

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15**

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**CG'S LAWN & JANITORIAL SERVICE, LLC**

**and**

**INDUSTRIAL TECHNICAL & PROFESSIONAL  
EMPLOYEES UNION, OPEIU LOCAL 4873**

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**Case Nos. 15-CA-19117  
15-CA-19314**

**MOTION TO TRANSFER AND CONTINUE CASE BEFORE THE  
NATIONAL LABOR RELATIONS BOARD and MOTION FOR SUMMARY  
JUDGMENT AND ISSUANCE OF BOARD DECISION AND ORDER**

The undersigned Counsel for the General Counsel hereby moves that the matter referenced above be transferred to and continued before the National Labor Relations Board, herein called the Board, and further moves for Summary Judgment on the pleadings and supporting papers and for issuance of a Decision and Order by the Board, pursuant to Sections 102.24 and 102.50 of the Board's Rules and Regulations. In support of this motion, Counsel for the General Counsel avers as follows:

1. On July 1, 2009, the Industrial Technical & Professional Employees Union, OPEIU Local 4873, hereinafter called Union, filed the charge in Case No. 15-CA-19117 alleging that CG's Lawn & Janitorial Service, LLC, hereinafter called Respondent,<sup>1</sup> violated Section 8(a)(1) and (3) of the Act on June 19, 2009, by terminating Richard Jones in retaliation for his Union activities and because of his protected, concerted activities. The charge was served on Respondent, by regular mail, on the same date. A copy of the charge and the affidavit of service are attached hereto and marked as Exhibits "A" and "B," respectively.

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<sup>1</sup> Respondent is proceeding without benefit of counsel in this matter.

2. On August 11, 2009, the Union filed the amended charge in Case No. 15-CA-19117 adding the allegations that Respondent violated Section 8(a)(1) and (3) of the Act by 1) issuing a written warning to Richard Jones on June 8, 2009; 2) issuing a written warning to Richard Jones on June 9, 2009, and 3) issuing a written warning to Richard Jones on June 16, 2009, all in retaliation for his Union activity and protected, concerted activity. The charge was served on Respondent, by regular mail, on the same date. A copy of the amended charge and the affidavit of service are attached hereto and marked as Exhibits "C" and "D," respectively.

3. On October 30, 2009, the Union filed the charge in Case No. 15-CA-19314 alleging that Respondent violated Section 8(a)(1) and (3) of the Act on June 9, 2009, by issuing written warnings to 20 named employees in retaliation for their Union activity and protected, concerted activity. The charge was served on Respondent, by regular mail, on the same date. A copy of the charge and the affidavit of service are attached hereto and marked as Exhibits "E" and "F," respectively.

4. On November 9, 2009, the Union filed an amended charge in Case No. 15-CA-19314 removing the name of Robert Williams from the list of named discriminatees in the original charge. The amended charge was served on Respondent, by regular mail, on the same date. A copy of the amended charge and the affidavit of service are attached hereto and marked as Exhibits "G" and "H," respectively.

5. On November 19, 2009, the Regional Director of Region 15 issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, hereinafter Complaint, alleging that Respondent violated Section 8(a)(1) and (3) of the Act by issuing written warnings on June 8, 9, and 16, 2009 to 20 named employees and, on June

19, 2009, terminating Richard Jones all in retaliation for those employees' Union activity and protected, concerted activity. A copy of the Complaint and the affidavit of service are attached hereto and marked as Exhibits "I" and "J," respectively.

6. On February 1, 2010, Respondent filed an Answer to the aforementioned Complaint. A copy of the Answer is attached hereto and marked as Exhibit "K."

7. In its Answer, Respondent admits the filing and service of the charges, the commerce facts, the commerce conclusion, Respondent's status as an employer engaged in commerce, the Union's status as a labor organization, and the supervisory status of personnel alleged in the Complaint.

8. In its Answer, Respondent admits that on or about June 8 and 9, 2009, the following employees engaged in concerted activities with each other for the purposes of mutual aid and protection by engaging in a work stoppage: Byron Belin, Willie Bigham, Tony Brown, Michael Clark, Robert Demoss, Larry Douglas, Virgil Hall, Jr., Michael Harpis, Richard Jones, Steven King, Walter Ludlum, Brian Lynn, Glen Meissner, Mark Moonschein, Maurice Pringle, Steve Rhodes, Blake Sexton, Christopher Sexton, Ward Steward, Jason Testerman, and other currently unknown similarly situated employees.

9. In its Answer, Respondent admits that, on June 8, 2009, it issued discipline to Richard Jones and, on June 9, 2009, it issued discipline to Byron Belin, Willie Bigham, Tony Brown, Michael Clark, Robert Demoss, Larry Douglas, Virgil Hall, Jr., Michael Harpis, Richard Jones, Steven King, Walter Ludlum, Brian Lynn, Glen Meissner, Mark Moonschein, Maurice Pringle, Steve Rhodes, Blake Sexton, Christopher Sexton, Ward Steward, and Jason Testerman.

10. In its Answer, Respondent admits that, on June 19, 2009, it terminated Richard Jones.

11. In its Answer, Respondent admits that it issued the discipline listed in paragraph 9 and terminated Richard Jones because the employees engaged in the concerted activity described in paragraph 8 and to discourage other employees from engaging in those or other concerted activities.

12. In its Answer, Respondent admits that it issued the discipline listed in paragraph 9 and terminated Richard Jones because the employees assisted the Union and to discourage employees from engaging in these activities.

13. In its Answer, Respondent denied that, by the conduct described above in paragraphs 9, 10, 11, and 12, Respondent has been interfering with, restraining, and coercing employees in their rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act and denied that, by the conduct described above in paragraphs 9, 10, 11, and 12, Respondent has been discriminating in regard to the hire or tenure or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3). Respondent also denied that the unfair labor practices committed by Respondent, as described above, affect commerce within the meaning of Section 2(6) and (7) of the Act. However, Counsel for the General Counsel submits that these allegations are legal conclusions based upon matters addressed in earlier paragraphs and addressed in this motion. Thus, Counsel for the General Counsel maintains that these allegations may be evaluated and decided in this proceeding without the need for a hearing.

Although the Board shows leniency to pro se respondents with regard to the sufficiency of their pleadings, the Board will, nevertheless, grant summary judgment when “Respondent’s statements are legally insufficient to rebut the allegations of the complaint and do not otherwise raise any material issue of fact or law that would warrant a hearing.” *Pantry Restaurant*, 341 NLRB 243, 244 (2004) (granting summary judgment against a pro se respondent).

Therefore, inasmuch as Respondent has admitted in its Answer facts sufficient to establish that Respondent has violated the Act as alleged in the Complaint, Respondent’s defenses raise no material issue of fact or law requiring a hearing, Counsel for the General Counsel moves that all allegations in the Complaint be deemed to be true and be so found, that the Board issue its Decision and Order based on such findings, and that the Board grant such further relief as may be appropriate.

Dated at New Orleans, Louisiana, this 23rd day of February, 2010.

Respectfully submitted,



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Charles R. Rogers  
Counsel for the General Counsel  
National Labor Relations Board, Region 15  
600 South Maestri Place, 7th Floor  
New Orleans, Louisiana 70130  
(504) 589-6368

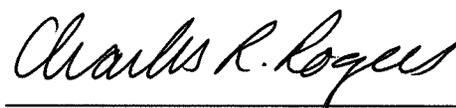
### Certificate of Service

I hereby certify that, on February 23, 2010, I have caused a copy of the foregoing Motion to Transfer and Continue Case Before the National Labor Relations Board and Motion for Summary Judgment and Issuance of Board Decision and Order to be served, via United States Mail, on the following parties:

CG's Lawn & Janitorial Service, LLC  
Curtis McDaniel, President  
1001 Jeanie Drive  
Clovis, New Mexico 88101

Industrial Technical Professional Employees Union, Local 4873  
Dennis M. Conley, Union Representative  
2222 Bull Street, Suite 200  
Savannah, Georgia 31401

Sidney Kalban  
80 8th Avenue, Room 1806  
New York, New York 10011

  
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Charles R. Rogers