

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

**UNITE HERE LOCAL 2850, UNITE HERE
INTERNATIONAL UNION,**

Charging Party,

and

CASTLEWOOD COUNTRY CLUB,

Respondent

**Case Nos. 32-CA-24980
 32-CA-25397
 32-CA-25545**

**CHARGING PARTY UNITE HERE LOCAL 2850's OBJECTION TO RESPONDENT'S
MOTION FOR THIRD EXTENSION OF TIME TO FILE EXCEPTIONS AND BRIEF IN
SUPPORT OF EXCEPTIONS TO ADMINISTRATIVE LAW JUDGE'S DECISION**

November 16, 2012

Kristin L. Martin
DAVIS, COWELL & BOWE, LLP
595 Market Street, Ste. 1400
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Attorneys for UNITE HERE! Local 2850

UNITE HERE Local 2850 objects to Respondent's request for a third extension of time to file exceptions to the ALJ Anderson's decision.

The ALJ's decision was issued on August 17, 2012. Respondent obtained a first extension until October 25, 2012 and a second extension until November 30, 2012. A third extension is not warranted. While Respondent ended the lockout that ALJ Anderson decided was illegal, Respondent still owes employees back wages and benefits from the period from August 10, 2012 to October 15, 2012. Granting Respondent another extension will simply deprive employees of this relief for a longer period of time.

In its request for the second extension, Respondent represented to the Board that it sought the extension so that it could "devote its time and resources to the ongoing settlement discussions." (Exh. A, ¶ 6). In order to obtain Local 2850's support for the previous extension, Respondent committed to Local 2850 that it would bargain and make proposals on unfair labor practice back pay liability at a bargaining session scheduled for October 24, 2012. (Exh. B). After the extension was granted, Respondent cancelled the October 24, 2012 bargaining session, and only met with Local 2850 for bargaining on one other occasion (November 5) since then. Respondent has not "devote[d] its time and resources to the ongoing settlement discussions."

Respondent may claim that it has spent time meeting with Local 2850 about work assignment and other operational issues since the lockout ended. While that is true, that is an independent obligation of Respondent required by Section 8(a)(5). The point here is that Respondent has not devoted time and resources to resolving the unfair labor practice case.

Local 2850 believes that granting an additional extension will not make settlement of this case more likely. If Respondent wants to settle this case, it can do so immediately.

DATED: November 16, 2012

DAVIS, COWELL & BOWE, LLP



Kristin L. Martin
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Attorneys for UNITE HERE Local 2850

EXHIBIT A

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32

UNITE HERE LOCAL 2850, UNITE
HERE INTERNATIONAL UNION,

Charging Party,

v.

CASTLEWOOD COUNTRY CLUB,

Respondent.

Case Nos. | 32-CA-24980
32-CA-25397
32-CA-25545

**RESPONDENT'S MOTION FOR SECOND EXTENSION OF TIME TO FILE
EXCEPTIONS AND BRIEF IN SUPPORT OF EXCEPTIONS
TO ADMINISTRATIVE LAW JUDGE'S DECISION**

October 11, 2012

LITTLER MENDELSON
A Professional Corporation
ROBERT G. HULTENG
GALEN M. LICHTENSTEIN
JESSICA L. MARINELLI
650 California Street, 20th Floor
San Francisco, CA 94108.2693
Telephone: 415.433.1940

Attorneys for Respondent
CASTLEWOOD COUNTRY CLUB

Pursuant to 29 C.F.R. §§102.46(a) and 102.111, Respondent Castlewood Country Club (“Respondent,” “Castlewood” or “Employer”) hereby moves for a second extension of time to file Exceptions and/or a Brief in Support of Exceptions to the Administrative Law Judge’s Decision in the above-captioned case. The requested extension is from October 25, 2012 to November 30, 2012. In support of this Motion, Respondent submits:

1. The Employer and Unite Here, Local 2850 (the “Charging Party” or “Union”) (collectively, the “Parties”) have been engaged in negotiations over a potential global settlement of outstanding issues, including a new collective bargaining agreement and the charges involved in this case. These settlement efforts are ongoing and the Parties currently have a meeting scheduled to continue discussing settlement options.

2. As a result of these settlement discussions, the Parties have reached a mutual agreement regarding the terms of ending the lockout, and the Employer ended the lockout effective October 1, 2012. Pursuant to the Parties’ agreement, all bargaining unit employees wishing to return to work will do so beginning October 16, 2012.

3. Also as a result of these settlement discussions, the Parties have reached tentative agreement on nearly every outstanding issue regarding their successor collective bargaining agreement.

4. Through the Board Agent assigned to this case, Yaromil Velez-Ralph, and the Regional Attorney, George Velastegui, Region 32 has stated that it has no objection to Castlewood’s request for an extension until November 30, 2012.

5. Significant progress has been made during the Parties’ prior settlement discussions, and further settlement discussions are pending. Given the Employer’s expressed willingness to bargain over and make proposals regarding the outstanding issues of healthcare

coverage and backpay, in a continued effort to reach a global settlement, Counsel for the Union supports at least a two-week extension until November 8, 2012, and has indicated a willingness to support an even longer extension assuming further progress is made.

6. In an effort to devote its time and resources to the ongoing settlement discussions with the Union, and to act in the utmost good faith with respect to such discussions, the Employer has delayed preparing exceptions and a supporting brief to the Administrative Law Judge's Decision in the hope that a settlement can be reached.

7. The Decision in the above-captioned case is 83 single-spaced pages in length and contains a detailed analysis of fact and a discussion of law. If exceptions are filed, the briefing would be extensive. The Board has already acknowledged this by extending the page limit for such briefing to 100 pages. The Employer would prefer to continue to devote its time and resources at this time to exploring whether a mutually agreeable settlement can be reached.

8. Finally, the Employer requests an extension that is slightly longer than 30 days because 30 days from the current deadline falls during the Thanksgiving holiday. Therefore, the Employer is requesting that the deadline be extended to the end of the week following Thanksgiving.

Accordingly, the Employer respectfully requests that its request for an extension to November 30, 2012 be granted.

Dated: October 11, 2012.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'R. Hulteng', written over a horizontal line.

Robert G. Hulteng
Galen M. Lichtenstein
Jessica L. Marinelli
LITTLER MENDELSON, P.C.,
650 California Street, 20th Floor
San Francisco, CA 94108.2693
415.433.1940

Counsel for Respondent
CASTLEWOOD COUNTRY CLUB

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 650 California Street, 20th Floor, San Francisco, California 94108.2693. On October 11, 2012, I served the within document(s):

**RESPONDENT'S MOTION FOR SECOND EXTENSION OF TIME TO FILE
EXCEPTIONS AND BRIEF IN SUPPORT OF EXCEPTIONS
TO ADMINISTRATIVE LAW JUDGE'S DECISION**

- ☐ by facsimile transmission on that date. This document was transmitted by using a facsimile machine that complies with California Rules of Court Rule 2003(3). The transmission was reported as complete and without error. A copy of the transmission report, properly issued by the transmitting machine, is attached. The names and facsimile numbers of the person(s) served are as set forth below.
- ☐ by placing a true copy of the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at San Francisco, California addressed as set forth below.
- ☐ by depositing a true copy of the same enclosed in a sealed envelope, with delivery fees provided for, in an overnight delivery service pick up box or office designated for overnight delivery, and addressed as set forth below.
- ☐ by personally delivering a copy of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses on the attached service list on the dates and at the times stated thereon. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. The electronic notification address of the person making the service is psloan@littler.com.

Kristin L. Martin, Esq.
Elizabeth Q. Hinckle, Esq.
Davis, Cowell & Bowe
595 Market Street, #1400
San Francisco, CA 94105
E-Mail: klm@dcbsf.com
E-Mail: eqh@dcbsf.com
Attorneys for Union: UNITE HERE Local 2850

George Velastegui, Esq.
Yaromil Ralph, Esq.
National Labor Relations Board
Region 32
Federal Building
1301 Clay Street, Suite 300N
Oakland, CA 94612-5211
Email: George.velastegui@nlrb.gov
Email: Yaromil.Ralph@nlrb.gov

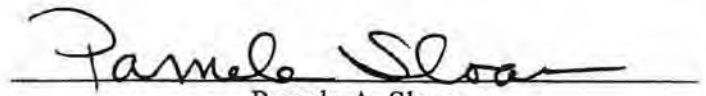
1 Matt Peterson, Esq.
2 Carmen Leon, Esq.
3 National Labor Relations Board
4 Region 20
5 901 Market Street, Suite 400
6 San Francisco, CA 94103
7 Email: matt.peterson@nlrb.gov
8 Email: carmen.leon@nlrb.gov

Clifford H. Anderson
Administrative Law Judge

Email: Clifford.Anderson@nlrb.gov

9 I am readily familiar with the firm's practice of collection and processing
10 correspondence for mailing and for shipping via overnight delivery service. Under that practice it
11 would be deposited with the U.S. Postal Service or if an overnight delivery service shipment,
12 deposited in an overnight delivery service pick-up box or office on the same day with postage or fees
13 thereon fully prepaid in the ordinary course of business.

14 I declare under penalty of perjury under the laws of the State of California that the
15 above is true and correct. Executed on October 11, 2012, at San Francisco, California.

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17 Pamela A. Sloan
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19 Firmwide:115116617.1 065644.1002
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EXHIBIT B

Kristin Martin

From: Lichtenstein, Galen M.
Sent: Thursday, October 11, 2012 12:42 PM
To: Kristin Martin
Cc: Wei-Ling Huber
Subject: RE: Unite Here/Castlewood

Thanks Kristin. I will do so.

Galen Lichtenstein, Associate
415.399.8486 direct 415.743.6636 fax GLichtenstein@littler.com
650 California Street, 20th Floor | San Francisco, CA 94108-2693

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Employment & Labor Law Solutions Worldwide

From: Kristin Martin [mailto:klm@dcbsf.com]
Sent: Thursday, October 11, 2012 9:44 AM
To: Lichtenstein, Galen M.
Cc: Wei-Ling Huber
Subject: RE: Unite Here/Castlewood

Okay. Please represent our position in your extension request.

Kristin L. Martin
Davis, Cowell & Bowe, LLP

www.dcbllabor.com

From: Lichtenstein, Galen M. [mailto:GLichtenstein@littler.com]
Sent: Wednesday, October 10, 2012 9:25 AM
To: Kristin Martin
Subject: RE: Unite Here/Castlewood

Kristin-

The Club will be prepared to bargain and make proposals regarding these issues at the October 24th meeting. We will still be requesting an extension until November 30th.

Thank you,
Galen

Galen Lichtenstein, Associate
415.399.8486 direct 415.743.6636 fax GLichtenstein@littler.com
650 California Street, 20th Floor | San Francisco, CA 94108-2693

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From: Kristin Martin [mailto:klm@dcbsf.com]
Sent: Tuesday, October 09, 2012 6:59 AM
To: Lichtenstein, Galen M.
Cc: yaromil.ralph@nlrb.gov; whuber@unitehere.org
Subject: RE: Unite Here/Castlewood

Hi Galen –

With the Club's commitment to make proposals about backpay and health insurance, we will agree to a two week extension, which can be extended if progress is made.

Kristin L. Martin

Davis, Cowell & Bowe, LLP

From: Lichtenstein, Galen M. [mailto:GLichtenstein@littler.com]

Sent: Monday, October 08, 2012 3:54 PM

To: Kristin Martin

Subject: RE: Unite Here/Castlewood

Kristin-

It is my understanding that both parties have expressed a willingness to discuss *all* issues, including contract terms, the return to work transition, and global settlement prospects, at the October 24th meeting. Given that both parties appear to remain interested in settlement possibilities, it is Castlewood's hope that the Union will not object to its request for an extension to file exceptions and a supporting brief. Please let me know the Union's position as soon as possible.

Thank you,
Galen Lichtenstein

Galen Lichtenstein, Associate

415.399.8486 direct 415.743.6636 fax GLichtenstein@littler.com
650 California Street, 20th Floor | San Francisco, CA 94108-2693

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From: Kristin Martin [mailto:klm@dcbsf.com]

Sent: Monday, October 08, 2012 6:25 AM

To: Lichtenstein, Galen M.

Cc: yaromil.ralph@nrlb.gov; whuber@unitehere.org

Subject: RE: Unite Here/Castlewood

Hi Galen:

The contents of your email message are not entirely accurate, but I will not use this forum to correct your misstatements. I understand that there is another meeting between the parties set for the week of Oct. 22. Does the Club intend to bargain about the ULP backpay liability at that meeting?

Kristin L. Martin

Davis, Cowell & Bowe, LLP

From: Lichtenstein, Galen M. [mailto:GLichtenstein@littler.com]

Sent: Friday, October 05, 2012 3:55 PM

To: klm@dcbsf.com

Subject: Unite Here/Castlewood

Ms. Martin-

As you know, the deadline to file exceptions and any supporting brief is October 25, 2012. As you are also no doubt aware, Castlewood and the Union have been engaged in serious settlement efforts since shortly after the ALJ's decision was rendered. The most recent developments include Castlewood ending the lockout as of 10/1 and the parties'

agreement regarding the return of all those locked out employees who wish to resume working. Furthermore, the parties have come to agreement on virtually all contract terms with the major exception being health care. Finally, the parties have scheduled another meeting toward the end of this month to evaluate further settlement possibilities following the return to work of locked out employees.

Since Castlewood has focused its efforts entirely on negotiating a possible global settlement, and since settlement discussions are continuing, Castlewood will be seeking a further extension of time to file any exceptions and supporting briefs. I have spoken with the board agent at Region 32 who is handling the case, Yaromil Velez-Ralph, and explained Castlewood's reasoning for requesting a further extension. Further, I explained that Castlewood would likely request an extension until the week after Thanksgiving, probably November 30th. Ms. Velez-Ralph discussed the matter with the regional attorney, George Velastegui, and I was informed today that the Board will not object to Castlewood's request.

Please let me know the Union's position with regard to Castlewood's forthcoming request. I certainly hope that the Union will recognize the value in continuing to pursue settlement and extending the deadline to file an appeal. Either way, please let me know the Union's position as soon as possible.

Thank you,
Galen Lichtenstein

Galen Lichtenstein, Associate
415.399.8486 direct 415.743.6636 fax GLichtenstein@littler.com
650 California Street, 20th Floor | San Francisco, CA 94108-2693

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Littler Mendelson, P.C.
<http://www.littler.com>

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of 18 years, and am not a party to the within action; my business address is 595 Market Street, Ste. 1400, San Francisco, CA 94105.

On November 16, 2012, I served the following document(s) described as

Charging Party UNITE HERE Local 2850's Objection to Respondent's Motion for Third Extension of Time to File Exceptions and Brief in Support of Exceptions to Administrative Law Judge's Decision

on the interested parties in this action to the following parties:

George Velastegui, Yaromil Ralph
NLRB, Region 32
Oakland Federal Building
1301 Clay Street, Room 300-N
Oakland, CA 94612-5211

Matt Peterson, Carmen Leon
National Labor Relations Board
Region 20
901 Market Street, Suite 400
San Francisco, CA 94103-1735

Galen M. Lichenstein
Robert G. Hulteng
Littler Mendelson
650 California Street, 20th floor
San Francisco, CA 94108

Clifford H. Anderson
Administrative Law Judge

via the following method:

- [] **(BY U.S. Mail)** I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter is more than one day after date of deposit for mailing in affidavit. I deposited such envelope(s) with postage thereon fully prepaid to be placed in the United States Mail at San Francisco, California.
- [X] **(By E-Mail)** I transmitted a copy of the foregoing document(s) via e-mail to the addressee(s) georgevelastegui@nlrb.gov, yaromil.ralph@nlrb.gov, matt.peterson@nlrb.gov, carmen.leon@nlrb.gov, glichtenstein@littler.com, rhulteng@littler.com, clifford.anderson@nlrb.gov
- [X] **(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 16, 2012 at San Francisco, California.

/s/ Dinh Luong
Dinh Luong