiction.

Respectfully submitted,



David W. Noble, Jr.

**December 4, 2011 Declaration of David W. Noble, Jr.**

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

1. By notice dated November 22, 2011 the Administrative Judge set a deadline of December 7, 2011 for me to respond to an order to show cause as to the issues of timeliness and jurisdiction. I will require more time to take discovery and prepare my response than would be allowed by a December 7<sup>th</sup> deadline. Therefore, I request that the Administrative Judge cancel the deadline 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 November 25, 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 has up to twenty days to respond, or until December 15, 2011.

3. My November 25<sup>th</sup> discovery requests essentially duplicated some of the discovery requests I made in my removal case. When the agency objected to all of my discovery requests I filed motions to compel. The judge granted my motions in part, including as to some of the now-duplicated requests. The agency ignored the judge's order and did not produce the requested material.

4. Based on my extensive experience litigating against Mr. Furgeson, I expect that the Postal Service's response to my discovery requests will be late and incomplete. If I am correct, I will have to file another motion to compel discovery.

5. After the Postal Service makes its response I expect to propound follow-up requests for discovery within ten days, as provided by 5 C.F.R. § 1201.73(f)(2), or by about December 25, 2011. The Postal Service will have up to twenty days to respond, or until about January 14, 2012. As with the first discovery request I expect the follow-up to result in a motion to compel discovery.

6. After I have received the discovery material I will need about a week to integrate the material into my response to the show cause order. Based on all of the above I expect to be ready to proceed by about February 1, 2012. I request, therefore, that the Administrative Judge cancel the December 7, 2011 deadline and reschedule the deadline after discovery has been concluded.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 4, 2011.

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

David W. Noble, Jr.

**Certificate of Service**

I certify that I sent on December 4, 2011 *Appellant's Opposed Motion to Cancel Deadline and December 4, 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.