



United States Government

NATIONAL LABOR RELATIONS BOARD
Region 22
20 Washington Place - 5th Floor
Newark, NJ 07102

June 4, 2012

Lester A. Heltzer
Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Re: 1621 Route 22 West Operating Company,
LLC d/b/a Somerset Valley Rehabilitation
and Nursing Center
Cases 22-CA-29599, 29628 & 29868

Dear Mr. Heltzer

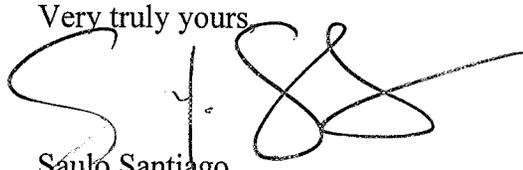
Please accept this letter as Acting General Counsel's opposition to Respondent's Motion for Permission to File Order By United States Court of Appeals for the Third Circuit Granting Partial Stay Pending Appeal in related 10(j) proceeding. Pursuant to NLRB Rules & Regulations § 102.48, the Board is not obligated to reopen the record or receive further evidence after the filing of timely and proper exceptions or answering briefs. In this connection, the parties litigated this instant matter over 19 hearing dates and established a 3,400 page record, including 274 exhibits. Both parties had ample opportunity to fully litigate all of the allegations involved herein.

Despite the pendency of this matter before the Board for three months, Respondent now seeks permission to file the Order of the Third Circuit Court of Appeals involving an ancillary Section 10(j) proceeding. Previously, Respondent sought permission to file transcripts and exhibits, Memorandum Opinion and Order of the District Court in connection with the 10(j) proceeding; however, the Board rejected the motion. Instead, the Board took judicial notice of the District Court's decision. This instant motion is inappropriate because the underlying subject of Respondent's motion does not qualify as "newly discovered evidence" and courts have consistently held that Section 10(j) ancillary proceedings have no bearing on underlying unfair labor practice cases. *Sheet Metal Workers Int'l Ass'n (E.P. Donnelly)*, 357 NLRB No. 131, fn. 8 (2011); *Santa Barbara News Press*, 357 NLRB No. 51, slip op at 4, fn. 12 (2011); *Coronet Foods v. NLRB*, 981 F.2d 1284 (D.C. Cir. 1993); *NLRB v. Acker Ind., Inc.*, 460 F.2d 649, 652 (10th Cir. 1972); *Dubois Chemicals, Inc.*, 144 NLRB 56, 59, fn. 8 (1963).

Additionally, Respondent's motion does not indicate how this evidence would require a different result. That the Third Circuit granted a partial stay is not dispositive of the issue of reinstatement. Rather, the Third Circuit's order is devoid of any details and is not relevant to the matters pending before the Board.

Based on the foregoing reasons, Respondent's motion should be rejected.

Very truly yours

A handwritten signature in black ink, appearing to read 'S. Santiago', with a large, stylized flourish extending to the right.

Saulo Santiago

Counsel for the Acting General Counsel