

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

**ELLIOTT MANUFACTURING COMPANY**

**and**

**Case 32-CA-137848**

**MACHINISTS LOCAL LODGE 653, DISTRICT  
LODGE 190**

**MOTION TO TRANSFER CASE TO THE BOARD  
AND FOR DEFAULT JUDGMENT**

The General Counsel of the National Labor Relations Board, (the Board), by the undersigned Counsel for the General Counsel, pursuant to Sections 102.20, 102.21, 102.24, and 102.50 of the Board's Rules and Regulations, Series 8, as amended, hereby moves that this case be transferred to the Board and that it grant default judgment against Elliott Manufacturing Company (Respondent). In support of this Motion, the General Counsel shows as follows:

1.

(a) On September 30, 2014, Machinists Local Lodge 653, District Lodge 190 (the Union), filed an unfair labor practice charge in Case 32-CA-137848, alleging that Respondent has engaged in conduct violative of Sections 8(a)(1) and (5) of the National Labor Relations Act (the Act). A copy of that charge has been marked as Exhibit 1 and is attached hereto and made a part hereof, as are all of the documents marked as Exhibits and referred to hereinafter.

(b) On October 16, 2014, the Union filed a first-amended charge in this proceeding. A copy of that first-amended charge is attached and incorporated herein as Exhibit 2.

(c) On April 6, 2015, the Union filed a second-amended charge in this proceeding. A copy of that charge is attached and incorporated herein as Exhibit 3.

2.

(a) On February 27, 2015, the Regional Director for the Thirty-Second Region of the Board (the Regional Director) issued a Complaint and Notice of Hearing (the Complaint) in this case, alleging that Respondent has engaged in and is engaging in, conduct violative of Sections 8(a)(1) and 8(a)(5) of the Act. A copy of that Complaint is attached and incorporated herein as Exhibit 4.

(b) On that same date, a copy of that Complaint was served on Respondent by certified mail. A copy of the affidavit of service is attached and incorporated herein as Exhibit 5. Copies of the return receipt card, indicating that Respondent received the Complaint on or about March 2, 2015 are attached and incorporated herein as Exhibit 6. The Complaint advised of the necessity of an answer on or before March 13, 2015.

(c) No Answer from Respondent was received by the date advised in the Complaint. Accordingly, on March 27, 2015, the Region sent Respondent, at both its place of business and its P.O. Box in Fresno, California, a letter by UPS mail informing it that no Answer to the Complaint had yet been received by the Region and which further advised it that, unless such Answer were filed by the close of business on April 3, 2015, the Region would file a Motion for Default Judgment with the Board. A copy of that letter is attached and incorporated herein as Exhibit 7. A copy of the return receipt cards and the UPS Delivery Notifications for that letter are attached hereto as Exhibit 7(a).

(d) No Answer from Respondent was received by the April 3, 2015 deadline.

3.

(a) On April 16, 2015, the Regional Director issued an Order Consolidating Amended Complaint and Compliance Specification, Amended Consolidated Complaint and Compliance Specification, and Notice of Hearing (Amended Consolidated Complaint), in this case, alleging that Respondent has engaged in and is engaging in, conduct violative of Sections 8(a)(1) and 8(a)(5) of the Act. A copy of that Amended Consolidated Complaint is attached and incorporated herein as Exhibit 8.

(b) On that same date, a copy of that Amended Consolidated Complaint was served on Respondent by certified mail. A copy of the affidavit of service is attached and incorporated herein as Exhibit 9. Copies of the return receipt cards and the UPS Delivery Notifications, indicating that Respondent received the Amended Consolidated Complaint on April 20, 2015 are attached and incorporated herein as Exhibit 10. The Amended Consolidated Complaint advised of the necessity of an answer on or before May 7, 2015.

(c) No Answer from Respondent was received by the date advised in the Amended Consolidated Complaint. Accordingly, on May 11, 2015, the Region sent Respondent, at both its place of business and Respondent's P.O. Box in Fresno, California, a letter by certified mail informing it that no Answer to the Amended Consolidated Complaint had yet been received by the Region and which further advised it that, unless such Answer were filed by the close of business on May 18, 2015, the Region would file a Motion for Default Judgment with the Board. A copy of that letter is attached and incorporated herein as Exhibit 11. Copies of the return receipt cards and the UPS Delivery Notifications indicating that Respondent received the May 11, 2015 letter are attached and incorporated herein as Exhibit 12.

4.

(a) On May 18, 2015, the undersigned received a call from Respondent's Chief Executive Officer, Terry Aluisi. Aluisi informed the undersigned that he had received the Region's May 11 letter and that he did not dispute the allegation that Respondent had failed to make required contributions to the Union's Pension and Welfare trust funds, but that Respondent and Union had reached or were close to reaching settlement on these issues. Mr. Aluisi was informed that the Region would speak to the relevant parties to substantiate any settlement that had been reached. The undersigned investigated this claim by contacting the Union and counsel for both the Automotive Industries Welfare Trust Fund and the International Association of Machinists National Pension Fund, as well as counsel representing Respondent in Chapter 11 bankruptcy proceedings. It was discovered that the Respondent had executed a new collective bargaining agreement with the Union on May 20, 2015; however, no settlement had been discussed regarding the delinquent trust fund contributions. Instead, Mr. Aluisi had mistakenly referred to Respondent's Chapter 11 restructuring plan as a settlement offer. Once submitted, that plan is subject both to objections from other creditors and to approval from the judge.

(b) On May 21, 2015, the undersigned again spoke with Mr. Aluisi and informed him that because no settlement had been reached, Respondent was still required to file an Answer. A new deadline of the close of business May 28, 2015, was provided for Respondent to file its Answer. Although Mr. Aluisi then informed the Region that he did not intend to file an Answer, he was nevertheless advised once again of the consequences of failing to file an Answer, and he was advised to consult with counsel and to review the Amended Consolidated Complaint before

deciding on a course of action. An email reminder to this effect was sent to Mr. Aluisi on May 26, 2015. A copy of that email is attached and incorporated herein as Exhibit 13.

(c) No Answer from Respondent was received by the May 28, 2015 deadline.

(d) On June 15, 2015, an Order Postponing Hearing Indefinitely issued. A copy of this Order is attached hereto as Exhibit 14. On that same date, a copy of that Order was served on Respondent by certified mail. A copy of the affidavit of service is attached and incorporated herein as Exhibit 15.

5.

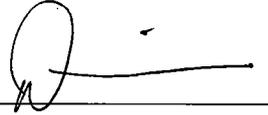
To date, no Answer to either the Complaint or to the Amended Consolidated Complaint has been received from Respondent, nor has Respondent requested any extension of time to file an Answer. Where, as here, in the absence of good cause being shown for failure to file a timely answer, default judgment is appropriate. *Malik Roofing Corporation*, 338 NLRB 930 (2003). Here, the Respondent failed to file any type of timely response to the General Counsel's Complaint or the Amended Consolidated Complaint. Moreover, even though Respondent appears to be unrepresented by counsel, that does not excuse its failure to comply with the Board's Rules and Regulations. See, e.g. *All American Fire Protection, Inc.*, 336 NLRB 767 (2001). The Board has ruled that where respondents fail to file any timely response to a complaint, "merely being unrepresented by counsel does not establish a good cause explanation for failing to file a timely answer." *Country Lane Construction, Inc.*, 339 NLRB 1321 (2003) citing to *Lockhart Concrete*, 336 NLRB 956, 957 (2001). In the instant matter, since Respondent has failed to deny any of the allegations in the Amended Consolidated Complaint, there is no question that the Respondent has violated the Act as alleged in the Amended Consolidated Complaint.

6.

NOW, THEREFORE, in view of the matters set forth above, and upon consideration of the documents attached hereto and incorporated in this Motion, and in view of the failure of Respondent to comply with the requirements of Section 102.20 of the Board's Rules and Regulations, Series 8, as amended, Counsel for the General Counsel prays that the Board find and conclude that Respondent has violated Section 8(a) (1) and (5) of the Act, as alleged in the Amended Consolidated Complaint, and that it issue a Decision and Order in conformity with the allegations of said Amended Consolidated Complaint. In support thereof, Counsel for the General Counsel notes that Section 102.20 of the Board's Rules and Regulations, Series 8, as amended, specifically states, in pertinent part, that "All allegations in the complaint, if no answer is filed, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown." In the instant case, Respondent has neither sought an extension of time to file an Answer nor has it offered any explanation to this office for its failure to file an Answer to the Amended Consolidated Complaint issued herein. In such circumstances, Counsel for the General Counsel submits that Respondent's failure to Answer herein warrants application of the above-cited portions of Section 102.20 of the Board's Rules and Regulations, that Respondent's failure to file an Answer raises no issue of fact or law requiring hearing in this proceeding, and accordingly, that the Board should find and conclude that Respondent has violated, and is violating Sections 8(a)(1) and (5) of the Act and that it should issue a Decision and Order in conformity with the allegations of the Amended Consolidated Complaint herein. *In Re Malik Roofing Corp.*, 338 NLRB 930 (2008).

DATED AT Oakland, California this 16<sup>th</sup> day of June 2015.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line extending to the right.

---

David Willhoite  
Counsel for the General Counsel  
NATIONAL LABOR RELATIONS BOARD  
REGION 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5211

# **EXHIBIT 1**

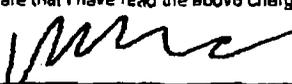
INTERNET  
FORM NLRB-501  
(2-08)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

<b>DO NOT WRITE IN THIS SPACE</b>	
Case 32-CA-137848	Date Filed 9/30/2014

**INSTRUCTIONS:**

File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

<b>1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT</b>		
a. Name of Employer  Elliott Manufacturing Company	b. Tel. No. (559) 233-6235	
	c. Cell No.	
	f. Fax No. (559) 233-9833	
d. Address (Street, city, state, and ZIP code) P.O. Box 11277 Fresno, CA 93772	e. Employer Representative Terry Aluisi	g. e-Mail
		h. Number of workers employed 10+
i. Type of Establishment (factory, mine, wholesaler, etc.) Manufacturing	j. Identify principal product or service	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)  Within the last six months the above named employer has refused to bargain in good faith with the Charging Party by refusing to negotiate wages, hours and working conditions.		
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Machinists Local Lodge 653, District Lodge 190		
4a. Address (Street and number, city, state, and ZIP code) 544 West Olive Avenue, Fresno, CA 93728-2947	4b. Tel. No. 559.264.2815	
	4c. Cell No.	
	4d. Fax No. 559.264.3060	
	4e. e-Mail	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Association of Machinists and Aerospace Workers, AFL-CIO		
<b>6. DECLARATION</b>		Tel. No. 510.337.1001
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Office, if any, Cell No.
By  <small>(Signature of representative or person making charge)</small>	David A. Rosenfeld, Attorney <small>(Print type name and title or office, if any)</small>	Fax No. 510.337.1023
Address: WEINBERG, ROGER & ROSENFELD,  1001 Marina Village Parkway, Suite 200, Alameda, CA 94501	September 30, 2014 <small>(date)</small>	e-Mail

RECEIVED  
 NLRB REGION 32  
 2014 SEP 30 PM 2:36  
 OAKLAND, CA

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

# **EXHIBIT 2**

FIRST AMENDED

FORM EXEMPT UNDER 44 U.S.C. 3512

INTERNET  
FORM NLRB-501  
(2-08)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

<b>DO NOT WRITE IN THIS SPACE</b>	
Case 32-CA-137848	Date Filed 10/16/2014

FIRST AMENDED

**INSTRUCTIONS:**

File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

<b>1 EMPLOYER AGAINST WHOM CHARGE IS BROUGHT</b>			
a. Name of Employer Elliott Manufacturing Company		b. Tel. No. (559) 233-6235	RECEIVED NLRB REGION OCT 16 PM 4:32 AKLAND, CA
		c. Cell No.	
		f. Fax No. (559) 233-9833	
d. Address (Street, city, state, and ZIP code) P.O. Box 11277 Fresno, CA 93772		e. Employer Representative Terry Aluisi	g. e-Mail
i. Type of Establishment (factory, mine, wholesaler, etc.) Manufacturing		h. Number of workers employed 10+	
j. Identify principal product or service		k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)  Within the last six months the above named employer has refused to bargain in good faith with the Charging Party by refusing to negotiate wages, hours and working conditions. The employer has engaged in direct dealing with employees. The employer has failed to make trust fund contributions and made other unilateral changes. The employer has also returned to the employees, their portion of the health care contributions. The employer has in effect repudiated the bargaining relationship with the Charging Party.			
3. Full name of party filing charge (if labor organization, give full name, including local name and number)  Machinists Local Lodge 653, District Lodge 190			
4a. Address (Street and number, city, state, and ZIP code) 544 West Olive Avenue, Fresno, CA 93728-2947		4b. Tel. No. 559.264.2815	
		4c. Cell No.	
		4d. Fax No. 559.264.3060	
		4e. e-Mail	
5 Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Association of Machinists and Aerospace Workers, AFL-CIO			
<b>6. DECLARATION</b>		Tel. No. 510.337.1001	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Office, if any, Cell No.	
By <u>David A. Rosenfeld</u> <small>(signature of representative or person making charge)</small>	David A. Rosenfeld, Attorney <small>(Print type name and title or office, if any)</small>	Fax No. 510.337.1023	
Address: WEINBERG, ROGER & ROSENFELD,  1001 Marina Village Parkway, Suite 200, Alameda, CA 94501		e-Mail	
		October 16, 2014 <small>(date)</small>	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

# EXHIBIT 3

UNITED STATES OF AMERICA  
 NATIONAL LABOR RELATIONS BOARD  
**SECOND AMENDED CHARGE AGAINST EMPLOYER**

**INSTRUCTIONS:**

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
32-CA-137848	4/6/2015

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

a. Name of Employer Elliott Manufacturing Company		b. Tel. No. (559) 233-6235	2015 APR - 5 PM 4:30 NLRB REGIONAL OFFICE OAKLAND
d. Address (street, city, state ZIP code) 2664 S Cherry Ave, Fresno, CA 93706-5494		c. Cell No.	
e. Employer Representative TERRY ALUISI		f. Fax No. (559) 233-9833	
i. Type of Establishment (factory, nursing home, hotel) Manufacturing		g. e-Mail	
j. Principal Product or Service Industrial scale packaging and wrapping		h. Dispute Location (City and State) Fresno, California	k. Number of workers at dispute location 10+

1 The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) subsection (5) and section 8(d) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act

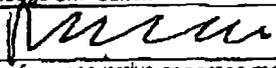
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)  
 Within the last six months, the above named Employer has made unilateral changes to employees' terms and conditions of employment without notice to and/or bargaining with the Union and/or repudiated and/or modified the collective-bargaining agreement between the Employer and the Union without the Union's consent, by, among other things, failing to remit required monthly health and welfare contributions and pension contributions to the Health Fund and the Pension Fund; by failing to submit monthly reports regarding hours worked by Unit employees to the Health Fund and the Pension Fund, and by repudiating and/or by failing to continue in effect the classification and wage rates provision(s) in the collective-bargaining agreement.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)  
 Machinists Local Lodge 653, District Lodge 190

4a. Address (street and number, city, state, and ZIP code) 544 West Olive Ave, Fresno, CA 93728-2947	4b. Tel No (559) 264-2815
	4c. Cell No (559) 970-1356
	4d. Fax No. (559) 264-3060
	4e. e-Mail tomrotella@comcast.net

5 Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)  
 International Association of Machinists and Aerospace Workers

6. DECLARATION  
 I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By: 	David A. Rosenfeld, Attorney	Tel. No. (510) 337-1001
(signature of representative or person making charge)	Print Name and Title	Office, if any, Cell No.
Address: Weinberg, Roger & Rosenfeld 1001 Marina Village Parkway, Suite 200 Alameda, CA 94501	Date: April 6, 2015	Fax No. (510) 337-1023
		e-Mail drosenfeld@unioncounsel.net

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

# **EXHIBIT 4**

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

**ELLIOTT MANUFACTURING COMPANY**

**and**

**Case 32-CA-137848**

**MACHINISTS LOCAL LODGE 653, DISTRICT  
LODGE 190**

**COMPLAINT AND NOTICE OF HEARING**

This Complaint and Notice of Hearing is based on a charge filed by Machinists Local Lodge 653, District Lodge 190 (Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Elliott Manufacturing Company (Respondent) has violated the Act as described below.

1.

(a) The charge in this proceeding was filed by the Charging Party on September 30, 2014, and a copy was served on Respondent by U.S. mail on October 1, 2014.

(b) The first amended charge in this proceeding was filed by the Charging Party on October 16, 2014, and a copy was served on Respondent by U.S. mail on October 20, 2014.

2.

(a) At all material times, Respondent has been a corporation with an office and place of business in Fresno, California, and has been engaged in the manufacture and nonretail sale of industrial scale packaging and wrapping.

(b) In conducting its operations during the 12-month period ending January 31, 2015, Respondent sold and shipped from its Fresno, California facility goods valued in excess of \$50,000 directly to points outside the State of California.

(c) On or about February 2, 2015, Respondent filed a petition under Chapter 11 of the United States Bankruptcy Code in the United States District Court for the Eastern District of California. Since about February 2, 2015, Respondent has been a debtor-in-possession with full authority to continue its operations and to exercise all powers necessary to administer its business.

3.

At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4.

At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

5.

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act):

Thomas Elliott Cole	-	Owner/President
Terry Aluisi	-	Chief Executive Officer
Jesse Cook	-	Facility Shop Foreman

6.

(a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective-bargaining within the meaning of Section 9(b) of the Act:

All employees performing work described in and covered by Section 9 of the October 1, 2011 through September 30, 2014 collective-bargaining agreement between Respondent and the Charging Party (the Agreement); excluding all other employees, guards and supervisors as defined in the Act.

(b) Since at least October 1, 2011 and at all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which (the Agreement) was effective from October 1, 2011 to September 30, 2014, which was then extended on September 30, 2014 to October 31, 2014, and was then extended indefinitely on October 31, 2014 until Respondent or the Charging Party serve written notice to the other party with a 48 hour notice to terminate.

(c) At all times since at least October 1, 2011, based on Section 9(a) of the Act, the Charging Party has been the exclusive collective-bargaining representative of the Unit.

7.

The Agreement contains, *inter alia*, the following provisions:

(a) A provision (the Health and Welfare Provision) requiring Respondent to provide Unit employees and their dependents with health, life insurance, dental, orthodontics, and vision benefits provided by the Automotive Industries Welfare Fund, or a comparable plan (the Health Plan), to be funded seventy percent (70%) by Respondent.

(b) A provision requiring Respondent to submit monthly reports regarding hours worked by Unit employees to the Automotive Industries Welfare Trust Fund (the Health Fund).

(c) A provision requiring Respondent to make monthly contributions on behalf of Unit employees to the Health Fund, as well as to remit the employee share of the monthly contribution via payroll deduction to the Health Fund.

(d) A provision requiring Respondent to provide Unit employees with a pension plan (the Pension Plan) provided by the International Association of Machinists National Pension Fund (the Pension Fund).

(e) A provision requiring Respondent to submit monthly reports regarding hours worked by Unit employees to the Pension Fund.

(f) A provision requiring Respondent to make monthly contributions on behalf of Unit employees to the Pension Fund (the Pension Contributions Provision).

8.

(a) Since about September, 2014, Respondent has repudiated the Health and Welfare Provision by refusing to submit regular monthly reports regarding hours worked by Unit employees to the Health Fund and by refusing to make and/or timely make monthly contributions on behalf of Unit employees to the Health Fund.

(b) Since about September 2014, Respondent has repudiated the Health and Welfare Provision by deducting from the Unit employees' paychecks their share of the contributions for the Health Plan but has then returned those contributions to the Unit employees rather than remitting them to the Health Fund.

(c) As a consequence of Respondent's conduct described above in paragraphs 8(a) and 8(b), Unit employees were no longer covered by the Health Plan effective September 30, 2014.

(d) Since about August, 2014, Respondent has repudiated the Pension Contributions Provision by refusing to submit monthly reports regarding hours worked by Unit employees to the Pension Fund and by refusing to make and/or timely make monthly contributions on behalf of Unit employees to the Pension Fund.

(e) The subjects set forth above in paragraph numbers 8(a), 8(b), (c), and 8(d) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective-bargaining.

(f) Respondent engaged in the conduct described above in paragraph numbers 8(a), 8(b), and 8(d) without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct.

9.

(a) About October 2014, Respondent granted pay raises to Unit employees.

(b) The subjects set forth above in paragraph number 9(a) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective-bargaining.

(c) Respondent engaged in the conduct described above in paragraph number 9(a) without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct.

10.

By the conduct described above in paragraphs 8(a), 8(b), 8(d), and 9(a), Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

11.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**WHEREFORE**, as part of the remedy for the unfair labor practices alleged above in paragraphs 8(a) and 8(b), the General Counsel seeks an Order requiring that Respondent: (1) immediately secure the reinstatement of the Health Plan for Unit employees or, if it is unable to do so, obtain a health and welfare plan for Unit employees equivalent to the Health Plan they lost effective September 30, 2014; (2) make whole Unit employees for any and all out-of-pocket medical costs they have incurred or will incur as a result of their loss of coverage under the Health Plan effective September 30, 2014 until such time as Respondent either secures the reinstatement of the Health Plan for Unit employees or obtains a health and welfare plan for Unit employees equivalent to the Health Plan they lost effective September 30, 2014; (3) make all contractually required contributions to the Health Fund and the Pension Fund that it failed to make, including any additional amounts due the Health Fund and the Pension Fund on behalf of the Unit employees in accordance with *Merryweather Optical Company*, 240 NLRB 1213, 1216 fn. 7 (1979) and including the back employee contributions to the Health Plan that Respondent deducted from employee paychecks but failed to remit to the Health Fund.

**ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before March 13, 2015, or postmarked on or before March 12, 2015.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

#### **NOTICE OF HEARING**

**PLEASE TAKE NOTICE THAT on Tuesday, May 19, 2015, 9:00 a.m.** at the California State Building, 2550 Mariposa Mall, Room 1013, Fresno, California, and on consecutive days thereafter until concluded, a hearing will be conducted before an

Administrative Law Judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

**DATED AT** Oakland, California this 27<sup>th</sup> day of February 2015.

/s/ George Velastegui

---

George Velastegui  
Regional Director  
National Labor Relations Board  
Region 32  
1301 Clay St Ste 300N  
Oakland, CA 94612-5224

Attachments

NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case 32-CA-137848

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Tom Rotella  
Machinists Local Lodge 653, District Lodge 190  
544 West Olive Ave  
Fresno, CA 93728-2947

Terry Aluisi  
Elliott Manufacturing Company  
2664 S Cherry Ave  
Fresno, CA 93706-5494

David A. Rosenfeld, Esq.  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Pkwy, Ste 200  
Alameda, CA 94501-6430

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in

**evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and will set a deadline for filing, up to 35 days.

### III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

# **EXHIBIT 5**

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

**ELLIOTT MANUFACTURING COMPANY**

**and**

**MACHINISTS LOCAL LODGE 653, DISTRICT  
LODGE 190**

**Case(s) 32-CA-137848**

**Date: February 27, 2015**

**AFFIDAVIT OF SERVICE OF COMPLAINT AND NOTICE OF HEARING**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

Terry Aluisi  
Elliott Manufacturing Company  
2664 S Cherry Ave  
Fresno, CA 93706-5494  
**VIA CERTIFIED MAIL**  
**7001 2510 0007 6031 6346**

Tom Rotella  
Machinists Local Lodge 653, District Lodge 190  
544 West Olive Ave  
Fresno, CA 93728-2947  
**VIA REGULAR MAIL**

National Labor Relations Board  
Division Of Judges  
901 Market St., Suite 300  
San Francisco, CA 94103  
**E-File**

David A. Rosenfeld, Esq.  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Pkwy, Ste 200  
Alameda, CA 94501-6430  
**VIA REGULAR MAIL**

Attn: Davette Repola  
AVTranz  
845 N. 3<sup>rd</sup> Avenue  
Phoenix, AZ 85003  
**VIA E-MAIL: [davette.repola@avtranz.com](mailto:davette.repola@avtranz.com)**

February 27, 2015

Date

Frances Hayden, Designated Agent of NLRB

Name

/s/ Frances Hayden

Signature

# **EXHIBIT 6**

7001 2510 0007 6031 6346

32-CA-137848 CAT-NOV 2-29-15

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *HAYDEN*

1. Article Addressed to:

Terry Aluisi  
 Elliott Manufacturing Company  
 2664 S Cherry Ave  
 Fresno, CA 93706-5494

2. Article Number  
(Transfer from service label)

7001 2510 0007 6031 6346

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*X Maria Gomez*  Agent  Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE  
CA 936

02 MAR 15

DN21

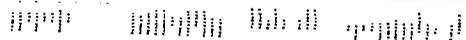


First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

United States Government  
 National Labor Relations Board  
 Region 32  
 1301 Clay Street, Suite 300N  
 Oakland, CA 94612-5224

OAKLAND, CA  
 JUN -4 PM 2  
 DELIVERED  
 REGION



# **EXHIBIT 7**



**United States Government  
NATIONAL LABOR RELATIONS BOARD**

**Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5211**

**Telephone: 510-637-3262  
Fax: 510-637-3315**

March 27, 2015

Tom Elliott Cole  
Owner  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno CA 93706-5494

Tom Elliott Cole  
Owner  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772

Terry Aluisi  
Chief Operating Officer  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno, CA 93706-5494

Terry Aluisi  
Chief Operating Officer  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772

Re: Elliott Manufacturing Company  
Case 32-CA-137848

Dear Mr. Cole and Mr. Aluisi:

On February 27, 2015, a Complaint and Notice of Hearing issued in the above-referenced case. The Complaint and Notice of Hearing advised you that, pursuant to Sections 102.20 and 102.21 of the National Labor Relations Board's Rules and Regulations, you must file an Answer to the Complaint and that if no Answer is filed or if an Answer is untimely filed, the Board may find, pursuant to a Motion for Default Judgment, that all the allegations in the Complaint are true. You were further advised that the Answer must be received by this office on or before March 13, 2015. To date, you have failed to file an Answer to the Complaint.

Please be advised that if an Answer to the Complaint is not filed by April 3, 2015, Counsel for the General Counsel will file a Motion for Default Judgment with the Board.

Very truly yours,

/s/ Valerie Hardy-Mahoney

Valerie Hardy-Mahoney  
Regional Attorney

# **EXHIBIT 7(a)**

UNITED STATES POSTAL SERVICE

CA 936

01 APR '15



First-Class Mail  
Postage & Fees  
USPS  
Permit No. G-1

Sent to  
Fresno, CA 93772

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED  
HLRB REGION 32  
2015 APR -6 PM 1:45

United States Government  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5224



UNITED STATES POSTAL SERVICE

CA 936

01 APR '15



First-Class Mail  
Postage & Fees P  
USPS  
Permit No. G-10

Sent to  
Fresno, CA 93772

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED  
HLRB REGION 32  
2015 APR -6 PM 1:45

United States Government  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5224



7001 2510 0007 6031 6261

32-CA-137848

LTR - DEBIT JUDGMENT

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *HAND*

A. Signature  
 X *John Quintana*  Agent  Addressee  
 B. Received by (Printed Name) *JOSE Quintana* C. Date of Delivery *4/1/15*  
 D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

1. Article Addressed to:  
  
 Terry Aluisi  
 Chief Operating Officer  
 Elliott Manufacturing Company  
 P. O. Box 11277  
 Fresno, CA 93772

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.  
 4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) 7001 2510 0007 6031 6261

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-15

32-CA-137848

LTR DEBIT JUDGMENT

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *HAND*

A. Signature  
 X *John Quintana*  Agent  Addressee  
 B. Received by (Printed Name) *JOSE Quintana* C. Date of Delivery *4/1/15*  
 D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

1. Article Addressed to:  
  
 Tom Elliott Cole  
 Owner  
 Elliott Manufacturing Company  
 P. O. Box 11277  
 Fresno, CA 93772

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.  
 4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) 7001 2510 0007 6031 6230

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-15

UNITED STATES POSTAL SERVICE  
CA 936  
30 MAR '15  
PND 1



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

United States Government  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5224

OAKLAND, CA

OK - 1 PM 11

REGION 32

101 2  
Street, Apt. No. or PO box No. Fresno, CA 93706-5494

7001 2510 0007 6031 6254

32-CA-137848 LTR-DEFERRED PAYMENT

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *Handwritten*

1. Article Addressed to:

Terry Aluisi  
Chief Operating Officer  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno, CA 93706-5494

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
*X* *Terry Aluisi*  Agent  Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) 7001 2510 0007 6031 6254

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-15

UNITED STATES POSTAL SERVICE  
CA 936  
30 MAR '15  
PND 1



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

United States Government  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5224

RECEIVED  
NLRB REGION 32

2015 APR - 1 PM

Street, Apt. No. or PO box No. Fresno, CA 93706-5494

7001 2510 0007 6031 6254

32-CA-137848 LTR-DEFERRED PAYMENT

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *Handwritten*

1. Article Addressed to:

Tom Elliott Cole  
Owner  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno CA 93706-5494

A. Signature  
*X* *Tom Elliott Cole*  Agent  Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

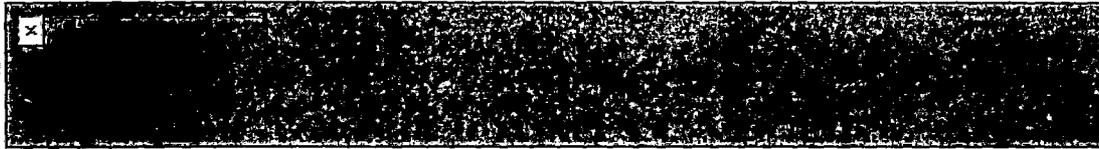
Article Number (transfer from service label) 7001 2510 0007 6031 6247

Form 3811, February 2004 Domestic Return Receipt 102595-02-M-15

Hayden, Frances

---

**From:** UPS Quantum View [auto-notify@ups.com]  
**Sent:** Monday, March 30, 2015 10:14 AM  
**To:** Hayden, Frances  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA4F7402490291158



\*\*\*Do not reply to this e-mail. UPS and R-32: NLRB - CA will not receive your reply.

**At the request of R-32: NLRB - CA, this notice is to confirm that the following shipment has been delivered.**

**Important Delivery Information**

---

**Tracking Number:** 1ZA4F7402490291158  
**Delivery Date / Time:** 30-March-2015 / 10:00 AM

**Delivery Location:** RECEIVER  
**Signed by:** RICHARD

**Shipment Detail**

---

**Ship To:**  
Tom Elliott Cole  
Elliott Manufacturing Company  
2664 S CHERRY AVE  
FRESNO  
CA  
93706  
US

**Number of Packages:** 1  
**UPS Service:** NEXT DAY AIR  
**Shipment Type:** Letter  
**Reference Number 1:** RA Office, Region 32  
**Reference Number 2:** FH for VHM  
**Reference Number 3:** 32-CA-137848 - **Ltr Default Judgment**

---

Hayden, Frances

---

**From:** UPS Quantum View [auto-notify@ups.com]  
**Sent:** Monday, March 30, 2015 10:14 AM  
**To:** Hayden, Frances  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA4F7402492399968



\*\*\*Do not reply to this e-mail. UPS and R-32: NLRB - CA will not receive your reply.

**At the request of R-32: NLRB - CA, this notice is to confirm that the following shipment has been delivered.**

**Important Delivery Information**

---

**Tracking Number:** [1ZA4F7402492399968](#)  
**Delivery Date / Time:** 30-March-2015 / 10:00 AM

**Delivery Location:** RECEIVER  
**Signed by:** RICHARD

**Shipment Detail**

---

**Ship To:**  
Terry Aluisi  
Elliott Manufacturing Company  
2664 S CHERRY AVE  
FRESNO  
CA  
93706  
US

**Number of Packages:** 1  
**UPS Service:** NEXT DAY AIR  
**Shipment Type:** Letter  
**Reference Number 1:** RA Office, Region 32  
**Reference Number 2:** FH for VHM  
**Reference Number 3:** 32-CA-137848 - **Ltr Default Judgment**

---

# **EXHIBIT 8**

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

**ELLIOTT MANUFACTURING COMPANY**

**and**

**Case 32-CA-137848**

**MACHINISTS LOCAL LODGE 653, DISTRICT  
LODGE 190**

**ORDER CONSOLIDATING AMENDED COMPLAINT AND COMPLIANCE  
SPECIFICATION, AMENDED CONSOLIDATED COMPLAINT AND COMPLIANCE  
SPECIFICATION, AND NOTICE OF HEARING**

Upon a charge filed by Machinists Local Lodge 653, District Lodge 190 (Charging Party) in Case 32-CA-137848 on September 30, 2014, a Complaint and Notice of Hearing issued on February 27, 2015, alleging that Elliott Manufacturing Company (Respondent) has been engaging in unfair labor practices as set forth in the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq. The hearing scheduled in that matter was postponed indefinitely on April 8, 2015. The General Counsel, by the undersigned, having duly considered the matter and deeming it necessary in order to effectuate the purposes of the Act and to avoid unnecessary costs and delay, HEREBY ORDERS, pursuant to Section 102.54 of the Rules and Regulations, Series 8, as amended, of the National Labor Relations Board (the Board), that this case be, and it hereby is consolidated for hearing on the merits of the charge and the allegations made in the Compliance Specification.

This case being consolidated for the purposes described above, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, issues this Order Consolidating Amended Complaint and Compliance

Specification, Amended Consolidated Complaint and Compliance Specification, and Notice of Hearing, and alleges as follows:

**AMENDED COMPLAINT**

1.

(a) The charge in this proceeding was filed by the Charging Party on September 30, 2014, and a copy was served on Respondent by U.S. mail on October 1, 2014.

(b) The first amended charge in this proceeding was filed by the Charging Party on October 16, 2014, and a copy was served on Respondent by U.S. mail on October 20, 2014.

(c) The second amended charge in this proceeding was filed by the Charging Party on April 6, 2015, and a copy was served on Respondent by U.S. mail on April 7, 2015.

2.

(a) At all material times, Respondent has been a corporation with an office and place of business in Fresno, California, and has been engaged in the manufacture and nonretail sale of industrial scale packaging and wrapping.

(b) In conducting its operations during the 12-month period ending January 31, 2015, Respondent sold and shipped from its Fresno, California facility goods valued in excess of \$50,000 directly to points outside the State of California.

(c) On or about February 2, 2015, Respondent filed a petition under Chapter 11 of the United States Bankruptcy Code in the United States District Court for the Eastern District of California. Since about February 2, 2015, Respondent has been a debtor-in-possession with full authority to continue its operations and to exercise all powers necessary to administer its business.

3.

At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4.

At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

5.

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act):

Thomas Elliott Cole	-	Owner/President
Terry Aluisi	-	Chief Executive Officer
Jesse Cook	-	Facility Shop Foreman

6.

(a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees performing work described in and covered by Section 9 of the October 1, 2011 through September 30, 2014 collective-bargaining agreement between Respondent and the Charging Party (the Agreement); excluding all other employees, guards and supervisors as defined in the Act.

(b) Since at least October 1, 2011 and at all material times, Respondent has recognized the Charging Party Union as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which (the Agreement) was effective from October 1, 2011 to September 30,

2014, which was then extended on September 30, 2014 to October 31, 2014, and was then extended indefinitely on October 31, 2014 until Respondent or the Charging Party serve written notice to the other party with a 48 hour notice to terminate.

(c) At all times since at least October 1, 2011, based on Section 9(a) of the Act, the Charging Party has been the exclusive collective-bargaining representative of the Unit.

7.

The Agreement contains, *inter alia*, the following provisions:

(a) A provision (the Health and Welfare Provision) requiring Respondent to provide Unit employees and their dependents with health, dental, orthodontics, vision, and life insurance benefits provided by the Automotive Industries Welfare Trust Fund (the Health Fund), or a comparable plan (the Health Plan), to be funded seventy percent (70%) by Respondent.

(b) A provision requiring Respondent to submit monthly reports regarding hours worked by Unit employees to the Health Fund.

(c) A provision requiring Respondent to make monthly contributions on behalf of Unit employees to the Health Fund, as well as to remit the employee share of the monthly contribution via payroll deduction to the Health Fund.

(d) A provision requiring Respondent to provide Unit employees with the International Association of Machinists National Pension Fund, National Pension Plan (the Pension Plan) provided by the International Association of Machinists National Pension Fund (the Pension Fund).

(e) A provision requiring Respondent to submit monthly reports regarding hours worked by Unit employees to the Pension Fund.

(f) A provision requiring Respondent to make monthly contributions on behalf of Unit employees to the Pension Fund (the Pension Contributions Provision).

(g) A provision requiring Respondent to pay fixed wage rates to each classification of employees in the Unit (the Classification and Wage Rates Provision).

8.

(a) Since about September, 2014, Respondent has repudiated and/or failed to continue in effect all of the terms and conditions of the Health and Welfare Provision by refusing to submit regular monthly reports regarding hours worked by Unit employees to the Health Fund and by refusing to make and/or timely make monthly contributions on behalf of Unit employees to the Health Fund.

(b) Since about September 2014, Respondent has repudiated and/or failed to continue in effect all of the terms and conditions of the Health and Welfare Provision by deducting from the Unit employees' paychecks their share of the contributions for the Health Plan but then returning those contributions to the Unit employees rather than remitting them to the Health Fund.

(c) As a consequence of Respondent's conduct described above in paragraphs 8(a) and 8(b), Unit employees were no longer covered by the Health Plan effective September 30, 2014.

(d) Since about August, 2014, Respondent has repudiated and/or failed to continue in effect all of the terms and conditions of the Pension Contributions Provision by refusing to submit monthly reports regarding hours worked by Unit employees to the Pension Fund and by refusing to make and/or timely make monthly contributions on behalf of Unit employees to the Pension Fund.

(e) The subjects set forth above in paragraph numbers 8(a), 8(b), and 8(d) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

(f) Respondent engaged in the conduct described above in paragraph numbers 8(a), 8(b), and 8(d) without prior notice to the Charging Party Union and without affording the Charging Party Union an opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct and/or without the Charging Party Union's consent.

9.

(a) About October 2014, Respondent repudiated and/or failed to continue in effect all of the terms and conditions of the Classification and Wage Rates Provision by granting pay raises to Unit employees.

(b) The subjects set forth above in paragraph number 9(a) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective-bargaining.

(c) Respondent engaged in the conduct described above in paragraph number 9(a) without prior notice to the Charging Party Union and without affording the Charging Party Union an opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct and/or without the Union's consent.

10.

By the conduct described above in paragraphs 8(a), 8(b), 8(d), 8(f), 9(a), and 9(c) Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

11.

By the conduct described above in paragraphs 8(a), 8(b), 8(d), 8(f), 9(a), and 9(c) Respondent has been failing and refusing to bargain collectively and in good faith with the

exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

12.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**WHEREFORE**, as part of the remedy for the unfair labor practices alleged above in paragraphs 8(a) and 8(b), the General Counsel seeks an Order requiring that Respondent: (1) immediately secure the reinstatement of the Health Plan for Unit employees or, if it is unable to do so, obtain a health and welfare plan for Unit employees equivalent to the Health Plan they lost effective September 30, 2014; (2) make whole Unit employees for any and all out-of-pocket medical costs they have incurred or will incur as a result of their loss of coverage under the Health Plan effective September 30, 2014 until such time as Respondent either secures the reinstatement of the Health Plan for Unit employees or obtains a health and welfare plan for Unit employees equivalent to the Health Plan they lost effective September 30, 2014; (3) make all contractually required contributions to the Health Fund and the Pension Fund that it failed to make, including any additional amounts due the Health Fund and the Pension Fund on behalf of the Unit employees in accordance with *Merryweather Optical Company*, 240 NLRB 1213, 1216 fn. 7 (1979), and including the back employee contributions to the Health Plan that Respondent deducted from employee paychecks but failed to remit to the Health Fund.

## **COMPLIANCE SPECIFICATION**

13.

As set forth in paragraph 6(b) above, Respondent and Charging Party are parties to a collective-bargaining agreement (the Agreement), applying to all employees in the bargaining unit (the Unit), which was effective from October 1, 2011 to September 30, 2014, which was then extended on September 30, 2014 to October 31, 2014, and was then extended indefinitely on October 31, 2014 until Respondent or Charging Party serve written notice to the other party with a 48 hour notice to terminate. Neither Respondent nor Charging Party has served a written termination notice to the other party.

## **PENSION PLAN CONTRIBUTIONS**

14.

(a) Section 15.1 of the Agreement obliges Respondent to contribute to the International Association of Machinists National Pension Fund, National Pension Plan (Pension Plan) provided by the International Association of Machinists National Pension Fund (Pension Fund); and effective January 1, 2014, Respondent is obligated to contribute an amount of \$1.90 per hour, or per portion of each hour worked, limited to a maximum of forty (40) hours per week on behalf of each eligible Unit employee.

(b) Section 15.4 of the Agreement obliges Respondent to adopt, agree to be bound by, and assent to, the Pension Fund Trust Agreement creating the Pension Fund and the Pension Plan rules adopted by the Trustees of the Pension Fund in establishing and administering the Pension Plan pursuant to the Pension Fund Trust Agreement.

(c) The Pension Fund Trust Agreement obliges Respondent to pay liquidated damages on delinquent payments of an additional twenty percent (20%) of the contributions due.

(d) The Pension Fund Trust Agreement obliges Respondent to pay interest in the amount of eighteen percent (18%) per year on the unpaid balance.

(e) The Respondent last made Pension Plan contributions to the Pension Fund in August 2014 based on the hours/days that seventeen (17) Unit employees worked in July 2014, and has failed to make monthly contributions on behalf of Unit employees in subsequent months.

(f) On various dates since August 2014, ten (10) Unit employees were laid off.

(g) It is reasonable to assume that the seven (7) Unit employees who remained employed would have continued to qualify for such monthly contributions by virtue of hours/days they worked, up to 40 hours per week, through the present date. It is also reasonable to assume that the ten (10) Unit employees who were laid off prior to the present day would have continued to qualify for monthly contributions for the hours they worked per day, up to 40 hours per week, through the date of their respective layoffs.

(h) As set forth in Appendix A, Respondent, to date, owes the Pension Fund a total of **\$33,413.40** because of the discontinuation of contributions, which continues to accrue.

#### **HEALTH AND WELFARE TRUST FUND CONTRIBUTIONS**

15.

(a) Section 14 of the Agreement obliges Respondent to make monthly contributions equivalent to 70% of the total monthly cost to the Automotive Industries Welfare Trust Fund (Health Fund) or a comparable plan, in order to provide health, dental, orthodontics, vision, and life insurance benefits for eligible Unit employees and their dependents.

(b) Pursuant to the Agreement, effective October 1, 2011, Respondent entered into the Automotive Industries Health Trust Fund Subscriber Agreement, Plan A (the Health Plan) provided by the Health Fund to provide the required health, dental, orthodontics, vision, and life insurance benefits to eligible Unit employees.

(c) The Health Fund's collection policies oblige Respondent to pay liquidated damages on delinquent payments of an additional five percent (5%) of the contributions or one-hundred dollars (\$100.00), whichever is greater.

(d) The Health Fund's collection policies oblige Respondent to pay interest in the amount of ten percent (10%) annual interest on the unpaid balance.

(e) Respondent last made Health Fund contributions in August 2014 on behalf of seventeen (17) eligible Unit employees who were employed by Respondent, failed to make full monthly contributions in September 2014, and has failed to make monthly contributions on behalf of eligible Unit employees since October 2014.

(f) On various dates since August 2014, ten (10) Unit employees were laid off.

(g) It is reasonable to assume that the seven (7) Unit employees who remained employed would have continued to qualify for such monthly contributions by virtue of their employment with Respondent through the present date. It is also reasonable to assume that the ten (10) Unit employees who were laid off prior to the present day would have continued to qualify for monthly contributions through the dates of their respective layoffs.

(h) As set forth in Appendix B, to date, Respondent owes the Health Fund a total of **\$111,700.60** because of the discontinuation of contributions, which continue to accrue.

(i) Because of the Respondent's failure to make required contributions, the Health Fund ceased providing Health Plan coverage to Unit employees effective September 30, 2014, and, as a result, at least nine (9) Unit employees incurred medical and dental expenses that would have otherwise been covered by the Health Plan.

(j) As set forth in Appendix C, Respondent owes Allan Blacksill \$875.00, not including interest, for medical, dental, and vision expenses that the Health Plan would have covered but for the Respondent's failure to make contractually-required contributions.

(k) As set forth in Appendix C, Respondent owes Danny Velez \$3,000.00, not including interest, for medical expenses that the Health Plan would have covered but for the Respondent's failure to make contractually-required contributions.

(l) As set forth in Appendix C, Respondent owes Dennis Montanaro \$413.00, not including interest, for medical expenses that the Health Plan would have covered but for the Respondent's failure to make contractually-required contributions.

(m) As set forth in Appendix C, Respondent owes Edward Powers \$70.00, not including interest, for medical expenses that the Health Plan would have covered but for the Respondent's failure to make contractually-required contributions.

(n) As set forth in Appendix C, Respondent owes Jesse Cook \$20.00, not including interest, for medical expenses that the Health Plan would have covered but for the Respondent's failure to make contractually-required contributions.

(o) As set forth in Appendix C, Respondent owes Jose Benny Gallardo \$865.00, not including interest, for medical expenses that the Health Plan would have covered but for the Respondent's failure to make contractually-required contributions.

(p) As set forth in Appendix C, Respondent owes Robert Garcia \$651.00, not including interest, for medical expenses that the Health Plan would have covered but for the Respondent's failure to make contractually-required contributions.

(q) As set forth in Appendix C, Respondent owes Robert Garcia III \$2,740.00, not including interest, for medical expenses that the Health Plan would have covered but for the Respondent's failure to make contractually-required contributions.

(r) As set forth in Appendix C, Respondent owes Samuel Romero \$5,050.00, not including interest, for medical expenses that the Health Plan would have covered but for the Respondent's failure to make contractually-required contributions.

(s) The medical expenses will continue to accrue until the Respondent makes the appropriate contributions to the Health Fund and the Health Plan is reinstated.

(t) The Respondent will owe employees compensation for any costs incurred under the provisions of the Affordable Care Act resulting from the Respondent's unlawful conduct, including its failure to make contractually-required contributions to the Health Fund."

### SUMMARY

Summarizing the facts and calculations specified above, Respondent will discharge its obligation to remedy the effects of its alleged unfair labor practices by:

(a) paying to International Association of Machinists National Pension Fund, National Pension Plan, as listed in Appendix A, a total of **\$33,413.40**, for contributions that it failed to make on behalf of Unit employees;

(b) paying to Automotive Industries Welfare Trust Fund, as listed in Appendix B, a total of **\$111,700.60**, for contributions that it failed to make on behalf of Unit employees;

(c) paying to the listed Unit employees, as listed in Appendix C, a total of **\$13,684** plus interest, to reimburse them for out-of-pocket medical expenses for which the Health Plan would have paid but for Respondent's failure to make required contributions to the Health Fund.

In sum, Respondent's liability to make whole its employees amounts to **\$158,798**, plus any amounts that may continue to accrue in the future. Additionally, Respondent will owe to its employees interest on reimbursements paid in the manner prescribed in *Kraft Plumbing & Heating*, 252 NLRB 891 (1980); and *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), on all unpaid balances until paid in full; less withholding required by Federal and state laws from backpay principal only. In addition, on the employees' behalf, the Respondent will owe to the Pension and Health Funds any additional interest or penalty payments beyond that claimed in

Appendices A and B that have accrued against respective delinquent contributions until paid in full, assessed in accordance with *Merryweather Optical Co.*, 240 NLRB 1213 (1979).

Respondent has filed a Chapter 11 bankruptcy petition in the United States Bankruptcy Court for the Eastern District of California, In Re: Elliott Manufacturing Company, Inc., a California Corporation, Case No. 15-10366-A-11. The Board's proceedings are not subject to the automatic stay provisions of the Bankruptcy Code (11 U.S.C. sec. 362), see, e.g., *NLRB v. Continental Hagen Corp.*, 932 F.2d 828, 832-834 (9th Cir. 1991), but the Board recognizes it cannot seek to actually collect any monetary amount outside of the bankruptcy proceedings.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20, 102.21 and 102.56 of the Board's Rules and Regulations, it must file an answer to the Amended Consolidated Complaint and Compliance Specification. The answer must be **received by this office on or before May 7, 2015, or postmarked on or before May 6, 2015.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an

answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

As to all matters set forth in the Compliance Specification that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of the amounts owed in contributions to the Pension and Welfare Funds, and the amounts necessary to reimburse Unit employees for medical and dental expenses, a general denial is not sufficient. See Section 102.56(b) of the Board's Rules and Regulations. Rather, the answer must state the basis for any disagreement with any allegations that are within the Respondent's knowledge, and set forth in detail Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Amended Consolidated Complaint and Compliance Specification are true. If the answer fails to deny allegations of the Compliance Specification in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the Compliance Specification are true and preclude Respondent from introducing any evidence controverting those allegations.

**NOTICE OF HEARING**

**PLEASE TAKE NOTICE THAT** commencing at **9:00 a.m. on Monday, July 13, 2015** at the California State Building, 2550 Mariposa Mall, Room 1027, in Fresno, California and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Amended Consolidated Complaint and Compliance Specification. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

**DATED AT** Oakland, California this 16<sup>th</sup> day of April 2015.

/s/ George Velastegui

---

George Velastegui  
Regional Director  
National Labor Relations Board  
Region 32  
1301 Clay St Ste 300N  
Oakland, CA 94612-5224

Attachments

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in

**evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.

- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and will set a deadline for filing, up to 35 days.

### III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.

- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.

- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

# **EXHIBIT 9**

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

**ELLIOTT MANUFACTURING COMPANY**

**and**

**MACHINISTS LOCAL LODGE 653, DISTRICT  
LODGE 190**

**Case(s) 32-CA-137848**

**Date: April 16, 2015**

**AFFIDAVIT OF SERVICE OF ORDER CONSOLIDATING AMENDED COMPLAINT  
AND COMPLIANCE SPECIFICATION, AMENDED CONSOLIDATED COMPLAINT  
AND COMPLIANCE SPECIFICATION, AND NOTICE OF HEARING**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

Tom Elliott Cole, Owner  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno CA 93706-5494  
**VIA CERTIFIED MAIL AND NEXT DAY UPS  
7001 2510 0007 6031 6124-U.S. Mail  
1ZA4F7402499441130-UPS Tracking**

Tom Elliott Cole, Owner  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772  
**VIA CERTIFIED MAIL  
7001 2510 0007 6031 6117**

Tom Rotella  
Machinists Local Lodge 653, District Lodge 190  
544 West Olive Ave  
Fresno, CA 93728-2947  
**VIA REGULAR MAIL**

Terry Aluisi, Chief Operating Officer  
Elliott Manufacturing Company  
2664 S Cherry Ave  
Fresno, CA 93706-5494  
**VIA CERTIFIED MAIL AND NEXT DAY UPS  
7001 2510 0007 6031 6100-U.S. Mail  
1ZA4F7402498825941-UPS Tracking**

Terry Aluisi, Chief Operating Officer  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772  
**VIA CERTIFIED MAIL  
7001 2510 0007 6031 6094**

David A. Rosenfeld, Esq.  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Pkwy, Ste 200  
Alameda, CA 94501-6430  
**VIA REGULAR MAIL**

Attn: Davette Repola  
AVTranz  
845 N. 3<sup>rd</sup> Avenue  
Phoenix, AZ 85003  
**VIA E-MAIL: [davette.repola@avtranz.com](mailto:davette.repola@avtranz.com)**

National Labor Relations Board  
Division Of Judges  
901 Market St., Suite 300  
San Francisco, CA 94103  
**E FILE**

April 16, 2015

\_\_\_\_\_  
Date

Frances Hayden, Designated Agent of NLRB

\_\_\_\_\_  
Name

/s/ Frances Hayden

\_\_\_\_\_  
Signature

# **EXHIBIT 10**

UNITED STATES POSTAL SERVICE  
CA 936  
20 APR '15

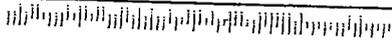


First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED  
NLRB REGION 3  
2015 APR 22 PM 2:19

United States Government  
National Labor Relations Board  
Region 32  
1300 Clay Street, Suite 300N  
Oakland, CA 94612-5224



32-02-137848 Amended CIT + Confidential Spec Doc

SENDER - COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *HANDWRITTEN*

1. Article Addressed to:  
  
Terry Aluisi  
Chief Operating Officer  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
X *[Signature]*  Agent  Addressee

B. Received by (Printed Name) *JESSIE QUINTERA* C. Date of Delivery *4/20/15*

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number 7001 2510 0007 6031 6094  
(Transfer from service label)  
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-154

32-02-137848 Amended CIT + Confidential Spec Doc

SENDER - COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *HANDWRITTEN*

1. Article Addressed to:  
  
Tom Elliott Cole  
Owner  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
X *[Signature]*  Agent  Addressee

B. Received by (Printed Name) *JESSIE QUINTERA* C. Date of Delivery *4/20/15*

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number 7001 2510 0007 6031 6117  
(Transfer from service label)  
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-154

UNITED STATES POSTAL SERVICE  
CA 936  
20 APR '15



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED  
NLRB REGION 3  
2015 APR 22 PM 2:19  
OAKLAND, CA.

United States Government  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5224



UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED  
ALBANY REGION 32  
2015 APR 22 PM 2:00

United States Government  
National Labor Relations Board  
Region 32  
1304 Clay Street, Suite 300N  
Oakland, CA 94612-5224



32-CA-137848 Amended CIT - Conclusions Exp. Doc.

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *Handwritten*

1. Article Addressed to:

Tom Elliott Cole  
Owner  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno CA 93706-5494

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
X *Maria Gomez*  Agent  Addressee

B. Received by (Printed Name) *Maria Gomez* C. Date of Delivery *4/20/15*

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number  
(Transfer from service label) 7001 2510 0007 6031 6124

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-15

UNITED STATES POSTAL SERVICE

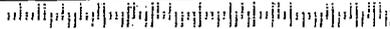


First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED  
ALBANY REGION 32  
2015 APR 22 PM 2:00

United States Government  
National Labor Relations Board  
Region 32  
1304 Clay Street, Suite 300N  
Oakland, CA 94612-5224



32-CA-137848 Amended CIT - Conclusions Exp. Doc.

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *Handwritten*

1. Article Addressed to:

Terry Aluisi  
Chief Operating Officer  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno, CA 93706-5494

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
X *Maria Gomez*  Agent  Addressee

B. Received by (Printed Name) *Maria Gomez* C. Date of Delivery *4/20/15*

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number  
(Transfer from service label) 7001 2510 0007 6031 6100

PS Form 3811, February 2004. Domestic Return Receipt 102595-02-M-15

Hayden, Frances

---

**From:** UPS Quantum View [auto-notify@ups.com]  
**Sent:** Friday, April 17, 2015 9:38 AM  
**To:** Hayden, Frances  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA4F7402499441130



\*\*\*Do not reply to this e-mail. UPS and R-32: NLRB - CA will not receive your reply.

**At the request of R-32: NLRB - CA, this notice is to confirm that the following shipment has been delivered.**

**Important Delivery Information**

---

**Tracking Number:** 1ZA4F7402499441130  
**Delivery Date / Time:** 17-April-2015 / 9:31 AM

**Delivery Location:** FRONT DESK  
**Signed by:** RICHARD

**Shipment Detail**

---

**Ship To:**  
Tom Elliott Cole  
Elliott Manufacturing Company  
2664 S CHERRY AVE  
FRESNO  
CA  
93706  
US

**Number of Packages:** 1  
**UPS Service:** NEXT DAY AIR  
**Shipment Type:** Letter  
**Reference Number 1:** RA Office  
**Reference Number 2:** FH for VHM  
**Reference Number 3:** 32-CA-137848 **Amended CPT & Spec**

---

Hayden, Frances

---

**From:** UPS Quantum View [auto-notify@ups.com]  
**Sent:** Friday, April 17, 2015 9:38 AM  
**To:** Hayden, Frances  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA4F7402498825941



\*\*\*Do not reply to this e-mail. UPS and R-32: NLRB - CA will not receive your reply.

**At the request of R-32: NLRB - CA, this notice is to confirm that the following shipment has been delivered.**

### **Important Delivery Information**

---

**Tracking Number:** 1ZA4F7402498825941  
**Delivery Date / Time:** 17-April-2015 / 9:31 AM

**Delivery Location:** FRONT DESK  
**Signed by:** RICHARD

### **Shipment Detail**

---

**Ship To:**  
Terry Aluisi  
Elliott Manufacturing Company  
2664 S CHERRY AVE  
FRESNO  
CA  
93706  
US

**Number of Packages:** 1  
**UPS Service:** NEXT DAY AIR  
**Shipment Type:** Letter  
**Reference Number 1:** RA Office  
**Reference Number 2:** FH for VHM  
**Reference Number 3:** 32-CA-137848 **Amended CPT & Spec**

---

# **EXHIBIT 11**



**United States Government**  
**NATIONAL LABOR RELATIONS BOARD**  
**Region 32**  
**1301 Clay Street, Suite 300N**  
**Oakland, CA 94612-5211**

**Telephone: 510-637-3262**  
**Fax: 510-637-3315**

May 11, 2015

Tom Elliott Cole  
Owner  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno CA 93706-5494

Tom Elliott Cole  
Owner  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772

Terry Aluisi  
Chief Operating Officer  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno, CA 93706-5494

Terry Aluisi  
Chief Operating Officer  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772

Re: Elliott Manufacturing Company  
Case 32-CA-137848

Dear Mr. Cole and Mr. Aluisi:

On April 16, 2015, an Order Consolidating Amended Complaint And Compliance Specification, Amended Consolidated Complaint And Compliance Specification, And Notice Of Hearing (Amended Complaint) issued in the above-referenced case. The Amended Complaint advised you that, pursuant to Sections 102.20 and 102.21 of the National Labor Relations Board's Rules and Regulations, you must file an Answer to the Amended Complaint and that if no Answer is filed or if an Answer is untimely filed, the Board may find, pursuant to a Motion for Default Judgment, that all the allegations in the Amended Complaint are true. You were further advised that the Answer must be received by this office on or before May 7, 2015. To date, you have failed to file an Answer to the Amended Complaint.

Please be advised that if an Answer to the Amended Complaint is not filed by May 18, 2015, Counsel for the General Counsel will file a Motion for Default Judgment with the Board.

Very truly yours,

David Willhoite  
Counsel for the General Counsel

# **EXHIBIT 12**

UNITED STATES POSTAL SERVICE  
CALIFORNIA  
13 MAY '15



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

United States Government  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5224

2015 MAY 15 PM 11  
ALBANY REGION

521199



UNITED STATES POSTAL SERVICE  
CALIFORNIA  
13 MAY '15



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

United States Government  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5224

2015 MAY 15 PM 11  
ALBANY REGION

521199



32-AA-137948 LTR-Default Judgment #2

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *HANDEN*

1. Article Addressed to:

Tom Elliott Cole  
Owner  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno CA 93706-5494

2. Article Number

(Transfer from service label)

7014 2120 0001 7952 0049

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-154

32-AA-137848 LTR-Default Judgment #2

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *HANDEN*

1. Article Addressed to:

Terry Aluisi  
Chief Operating Officer  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno, CA 93706-5494

2. Article Number

(Transfer from service label)

7014 2120 0001 7952 0032

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-154C

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
 *Maria Gomez*  Agent  
 Addressee

B. Received by (Printed Name) *Maria Gomez* C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
 *Maria Gomez*  Agent  
 Addressee

B. Received by (Printed Name) *Maria Gomez* C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

UNITED STATES POSTAL SERVICE



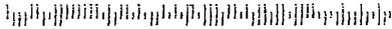
First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED  
MAY 18 2015  
NLRB REGION 32

2015 MAY 18 PM 2:37  
OAKLAND, CA

United States Government  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5224



32-04-137848 LTR-DEFERRED JUDGMENT #2

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits. <i>HIDDEN</i></li> </ul>	<p>A. Signature X <i>Jess Quintana</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery <i>JESS QUINTANA</i> <i>5/14/15</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>
1. Article Addressed to:	
Tom Elliott Cole Owner Elliott Manufacturing Company P. O. Box 11277 Fresno, CA 93772	
2. Article Number (Transfer from service label)	7014 2120 0001 7952 0025
PS Form 3811, February 2004	Domestic Return Receipt 102595-02-M-15

UNITED STATES POSTAL SERVICE



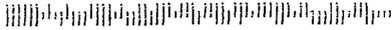
First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED  
MAY 18 2015  
NLRB REGION 32

2015 MAY 18 PM 2:37  
OAKLAND, CA

United States Government  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5224



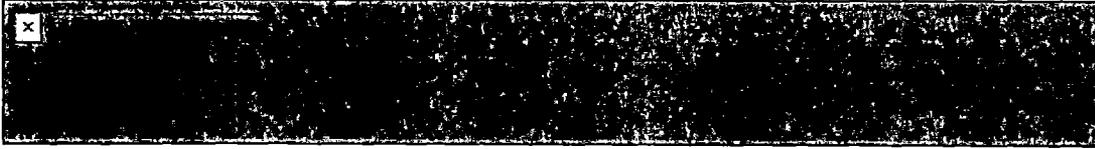
32-04-137848 LTR-DEFERRED JUDGMENT #2

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits. <i>HIDDEN</i></li> </ul>	<p>A. Signature X <i>Jess Quintana</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery <i>JESS QUINTANA</i> <i>5/14/15</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>
1. Article Addressed to:	
Terry Aluisi Chief Operating Officer Elliott Manufacturing Company P. O. Box 11277 Fresno, CA 93772	
2. Article Number (Transfer from service label)	7014 2120 0001 7952 0018
PS Form 3811, February 2004	Domestic Return Receipt 102595-02-M-15

Hayden, Frances

---

**From:** UPS Quantum View [auto-notify@ups.com]  
**Sent:** Tuesday, May 12, 2015 9:44 AM  
**To:** Hayden, Frances  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA4F7402498318990



\*\*\*Do not reply to this e-mail. UPS and R-32: NLRB - CA will not receive your reply.

**At the request of R-32: NLRB - CA, this notice is to confirm that the following shipment has been delivered.**

**Important Delivery Information**

---

**Tracking Number:** 1ZA4F7402498318990  
**Delivery Date / Time:** 12-May-2015 / 9:30 AM

**Delivery Location:** FRONT DESK  
**Signed by:** MARIA

**Shipment Detail**

---

**Ship To:**  
Tom Elliott Cole  
Elliott Manufacturing Company  
2664 S CHERRY AVE  
FRESNO  
CA  
93706  
US

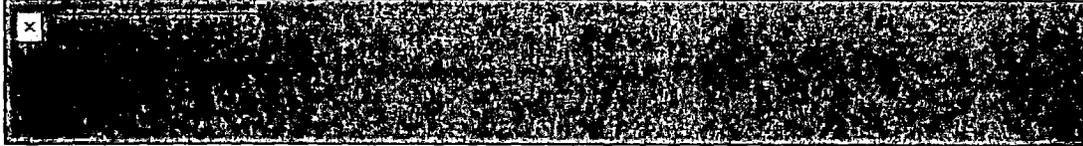
**Number of Packages:** 1  
**UPS Service:** NEXT DAY AIR  
**Shipment Type:** Letter  
**Reference Number 1:** RA Office  
**Reference Number 2:** FH for VHM  
**Reference Number 3:** 32-CA-137848-~~Default Judgment LTR2~~

---

Hayden, Frances

---

**From:** UPS Quantum View [auto-notify@ups.com]  
**Sent:** Tuesday, May 12, 2015 9:44 AM  
**To:** Hayden, Frances  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA4F7402497663403



\*\*\*Do not reply to this e-mail. UPS and R-32: NLRB - CA will not receive your reply.

**At the request of R-32: NLRB - CA, this notice is to confirm that the following shipment has been delivered.**

**Important Delivery Information**

---

**Tracking Number:** 1ZA4F7402497663403  
**Delivery Date / Time:** 12-May-2015 / 9:30 AM

**Delivery Location:** FRONT DESK  
**Signed by:** MARIA

**Shipment Detail**

---

**Ship To:**  
Terry Aluisi  
Elliott Manufacturing Company  
2664 S CHERRY AVE  
FRESNO  
CA  
93706  
US

**Number of Packages:** 1  
**UPS Service:** NEXT DAY AIR  
**Shipment Type:** Letter  
**Reference Number 1:** RA Office  
**Reference Number 2:** FH for VHM  
**Reference Number 3:** 32-CA-137848-Default Judgment LTR2

---

# **EXHIBIT 13**

**From:** Willhoite, David B.  
**Sent:** Tuesday, May 26, 2015 8:56 AM  
**To:** 'terryaluisi@att.net'  
**Subject:** Answer to the Complaint

**Sensitivity:** Personal

**Flag Status:** Completed

Good Morning Mr. Aluisi,

This will confirm our telephone conversation of Thursday, May 21, 2015, wherein I advised you that the Region would give Respondent an additional extension until Thursday, May 28, 2015, to file its Answer to the Complaint in the above-referenced case. As I told you, if you fail to file an Answer you are de facto submitting an admission to the allegations in the Complaint. I would encourage you to seek legal counsel and read over the Complaint carefully before deciding you do not wish to file an Answer in this matter. In any event, your Answer is due on May 28, 2015, and, absent the Union's withdrawal of this charge, failure to timely file the Answer will result in the Region filing a Motion for Default Judgment.

David Willhoite  
Field Attorney  
National Labor Relations Board, Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612

Tel: (510) 637 3278  
Fax: (510) 637 3315  
[david.willhoite@nlrb.gov](mailto:david.willhoite@nlrb.gov)

# **EXHIBIT 14**

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

**ELLIOTT MANUFACTURING COMPANY**

**and**

**Case 32-CA-137848**

**MACHINISTS LOCAL LODGE 653, DISTRICT  
LODGE 190**

**ORDER POSTPONING HEARING INDEFINITELY**

**IT IS HEREBY ORDERED** that the hearing in the above-captioned matter, now set for July 13, 2015 be, and it hereby is, postponed indefinitely pending the Board's action on Counsel for the General Counsel's Motion for Default Judgment.

**DATED AT** Oakland, California this 15<sup>th</sup> day of June 2015.

/s/ George Velastegui

---

George Velastegui  
Regional Director  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, CA 94612-5224

# **EXHIBIT 15**

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

**ELLIOTT MANUFACTURING COMPANY**

**and**

**MACHINISTS LOCAL LODGE 653, DISTRICT  
LODGE 190**

**Case(s) 32-CA-137848**

**Date: June 15, 2015**

**AFFIDAVIT OF SERVICE OF ORDER POSTPONING HEARING INDEFINITELY**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

Tom Elliott Cole, Owner  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno CA 93706-5494  
**VIA CERTIFIED MAIL**  
**7014 2120 0001 7952 0308**

Terry Aluisi, Chief Operating Officer  
Elliott Manufacturing Company  
2664 S Cherry Ave  
Fresno, CA 93706-5494  
**VIA CERTIFIED MAIL**  
**7014 2120 0001 7952 0292**

Tom Elliott Cole, Owner  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772  
**VIA CERTIFIED MAIL**  
**7014 2120 0001 7952 0285**

Terry Aluisi, Chief Operating Officer  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772  
**VIA CERTIFIED MAIL**  
**7014 2120 0001 7952 0278**

Tom Rotella  
Machinists Local Lodge 653, District Lodge 190  
544 West Olive Ave  
Fresno, CA 93728-2947  
**VIA REGULAR MAIL**

David A. Rosenfeld, Esq.  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Pkwy, Ste 200  
Alameda, CA 94501-6430  
**VIA REGULAR MAIL**

Attn: Davette Repola  
AVTranz  
845 N. 3<sup>rd</sup> Avenue  
Phoenix, AZ 85003  
**VIA E-MAIL:** [davette.repola@avtranz.com](mailto:davette.repola@avtranz.com)

National Labor Relations Board  
Division Of Judges  
901 Market St., Suite 300  
San Francisco, CA 94103  
**E FILE**

---

June 15, 2015

Date

---

Frances Hayden, Designated Agent of NLRB

Name

---

/s/ Frances Hayden

Signature

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

**ELLIOTT MANUFACTURING COMPANY**

**and**

**MACHINISTS LOCAL LODGE 653, DISTRICT  
LODGE 190**

**Case(s) 32-CA-137848**

**Date: June 16, 2015**

**AFFIDAVIT OF SERVICE OF MOTION TO TRANSFER CASE TO THE BOARD AND  
FOR DEFAULT JUDGMENT**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

Terry Aluisi, Chief Operating Officer  
Elliott Manufacturing Company  
2664 S Cherry Ave  
Fresno, CA 93706-5494  
**VIA EMAIL: [terryaluisi@att.net](mailto:terryaluisi@att.net)**

Tom Elliott Cole, Owner  
Elliott Manufacturing Company  
2664 South Cherry St.  
Fresno CA 93706-5494  
**VIA UPS NEXT DAY**  
**Tracking#: 1ZA4F7402490615674**

David A. Rosenfeld, Esq.  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Pkwy, Ste 200  
Alameda, CA 94501-6430  
**VIA EMAIL: [drosenfeld@unioncounsel.net](mailto:drosenfeld@unioncounsel.net)**

Tom Elliott Cole, Owner  
Elliott Manufacturing Company  
P. O. Box 11277  
Fresno, CA 93772  
**VIA CERTIFIED MAIL**  
**7014 2120 0001 7952 0315**

Office of the Executive Secretary  
1099 14<sup>th</sup> Street, N.W.  
Washington, DC 20005  
**VIA E-FILE**

June 16, 2015  
\_\_\_\_\_  
Date

Frances Hayden, Designated Agent of NLRB  
\_\_\_\_\_  
Name

  
\_\_\_\_\_  
Signature