

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

D.R. HORTON, INC. *

and *

Case 12-CA-25764

MICHAEL CUDA, *

an Individual *

MOTION FOR EXTENSION OF TIME TO CONSIDER AND,
IF WARRANTED, TO FILE AMICUS BRIEF

The Secretary of Labor requests a 7-day extension of time, from July 20, 2011 until July 27, 2011, in which to consider and, if warranted, file an amicus brief in this case. Counsel shows the following grounds for this motion:

1. On June 16, 2011, the Board issued a notice and invitation to interested amici to file briefs by July 20, 2011, addressing whether the respondent in this case violated Section 8(a)(1) of the National Labor Relations Act by maintaining and enforcing its Mutual Arbitration Agreement, under which employees are required, as a condition of employment, to agree to submit all employment disputes to arbitration, where the arbitration agreement further provides that arbitrators will have no authority to consolidate claims or to fashion a proceeding as a class or collective action. Counsel for the Secretary learned of this notice only recently.

2. Because the arbitration agreement at issue waives an employee's right to file a collective arbitration under the Fair Labor Standards Act, a statute the Secretary administers and enforces, see 29 U.S.C. 204, 216(c), 217, the Secretary is considering whether to file an amicus brief. Counsel for the Secretary is also conferring with attorneys for the Equal Employment Opportunity Commission, the agency responsible for the Equal Pay Act section of the Fair Labor

Standards Act, 29 U.S.C. 206(d), and other employment statutes, concerning the Commission's interest in filing a possible amicus brief.

3. Counsel believes that an extension of time is necessary for the Secretary adequately to consider whether to file an amicus brief, to obtain appropriate clearances through the applicable process, and to complete the drafting and preparation of a brief if one is to be filed.

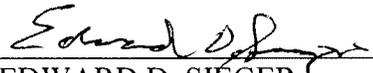
4. Counsel believes that a 7-day extension of time should be sufficient to complete this process.

WHEREFORE, counsel requests the Board to grant a 7-day extension of time, from July 20, 2011, until July 27, 2011, in which to consider and, if warranted, file an amicus brief.

Respectfully submitted.

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing motion for extension of time to consider and, if warranted, file amicus brief is being served electronically this 14th day of July, 2011, upon the following counsel of record:

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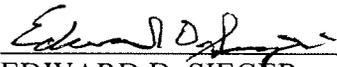
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