

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

CENTRAL PENINSULA HOSPITAL, INC.

and

Cases 19-CA-032835
19-CA-032977

RAY SOUTHWELL, an Individual

**JOINT MOTION TO REMAND CASES TO
THE REGIONAL DIRECTOR OF REGION 19**

Counsel for the Acting General Counsel, pursuant to Section 102.47 of the Board's Rules and Regulations, as amended, hereby files this motion requesting that the Board remand the above captioned cases to the Regional Director of Region 19 for the purpose of implementing a settlement among all parties that remedies the violations found by Administrative Law Judge (ALJ) William G. Kocol.

1. On February 24, 2012, the Regional Director of Region 19 issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in the above matter. The Consolidated Complaint alleged that Charged Party Central Peninsula Hospital (CPH) violated Section 8(a)(1) of the Act by reprimanding and suspending employee Ray Southwell because he engaged in protected, concerted activities and then discharging Southwell because he engaged in protected, concerted activities and because he filed a charge against CPH in an earlier case, thereby violating Sections 8(a)(1) and 8(a)(4) of the Act. The Consolidated Complaint also alleged that CPH maintained two unlawful work rules.

2. On August 2, 2012, ALJ Kocol issued a Decision finding, in pertinent part, that Charged Party CPH violated Section 8(a)(1) of the Act by disciplining, suspending, and discharging Ray Southwell because he engaged in protected, concerted activities protected by the Act, and by applying two work rules in a manner that interferes with activity protected by Section 7 of the Act.

3. On October 2, 2012, the parties commenced participation in the Board's Alternative Dispute Resolution program. From that date through November 21, 2012, the parties engaged in many discussions with Region 19 personnel, counsel for the Charged Party CPH, Charging Party Ray Southwell, and ADR program director Gary Shinnars.

4. On November 23, 2012, Charged Party CPH, Charging Party Ray Southwell, and the Regional Director of Region 19 agreed to a settlement to resolve the issues in this matter. In an NLRB Informal Settlement Agreement (copy attached hereto), Charged Party CPH has agreed to pay Southwell (who has agreed to waive his right to reinstatement) backpay, and interest in the amount of \$73,600 by delivering a certified check to Ray Southwell in the amount of \$73,600 by no later than December 4, 2012. CPH also agrees to post the Notice to Employees attached to such Settlement Agreement, which, although modified slightly, is substantially similar to the Notice recommended by the ALJ, at its Soldatna, Alaska facility for the standard 60 consecutive day period. CPH further agrees that it will, no later than December 15, 2012, arrange for publication of the Notice in the Peninsula Clarion, a local publication, and formally submit copies of the Notice to the members of the Kenai Borough Assembly. In addition, CPH agrees to provide Ray Southwell with a letter of reference

containing language agreeable to Region 19 and Ray Southwell. Finally, CPH agrees to remove from its files any reference to the warning, suspension, and discharge of Ray Southwell, and not to use those matters against him in any way. This NLRB Informal Settlement Agreement contains a non-admission clause, as well as "default" provisions should CPH fail to comply with any of the terms of such Agreement.

5. Charged Party CPH and Charging Party Ray Southwell have also entered into an accompanying settlement agreement (copy attached hereto), pursuant to which CPH will pay to Ray Southwell \$110,400 in return for his waiver of reinstatement and other consideration as set forth in such accompanying settlement agreement, by delivering a certified check to Ray Southwell in the amount of \$18,400 by no later than December 4, 2012, and by delivering another certified check to Ray Southwell, in the amount of \$92,000, by no later than January 4, 2013.

6. The settlement effectuates the purposes and policies of the Act in that it remedies the Consolidated Complaint allegations consistent with the remedial provisions of Board orders in cases involving such violations. Moreover, it meets the requirements of *Independent Stave Company*, 287 NLRB 740 (1987). All parties have agreed to the settlement through participation in the Board's Alternative Dispute Resolution program and freely join in this motion to the Board.

7. Based on the above, Counsel for the Acting General Counsel, Charged Party CPH, and Charging Party Ray Southwell jointly request that the Board remand the above-captioned cases to the Regional Director of Region 19 for the purpose of implementing the settlement described herein.

Dated at Seattle, Washington, this 4th day of December 2012.

Respectfully submitted,

John Fawley by me

John H. Fawley, Counsel for the Acting General Counsel
National Labor Relations Board, Region 19
2948 Jackson Federal Building
915 Second Avenue
Seattle, Washington 98174-1078
(206) 220-6326

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

CENTRAL PENINSULA HOSPITAL, INC.

and

**Cases 19-CA-32835
19-CA-32977**

RAY SOUTHWELL, an Individual

**AFFIDAVIT OF SERVICE OF JOINT MOTION TO REMAND CASES TO THE
REGIONAL DIRECTOR OF REGION 19.**

I, the undersigned employee of the National Labor Relations Board, state under oath that on December 4, 2012, I served the above-entitled document(s) by post-paid **E-FILE**, **E-MAIL**, and **regular mail** upon the following persons, addressed to them at the following addresses:

E-FILE

LESTER A. HELTZER
EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
1099 – 14TH STREET, N.W., ROOM 11602
WASHINGTON, D. C. 20570
(202) 273-1067

RICHARD L. DAVIS, CEO
CENTRAL PENINSULA HOSPITAL
250 HOSPITAL PL.
SOLDOTNA, AK 99669-7559
Phone: (907) 714-4404
Fax: (907) 714-4674

JAMES H. JULIUSSEN, ATTORNEY
DAVIS WRIGHT TREMAINE LLP
701 W 8TH AVE STE 800
ANCHORAGE, AK 99501-3468
Phone: (907) 257-5300
Fax: (907) 257-5399
jimjuliussen@dwt.com

RAY SOUTHWELL
PO BOX 6881
NIKISKI, AK 99635-6881
Phone: (907) 776-3384
raith51@yahoo.com

MARK S. FILIPINI, ATTORNEY
K & L GATES, LLP
925 4TH AVENUE, STE 2900
SEATTLE, WA 98104-1158
Phone: (206) 370-8111
Fax: (206) 370-6060
mark.filipini@klgates.com

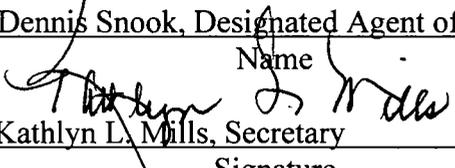
PAUL L. DAVIS, ATTORNEY
K & L GATES LLP
420 L ST STE 400
ANCHORAGE, AK 99501-1971
Phone: (907) 777-7609
Fax: (907) 865-2478
paul.davis@klgates.com

December 4, 2012.

Date

/s/ DENNIS SNOOK
Dennis Snook, Designated Agent of NLRB

Name


Kathlyn L. Mills, Secretary

Signature