

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

<hr/>	)	
<b>THE GEO GROUP, INC.,</b>	)	
	)	
<b>and</b>	)	<b>Cases 28-CA-076869</b>
	)	<b>28-CA-082747</b>
<b>INTERNATIONAL UNION,</b>	)	
<b>SECURITY, POLICE AND FIRE</b>	)	
<b>PROFESSIONALS OF AMERICA</b>	)	
<b>(SPFPA) and its LOCAL NO. 827,</b>	)	
	)	
<b>and</b>	)	<b>Case 28-CA-082651</b>
	)	
<b>JENNA AUSEMA, an Individual.</b>	)	
<hr/>	)	

**THE GEO GROUP, INC.'S NOTICE TO THE BOARD  
IN REGARD TO THE ACTING GENERAL COUNSEL'S  
REQUEST FOR SPECIAL PERMISSION TO APPEAL AND  
APPEAL OF THE RULING OF ADMINISTRATIVE LAW JUDGE**

Respondent The GEO Group, Inc. ("GEO" or "Company") respectfully submits this Notice to the Board in regard to the Acting General Counsel's Request for Permission to Appeal and Appeal of the Ruling of the Administrative Law Judge ("Request") in the above-captioned matter. GEO intends to submit a full Opposition to the Request given the numerous misrepresentations and misstatements that it contains, but submits this Notice at this time to apprise the Board of the Company's position on the briefing of this matter and to inform the Board that it will submit its Opposition on or before January 11, 2013.

Through this Request, Regional Director Cornelle Overstreet, acting on behalf of Acting General Counsel Lefe Solomon, has demonstrated a complete disregard for the authority of the Administrative Law Judge, as defined under Sections 102.35 and 102.43 of the Board's Rules

and Regulations, and the process outlined under the Board's Rules, generally.<sup>1</sup> As an officer of an agency who is sworn to uphold and enforce the provisions of the Act, including the Rules and Regulations that govern the administration of proceedings, Regional Director Overstreet's conduct here far exceeds the bounds of reasonableness, and is an abuse of the prosecutorial discretion vested in him.

Regional Director Overstreet conveniently ignores the fact that Administrative Law Judge Gerald Wacknov has not issued any ruling or Order from which the Regional Director may appeal. On or about October 31, 2012, Judge Wacknov postponed scheduling the evidentiary portion of his hearing and instructed the parties to submit briefs on the scheduling issue by January 4, 2013. Moreover, notwithstanding the factual misrepresentations made to the Board by Regional Director Overstreet in his Request, Judge Wacknov has not accepted or otherwise approved of any settlement in this case. The Board's rules vest exclusive authority to control these issues with Judge Wacknov and they are not ripe for appeal to or consideration by the Board.

What is perhaps most troublesome about the approach taken by Regional Director Overstreet in this case is that somehow he believes he is entitled to special treatment by the Board when he disagrees with Judge Wacknov's management of the docket. It would appear that by filing this Request prior to the issuance of any order that he might lawfully be able to appeal to the Board, Regional Director Overstreet is attempting to use the process as a means to make an end run around the rules and the settlement authority vested in Judge Wacknov. The fact that Regional Director Overstreet filed this "Request" even though there is no final settlement agreement approval to be appealed, would seem to indicate his desire to use this

---

<sup>1</sup> No doubt, that is why conspicuously absent from Regional Director Overstreet's pleading is any citation to a Board Rule that gives him the legal authority to seek assistance of the full Board at this time as he has done here.

Request as a tool to try to convince or otherwise intimidate Judge Wacknov into not approving any settlement agreement over his opposition or that of the Acting General Counsel.<sup>2</sup>

Moreover, for the Board to entertain an interlocutory appeal at this stage creates a fundamental procedural problem. The Regional Director's actions, if entertained by the Board, will result in the establishment of a precedent that would permit *any* party to appeal to the full Board any time a party does not like how an Administrative Law Judge manages his or her docket, or attempts to resolve a case.

Ultimately, this interlocutory appeal would appear to be about Regional Director Overstreet's disagreement with the efforts of GEO and the International Union, the exclusive bargaining representative of employees at the facility in question, to establish a productive and mutually respectful relationship, and resolve the issues between them. Obviously, Judge Wacknov must take into consideration the rights of all of the alleged discriminatees. However, based upon the manner in which he is managing the schedule in this case, Judge Wacknov is doing precisely that.

GEO intends to fully oppose the AGC's Request, and will submit its complete Opposition no later than January 11, 2013. GEO's Opposition will establish that the Request should be denied because Judge Wacknov properly exercised his authority in this case, and will seek costs and attorney's fees associated with responding to Regional Director Overstreet's frivolous pleading. Accordingly, GEO asks that the Board refrain from ruling on the Request until it receives and reviews the Company's Opposition.

---

<sup>2</sup> What is further troublesome is the manner in which the Regional Director filed his Request. Specifically, he could have filed the Request shortly after October 31, 2012, the date of the telephonic hearing in this case. Instead, he waited until Friday, December 13, 2012 – at 8:44 p.m. EST/5:44 p.m. MST, long after the end of the business day in Washington, D.C., where GEO's outside counsel works, and the week before the Christmas holidays. GEO will describe the Regional Director's tactics in litigating this matter in more detail in their full Opposition.

Respectfully submitted,

LITTLER MENDELSON, P.C.

By: /s/ Jason M. Branciforte  
Jason M. Branciforte  
Stefan Marculewicz  
Jennifer Thomas  
1150 17<sup>th</sup> Street, N.W., Suite 900  
Washington, D.C. 20036  
202.842.3400 (telephone)  
202.842.0011 (facsimile)  
jbranciforte@littler.com  
smarculewicz@littler.com  
jthomas@littler.com

Counsel for The GEO Group, Inc.

Date: December 21, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that on December 21, 2012 a copy of The GEO Group, Inc.'s Notice to the Board in Regard to the Acting General Counsel's Request for Special Permission to Appeal and Appeal of the Ruling of Administrative Law Judge was served on the following:

Via E-Filing:

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

Via E-Mail

Mary Gray Davidson, Esq.  
Counsel for the Acting General Counsel  
National Labor Relations Board  
Region 28  
2600 North Central Avenue, Suite 1400  
Phoenix, AZ 85004  
*E-Mail: Mary.Davidson@nlrb.gov*

Gordon Gregory, Esq.  
Gregory, Moore, Jeakle & Brooks, P.C.  
65 Cadillac Square, Suite 3727  
Detroit, MI 48226  
*E-Mail: gordon@unionlaw.net*

Ms. Jenna Ausema  
5090 East Desert Straw Lane  
Tucson, AZ 85756  
*E-Mail: jennawildley@hotmail.com*

Judge Gerald Wacknov  
Division of Judges  
National Labor Relations Board  
901 Market Street, Suite 300  
San Francisco, CA 94103  
*E-Mail: Gerald.Wacknov@nlrb.gov*

/s/ Jason M. Branciforte  
Jason M. Branciforte