

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

Fresh & Easy Neighborhood Market, )  
Inc., )  
 )  
and )  
 )  
United Food and Commercial Workers )  
International Union. )

---

Case Nos. 21-CA-38882 and 21-CA-39100

**RESPONDENT’S OPPOSITION TO MOTION FOR RECONSIDERATION**

Respondent, Fresh & Easy Neighborhood Markets, Inc., by its attorneys Seyfarth Shaw LLP, hereby files its opposition to the Charging Party’s Motion for Reconsideration in the above-captioned case.

Charging Party’s Motion essentially seeks to have the National Labor Relations Board (the “Board”) expand upon its original Order to require that all the remedial actions in its Order be conducted on a Company wide basis. The motion should be denied to the extent it seeks to have the Board expand its Order to include any remedies beyond those traditionally ordered.

Charging Party requests that the Board amend its Order “to make clear that the electronic notice posting is not limited to the Spring Valley store.” Charging Party, however provides absolutely no basis or authority to support this request. The alleged unfair labor practices in this case only occurred, if they occurred at all, at the Spring Valley store and arguably involved only employees at that store.

Absent a showing of recidivism, Board remedies are limited to the specific facilities and employees involved. *Beverly Enterprises* 326 NLRB 232 (1998). In this case there has been no finding of recidivism, nor could there be. There is nothing in the decision of the Administrative Law Judge or in the record to suggest that issues in this case impacted any employees outside of the Spring Valley store. Therefore, there is no basis for granting the requests of Charging Party

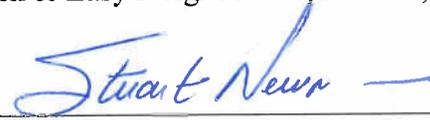
that the Board's Orders somehow be amended to require any remedial actions to extend beyond the Spring Valley store.

Dated: March 3, 2011

Respectfully submitted,

Fresh & Easy Neighborhood Market, Inc.

By

A handwritten signature in blue ink that reads "Stuart Newman" with a horizontal line extending to the right.

Stuart Newman

SEYFARTH SHAW LLP  
Attorneys for Respondent  
1075 Peachtree Street, N.E.  
Suite 2500  
Atlanta, Georgia 30309  
404-885-1500

**CERTIFICATE OF SERVICE**  
(CCP 1013)

I am a citizen of the United States and an employee in the County of Fulton, State of Georgia. I am over the age of eighteen years and not a party to the within action; my business address is 1075 Peachtree Street, NE, Suite 2500, Atlanta, Georgia 30309-3962. On March 3, 2011, I served upon the following parties in this action:

James F. Small, Esq.  
Robert MacKay, Esq.  
NLRB, Region 21  
888 S. Figueroa Street, 9th Floor  
Los Angeles, CA 90017-5449

[James.small@nlrb.gov](mailto:James.small@nlrb.gov)  
[Robert.mackay@nlbr.gov](mailto:Robert.mackay@nlbr.gov)

Executive Secretary  
NLRB  
1099 - 14th Street, N.W.  
Washington, DC 20570-0001  
*Via e-filing*

David Rosenfeld, Esq.  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Parkway, Suite 200  
Alameda, CA 94501

Via Facsimile (510) 337-1023

copies of the document(s) described as:

**MOTION FOR RECONSIDERATION**

**[X] VIA ELECTRONIC FILING**

**[X] BY FACSIMILE** I caused to be transmitted each document listed herein via the fax number listed above or on the attached service list.

**[X] BY EMAIL**

I certify under penalty of perjury that the above is true and correct. Executed at Atlanta, Georgia, on March 3, 2011.

/s/ Stuart Newman  
Stuart Newman