

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

PESSOA CONSTRUCTION COMPANY

and

Cases 5-CA-34547
5-CA-34761
5-CA-35083

LABORERS' INTERNATIONAL UNION OF
NORTH AMERICA

**COUNSEL FOR THE GENERAL COUNSEL'S OPPOSITION
TO RESPONDENT'S THIRD REQUEST FOR AN EXTENSION OF TIME
TO FILE EXCEPTIONS TO THE BOARD**

Counsel for the General Counsel hereby opposes Respondent's third request for an extension of time to file exceptions from the current March 5, 2014 deadline to March 17, 2014.¹ The Respondent's postponement request should be denied for the below reasons.

First, Respondent has received more than sufficient time to prepare and file its exceptions. The Administrative Law Judge's Decision (ALJD) in this supplementary proceeding was issued over 60 days ago on December 24, 2013. This compliance proceeding does not present novel or complex legal issues such that Respondent should need more than the nearly two-and-a-half months and two extensions that it has already been afforded. Respondent counsel's busy schedule notwithstanding, Respondent has already received more than six additional weeks from the initial January 21, 2014 deadline to file its exceptions.

Second, the Administrative Law Judge's (ALJ) January 28, 2014 erratum does not warrant additional time to file exceptions. As noted in the erratum, and contrary to Respondent's representations in its two most recent requests for extensions, the erratum made no substantive changes to the ALJD. Rather, the ALJ merely corrected material typographical errors he made while converting a number of days to its weekly equivalent, consequently causing a mathematical miscalculation of the backpay owed to discriminatee William Membrino. Further, even accepting *arguendo* Respondent's legally unsupported assertion that the erratum provided

¹ This opposition is being e-filed as a motion rather than through the "extension of time request" portal on the NLRB website. The portal requires that the user propose a date later in time than the current deadline. Because the General Counsel is opposing any extension of time, Counsel for the General Counsel determined that filing this opposition as a motion was the most appropriate course of action.

Respondent with an additional 28 days to file exceptions, the current March 5, 2014 deadline has provided Respondent with more than 35 additional days from the erratum's issuance to file its exceptions. Thus, even taking as true Respondent's questionable legal proposition that the erratum resets the period to file exceptions, Respondent has enjoyed more than the additional 28 days to which it feels entitled following the ALJ's January 28, 2014 erratum.

Finally, Respondent now seeks an extension even lengthier than one already denied it by the Executive Secretary on February 11, 2014. On February 10, 2014, Respondent sought an extension of time to file exceptions from the then-deadline of February 12, 2014 to March 12, 2014. Though Counsel for the General Counsel was in the process of opposing this second request in its entirety when the Executive Secretary granted a further extension of time to file exceptions, the Executive Secretary rejected Respondent's request for a March 12, 2014 deadline. Instead, the Executive Secretary extended the time to file exceptions only to March 5, 2014. Respondent has shown no good cause as to why it should now receive an extension of time to a date five days later than a date already determined to be unacceptable.

For the above reasons, Counsel for the General Counsel respectfully requests that the Board deny in its entirety Respondent's third request for an extension of time to file exceptions, and maintain March 5, 2014 as the deadline to file exceptions in this matter.

Respectfully submitted,

/s/ Chad M. Horton

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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of February 2014, I served a copy of this opposition on the following individual by e-mail:

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