IN THE MATTER OF THE ARBITRATION	)	OPINION AND AWARD
	)	
Between	)	**RONALD F. TALARICO, ESQ.**
	)	**ARBITRATOR**
ARCELORMITTAL USA	)	
INDIANA HARBOR	)	
	)	GR. No.: UT-2016-15
and	)	
	)	Case 98
UNITED STEELWORKERS,	)	
LOCAL 1011	)	

GRIEVANT

Richard Moore

ISSUE

Denial of Return to Work

HEARING

September 17, 2019
East Chicago, IN

APPEARANCES

For the Employer
Christopher Kimbrough
Representative, Labor Relations

For the Union
Michael P. Young
United Steelworkers
Staff Representative, District 7

ADMINISTRATIVE

The undersigned Arbitrator, Ronald F. Talarico, Esq., was mutually selected by the parties to hear and determine the issues herein. An evidentiary hearing was held on September 17, 2019 in East Chicago, Indiana at which time the parties were afforded a full and complete opportunity to introduce any evidence they deemed appropriate in support of their respective positions and in rebuttal to the position of the other, to examine and cross examine witnesses and to make such arguments that they so desired. The record was closed at the conclusion of the hearing. No jurisdictional issues were raised.

PERTINENT CONTRACT PROVISIONS

ARTICLE THREE – HEALTH, SAFETY AND THE ENVIRONMENT

. . .

Section F. **The Right to a Proper Medical Program for Workplace Injuries and Illnesses**

. . .

4. The Company will not require any Employee to submit to any medical test or answer any medical history question that is not related to the Employee's ability to perform his/her job.

. . .

ARTICLE FIVE – WORKPLACE PROCEDURES

Section J. **Management Rights**

The management of the plants and the direction of the working forces, including the right to hire, transfer and suspend or discharge for proper cause, and the right to relieve employees from duty, is vested exclusively in the Company.

In the exercise of its prerogatives as set forth above, the Company shall not deprive an Employee of any rights under any agreement with the Union.

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APPENDIX D
JOB DESCRIPTIONS

. . .

Position Title: Maintenance Technician Electrical
Labor Grade 4

Performs all electrical functions necessary to maintain all operating and service equipment using standard and specialized tools and equipment. Makes electrical repairs as required in connection with their electrical service. Operates equipment in conjunction with repairs and provides assistance in operating functions as necessary to keep equipment running. May work alone, with minimal supervision and works with other Maintenance Technicians, and coordinates and works in conjunction with Operating Technicians and/or Service Technicians in the performance of electrical maintenance tasks.

PROGRAM OF INSURANCE BENEFITS

SECTION 4.
SICKNESS AND ACCIDENT BENEFITS

Duration of Benefits

4.3 Sickness and accident benefits are payable according to the following schedule:

Years of Continuous Service When Absence Begins	Weeks of Benefit
2 but less than 20	52
20 or more	104

BACKGROUND

The Employer is ArcelorMittal USA with Plant facilities located in Burns Harbor, Indiana. The Union, United Steelworkers, Local 1011, is the exclusive collective bargaining representative for a unit made up of production, maintenance, office, technical, clerical and railroad employees of the Company. The Employer and Union have been parties to a series of collective bargaining agreements throughout the years the most recent of which is effective September 1, 2015. The Grievant is Richard Moore who at all times pertinent to the within matter held the position of Maintenance Technician Electrical within the Waste Water Treatment, Utilities Department with 46+ years of service.

Beginning on May 24, 2014 the Grievant was out of work for two years due to heart failure and extensive cardiac problems which made him severely impaired almost to the point of total disability. During this entire period of time the Grievant received weekly Sick and Accident benefits provided for under the collective bargaining agreement. On May 20, 2016, almost two years to the day that he had been off work and was facing the exhaustion of his Sick and Accident benefits, the Grievant appeared at the Plant Clinic seeking to return to work. The Grievant presented a prescription pad note from his doctor dated May 20, 2016 simply indicating as follows:

> **"The above patient is released to return to work with no restriction."**

Medical records that the Clinic had on file in the weeks before his attempted return to work indicated that the Grievant had an irregular heart beat and an ejection fraction of 20-30% which was characterized by Dr. Ted Niemiec, the Plant Medical Director, as severe impairment. Records also reflected around that time that the Grievant had multiple procedures related to his

heart condition including cardioversion and having 1 to 4 liters of fluid removed from his body. The Grievant had also been advised to get a device implanted which would have helped with his heart condition.

Dr. Scarlett Spain, Senior Clinical Practitioner, performed a routine physical examination of the Grievant. The serious medical concerns contained in his record, coupled with his physical examination, caused Dr. Spain to telephone the Grievant's physician. The conundrum facing the Clinic was that the Grievant had appeared at the Clinic with a release simply stating "without restrictions" but no medical explanation was given for the sudden shift in his prognosis. In the course of their phone call Dr. Spain learned that the Grievant's physician had released him without restrictions based upon his discussion with the Grievant that his job function would only be "driving around" in a truck. During this phone call the Grievant's physician then placed two (2) restrictions on the Grievant: no using of ladders; and no lifting more than 20 pounds. Notes of that telephone conversation were recorded in the Grievant's medical records by Dr. Spain.

At the time the Grievant was attempting to return to work he bid into the IHW Utilities department because his former department – the 84" Hot Strip Mill – had been idled. Following a supervisory review of the job tasks required of all MTEs in IHW Utilities the determination was made that the Grievant's restrictions could not reasonably be accommodated. Thereafter, a placement hearing was held on June 10, 2016 in an effort to locate work for him elsewhere in the plant. However, no work could be located based on the Grievant's restrictions.

During the placement hearing objective testing was suggested as a means by which the Grievant could potentially have his restrictions altered so that he might be able to be accommodated to work in IHW Utilities or another area of the plant. Specifically, it was

suggested that the Grievant could participate in a Functional Capacity Evaluation ("FCE") performed by an outside medical examiner and paid for by the Company.

Following the June 10, 2016 placement hearing the Grievant did not initially commit to participating in an FCE. He eventually agreed that he would participate in an FCE on August 2, 2016 at which time his physician's office said they would provide a prescription for the FCE to be conducted. However, the Grievant's physician did not provide a prescription until August 15th, despite four contacts by the Clinic to expedite the process. The Clinic did not want to take responsibility for generating a prescription as they were under the impression that challenging the Grievant's restrictions by way of an FCE could prove detrimental to his health. Once the prescription was finally provided, the Clinic promptly scheduled the Grievant's FCE for September 2, 2016.

However, the Grievant did not participate in the FCE on September 2, 2016 due to his refusal to provide necessary medical information to the test facilitators prior to taking the test. Thereafter, the Union contacted the Clinic on September 27, 2016 to say that the Grievant was now willing to participate in the FCE. A new FCE was scheduled for and completed on October 13, 2016. On October 17, 2016 the Clinic received the results of the FCE which recommended the following restrictions:

- No pushing/pulling greater than 25 pounds frequently.
- No lifting greater than 45 pounds occasionally.
- No lifting greater than 40 pounds frequently.
- No walking frequently.

A copy of these restrictions were provided to the Grievant to share them with his physician for review and comment. The Grievant's physician did not oppose the new restrictions and, in fact, the Clinic was informed by the Grievant on October 25th that his physician agreed

with them. The Clinic updated the Grievant's permanent restrictions and he was returned to work on October 25, 2016 with accommodations necessary to encompass those restrictions.

The following grievance was subsequently filed on behalf of the Grievant:

> **"The Union contends the Company denied Grievant's return to work even though he provided numerous doctors' notes stating he could return to work with no restrictions. The grievance seeks the payment of all monies lost by the Grievant."**

ISSUE

Whether the Employer violated the collective bargaining agreement when it refused to immediately return Grievant to work after being out on sick leave for almost two (2) years based upon a lack of medical documentation?

If so, what should be the appropriate remedy?

POSITION OF THE UNION

The Union has shown in great detail the Company's efforts to keep Mr. Moore out of work despite numerous attempts by the Grievant and his cardiologist to return him to work without restrictions. Who are we to believe in this case? The employee's personal cardiologist, an expert in cardiology, who examined his patient on numerous occasions and released the patient without restrictions? Or are we to believe the Company's doctor who never laid eyes on the employee throughout the entire ordeal and made arbitrary restriction decisions based off of unverified notes without any physical examination.

The timeline the Company offered was untrue to begin with but even if believed was moot. But for their arbitrary and unreasonable denial of the Grievant's original certified return to

work slip on May 20, 2016 written by his cardiologist, followed by a reiteration of a return to work with no restrictions by the same cardiologist on May 25, 2016; none of the events following May 20, 2016 would have occurred. Curiously the return to work slip from May 25, 2016 was written and signed only 1 day after the Company alleges the Medical Clinic called the Grievant's cardiologist and she had agreed to place restrictions on the Grievant. This begs the question, why? Why would the Grievant's physician sign a return to work slip without restrictions on May 20, 2016, agree to add restrictions on May 24, 2016 according to this alleged phone call, then the very next day sign a second return to work with no restriction slip reiterating the slip from May 20, 2016? The only reasonable conclusion is the Grievant's cardiologist did not place the restrictions on the Grievant as documented by 3 different signed notes from the Grievant's cardiologist.

If there was a mistake made by the Grievant's cardiologist she had a third chance to rectify it, but instead not only reiterated her expert opinion for no restrictions for May 20, 2016 – May 25, 2016 but added the phrase "no other information is in the record". This note was offered in rebuttal during 3rd step that the cardiologist had placed restrictions by phone on the Grievant which the record shows over and over again did not occur. Had there been a phone call by the Medical Clinic and a change in the cardiologist's position on restrictions, it would have been in the record. No, the cardiologist deliberately reiterates his no restriction position and writes "no other information is in the record". It has been held that companies cannot place restrictions on employees as precautionary measures based on potential risk or possible outcomes. There was absolutely no evidence entered that showed the Grievant was a safety hazard to himself or his coworkers.

Also worth noting is the unsigned memo to Dan Brown, Division Manager 84, HSM from Dr. Niemiec, the Company's Medical Director. The memo dated May 24, 2016 places permanent restrictions on Mr. Moore four days after the Grievant's cardiologist initially released him and one day before the Grievant's cardiologist reiterated his position of no restrictions. If we are to ever get past these gross inconsistencies, we also have the "Job Task Questionnaire" a document which didn't exist prior to this case and as of the 3rd step hearing hasn't been used since. A fact unrebutted by the Company. This document was specifically built as another roadblock to Mr. Moore's return to work. The preponderance of evidence in this case shows the Company bullied Mr. Moore throughout the summer of 2016 by not allowing him to return to work without making him jump through hoops no other employee has had to which amounts to disparate treatment. These tactics combined with financial distress caused by lack of income and payment of high COBRA premiums were leverage the Company employed to force permanent restrictions on the employee and delay his return to work.

There was evidence provided by the Union that showed Mr. Moore was a senior employee that could have been afforded accommodation for any function in his job description he was deemed to safely perform as described in the 2015 BLA page 130, paragraph 2. Dr. Niemiec cited that the final restrictions were derived from the Functional Capacity Evaluation ("FCE"). The FCE noted that Mr. Moore had "consistently performed/acceptable effort" 89% of the job functions tested and 70.83% of his job demands could be expected to be done consistently. This in no way rises to the level of keeping the Grievant off work in light of both these results and the language in the 2015 BLA.

Mr. Arbitrator, it is clear the Company's and their Medical Clinic's decision to deny the Grievant a return to work and solicit restrictions from his personal physician was based on

arbitrary and unreasonable speculation that the employee may have a relapse in his health condition. The Company cannot be allowed to impose restrictions based on speculation, potential outcomes possibilities, or as precautionary measures. The fact remains the Grievant's doctor is a cardiologist. An expert in his field who examined and treated the Grievant and in whose expert opinion decided not once, not twice, but three times and essentially a fourth time, that Mr. Moore did not need restrictions upon his return to work. Furthermore, the Company has offered no evidence the Grievant was in fact a danger to himself or anyone else due to his personal attending physician's releasing him to full duty. They also offered absolutely no evidence the Grievant could not perform the essential parts of his job duties. This by definition is arbitrary and unreasonable. Mr. Moore deserves his dignity, his self-respect, and the right to make his own health decisions without arbitrary and unreasonable intrusion from the Company.

Mr. Arbitrator, the Union again respectfully requests that the Grievant be made whole in every way or at your option fashion a suitable remedy for this case.

POSITION OF THE EMPLOYER

On May 24, 2014 the Grievant went out on disability, and on May 20, 2016, a few days before his disability benefits were set to expire, the Grievant attempted to return to work. As Section 4.0 of the Program of Insurance Benefits ("or PIB") says, on page 13, you are eligible to receive Sickness & Accident (or S&A) benefits if you become totally disabled as a result of an illness, injury, or accident so as to be prevented from performing the duties of your employment. There is no question that the Grievant was totally disabled for almost a two (2) year period. The Grievant then brought in a note to the Clinic stating that he could return to work with no restrictions. However, there was no information provided to explain how the Grievant went from

being totally disabled to needing no restrictions. After being examined by Dr. Spain, who was the Nurse Practitioner at the time, and in consultation with Dr. Niemiec, the Clinic determined that it needed objective evidence showing why the Grievant could be returned to work without any restrictions.

Dr. Spain that explained, she spoke with the Grievant's cardiologist on May 23, 2016. During this conversation, his cardiologist placed two (2) permanent medical restrictions on him. Contrary to the Union's assertion, it was not the Clinic that placed these restrictions onto the Grievant. It was his own cardiologist that felt that he needed these permanent medical restrictions. These permanent restrictions were given to the Grievant on May 24, 2016. The Grievant disagreed and had another note presented to the Company at the June 8, 2016 placement hearing.

As for the two (2) notes with no restrictions that the Grievant provided, Dr. Niemiec testified that the employees' personal doctors rely on information from the employee to determine their medical restrictions. Since the personal doctors rely on employees for job information, they do not have all the information about the job functions of the employee and may not explain that they work in an industrial environment with hazards around them that could affect their medical condition. In this case, the Clinic was told the Grievant thought he would be riding around in a truck all day in his new department. Dr. Niemiec also explained he reviewed medical information a few weeks before the Grievant returned to the Clinic showing that he was still severely impaired. The Clinic must do their own evaluation to make sure that the employee is safe to return to work. The Clinic did not receive anything from the Grievant, or his doctor, to show how his condition had improved in such a short period of time. It is also worth noting that the Union could have presented the Grievant's cardiologist to testify today, but they chose not to

do so. Instead, they provided three (3) doctor's notes in which the Grievant had a private conversation with his cardiologist. In particular, the May 25, 2016 note said it was based on the Grievant's description of his job functions, and the Clinic was not given any objective information to decide if it was safe for the Grievant to return to work.

With these permanent medical restrictions in place, the Grievant could not safely perform his job functions. There is no question that the Grievant disagreed with the permanent medical restrictions. However, the delay in him returning to work was of his own doing. As Dr. Niemiec testified, the Grievant would not provide any objective medical information to the Clinic to show that he could safely return to work.

Furthermore, on at least three (3) occasions, May 25, 2016, June 8, 2016 and June 20, 2016, the Clinic informed the Grievant that he needed to provide objective evidence to explain how his condition had improved. The Clinic gave him several options to provide this objective evidence: (1) notes from his cardiologist showing the results of objective testing done by the doctor; (2) have his cardiologist send him for objective testing; or (3) have an evaluation by a third-party doctor.

The Grievant refused, or delayed, doing any of these options until September 27, 2016, almost four (4) months later. Once the Grievant agreed to participate, he was scheduled for a Functional Capacity Evaluation (or "FCE") to be conducted on October 13, 2016 and the Clinic cleared the Grievant to return to work with the new permanent medical restrictions on October 24, 2016.

Mr. Arbitrator, as you are well aware, the Union has the burden of proving that the Company violated the Basic Labor Agreement (or "BLA"). Article Three, Section F., Paragraph 4 on page 28 of the BLA allows the Company to require medical testing when it is related to the

Employee's ability to perform their job. There is no question that Dr. Niemiec and Dr. Spain had a valid reason to require objective testing in this case. The Grievant had a severe impairment that kept him out of work for nearly two (2) years and then came to the Clinic, a few days before his benefits were set to expire, with a note stating that he could return to work with no restrictions. As Dr. Spain stated, it would have been unethical to return him to work in his condition without objective information explaining his improvement and showing it was safe for him to work. Our employees work in an industrial environment filled with hazards that the employee's personal physicians may not be aware of. The Clinic has a duty to make sure the employees are safe, have the proper restrictions they need to perform their job functions and to keep other employees safe. As Dr. Niemiec and Dr. Spain further explained, Dr. Spain did the medical exams and she consulted with Dr. Niemiec. It is routine for Dr. Niemiec, as an Independent Medical Examiner with decades of experience, to perform these tasks. As. Dr. Niemiec also explained, when there are disagreements between physicians, objective testing is used. As outlined in Article Three, Section F., Paragraph 4. of the BLA, the Company can require objective testing in relation to the employee's job.

Mr. Arbitrator, the Grievant had a note to return to work with no restrictions, and as the FCE proved, the Grievant had permanent medical restrictions. Had the Company returned the Grievant to work without doing its due diligence, it could have placed the Grievant in a position where he could not safely perform his job functions, or he could have injured himself and/or other employees in the plant. Secondly, as mentioned earlier, the Company has the right to ask for medical testing so long as it is related to an Employee's ability to perform his job. There is no dispute that in the absence of an explanation on the Grievant's sudden shift in his prognosis, the Company wanted the Grievant to submit objective information to ensure that he could safely

work in the plant. Finally, the Union ignores the fact that the Grievant's condition could have improved by the Grievant delaying several months to take the Functional Capacity Evaluation.

In this particular case, Operations Manager Scherer testified that in May, 2016 the Grievant could not perform the essential job functions of being an MTE with, or without, reasonable accommodations.

In summation, the Grievant was out on disability for nearly two (2) years. The Grievant brought a note, with no restrictions, to the Clinic in an attempt to return to work on May 20, 2016. After an examination and speaking with the Grievant, the Clinic needed more information on his condition. On May 23, 2016 the Grievant's cardiologist placed permanent medical restrictions on the Grievant. On May 25, 2016 the department informed the Clinic that it could not provide reasonable accommodations to the Grievant. The Grievant disagreed with the permanent medical restrictions and was given several options on how those permanent medical restrictions could be amended. However, he refused to provide objective evidence on how his condition improved. Nevertheless, when he finally decided to submit to objective testing, it validated that the Grievant needed permanent medical restrictions, and it took five (5) months for the Grievant to complete this task. Shortly after the Clinic knew it was safe for the Grievant to return to work, he was released with his new permanent medical restrictions.

At no time did the Company or Clinic delay, interfere or hinder the Grievant from returning to work. Instead, what was required of the Grievant was timely and clearly communicated to him. All requests by the Clinic were proper and necessary to make sure it was safe for the Grievant to perform his job functions. Any delay in the Grievant's return to work is traceable and attributable to Grievant's delay, or refusal, to comply, or the Grievant's cardiologist's delay.

For these reasons, the Company respectfully requests that you deny this grievance in its entirety. Thank you.

FINDINGS AND DISCUSSION

The essential underlying facts in the within grievance are not in dispute and the issue is a straight-forward matter of contract interpretation. The rule primarily to be observed in the construction of written agreements is that the interpreter must, if possible, ascertain and give effect to the mutual intent of the parties. The collective bargaining agreement should be construed, not narrowly and technically, but broadly so as to accomplish its evident aims. In determining the intent of the parties, inquiry is made as to what the language meant to the parties when the agreement was written. It is this meaning that governs, not the meaning that can possibly be read into the language.

The Grievant was off work and receiving Sick and Accident benefits for approximately two (2) years due to extensive cardiac problems which made him severely impaired almost to the point of total disability. However, within a few days of when the Grievant would be exhausting the maximum two (2) years of Sick and Accident benefits he suddenly appears at the Plant Clinic with a cursory prescription pad note from his physician indicating that he could return to work "with no restrictions". Significantly, no other information was provided to explain how the Grievant so quickly went from having severe impairment while receiving Sick and Accident benefits to now being able to return to work with no restrictions – and just as his benefits were running out.

The narrow issue presented within is whether the Employer was obligated to accept the Grievant's doctor's note at face value and immediately return him to work; or would it be

inappropriate to look into all of the attendant circumstances before deciding whether it was safe for all concerned to allow him to return to work? There is nothing in either the collective bargaining agreement or the Program of Insurance Benefits that mandates the Employer leave its common sense at the Plant gate and accept the Grievant's questionable request at face value without inquiry.

Consider the following: Dr. Ted Niemiec, the Plant Medical Director, testified that he had reviewed the Grievant's medical information a few weeks before his attempted return which showed he was still severely impaired. Dr. Spain testified as part of the routine return to work physical examination that she conducted that the Grievant refused to climb stairs because he was short of breath. At one point Dr. Spain wanted to call an ambulance because she thought the Grievant was experiencing A-Fib. In situations like within, an employee's doctor typically relies upon information provided by the employee to determine whether any medical restrictions would be necessary to return the employee to their job functions. Here, the Clinic learned that the Grievant "believed" he would simply be riding around in a truck all day in his new Department when he returned to work and he provided that information to his doctor. In fact, the doctor's note provided on May 25, 2016 specifically stated that after discussing the Grievant's job description with him that the Grievant's doctor released him to return to work with no restrictions. Obviously, the Grievant was not fully candid with his doctor as to the actual functions of his job.

Considering the above, it was determined that objective evidence was needed showing why the Grievant purportedly could be returned to work without any restrictions. Dr. Spain testified that on or about May 23, 2016 she spoke with the Grievant's Cardiologist and, as a result of a more thorough review and evaluation of the Grievant's working conditions, two

permanent medical restrictions were then placed upon the Grievant by his Cardiologist, i.e. no climbing ladders; and no lifting or pushing/pulling greater than 20 pounds. The testimony also established that even with the above-reference medical restrictions in place, the Grievant still could not safely perform his job functions. The IHW Utilities Department had informed the Clinic that it could not provide reasonable accommodations to the Grievant in light of those restrictions. Moreover, the Grievant was not able to provide any objective medical information to the Clinic to show he could safely return to work. Finally, I found Dr. Spain to be a highly credible witness and totally reject any assertions by the Union that she lied about the origins of the limitations appearing on the form entitled "MEDICAL PERMANENT RESTRICTIONS" (Company Exhibit 1) and whether they were made as a result of her telephone conversation with the Grievant's doctor.

It was quite obvious the Grievant disagreed with the medical restrictions placed upon him by his own doctor. However, on at least three occasions between May 25, 2016 and June 20, 2018 the Clinic informed the Grievant that he needed to provide objective evidence to explain how his condition had improved. The Grievant was given several options to provide this objective evidence: a note from his cardiologist showing the results of objective testing done by the doctor; having his cardiologist send him for objective testing; or have an evaluation performed my an independent medical examiner.

The credible evidence of record clearly established that the Grievant refused or delayed doing any of these options until September 27, 2016, almost four months later. Once the Grievant agreed to participate, he was then scheduled for a Functional Capacity Evaluation ("FCE") to be conducted on October 13, 2016. Once the Clinic received the results of that

evaluation it cleared the Grievant to return to work with new permanent medical restrictions on October 24, 2016.

The Grievant seeks lost wages from when he first presented himself to the Clinic on May 20, 2016 until he was actually returned to work on October 25, 2016 a period of approximately five months. However, the evidence is clear that the Company was not responsible for the delay in returning Grievant to his position. First and foremost, the evidence showed that the Grievant had a severe impairment that kept him out of work for nearly two years and then quite surprisingly, or some might say quite suspiciously, the Grievant came to the Clinic a few days before his Sick and Accident Benefits were to expire with a note simply stating he could return to work with no restrictions. There is no way that the Clinic could have, nor should have, returned the Grievant to work under such circumstances and without objective information explaining his sudden improvement and showing it was safe for him to return to work.

Furthermore, there is no question the Grievant was given reasonable opportunities to establish whether the permanent medical restrictions agreed to by his own doctor and the Clinic were appropriate. Finally, the evidence clearly showed that the Grievant stalled, delayed and outright refused to provide objective evidence on how his condition had so quickly and dramatically improved.

Based upon all of the above, the evidence is clear that at no time did the Company interfere with or hinder the Grievant from returning to work. Moreover, under the within circumstances it was eminently reasonable for the Clinic to do their own evaluation to make sure it is safe for the Grievant to return to work. It must be remembered that the Clinic received no information from the Grievant or his doctor to explain how his condition could have improved so significantly in such a short period of time. What it required of him was reasonable and

necessary for him to be able to safely perform his job functions. Any delay in his return to work cannot be attributed to the Company. The grievance must, therefore, be denied.

AWARD

The grievance is denied.

Date: Nov. 21, 2019
Pittsburgh, PA

Ronald F. Talarico, Esq.
Arbitrator