

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

**HILTON WORLDWIDE, INC. d/b/a
ARIZONA BILTMORE**

and

Case 28-CA-160013

ALLYSON RAMON

ORDER¹

The Employer's petition to revoke subpoena duces tecum B-1-PD9OK5 is denied.² The subpoena seeks information relevant to the matters under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).³

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² We find no merit to the Region's assertion that the petition should be rejected as untimely. Sec. 11 of the Act and Sec. 102.31(b) of the Board's Rules and Regulations provide that a subpoenaed party has 5 days after receipt of a subpoena in which to file a petition to revoke. In addition, Sec. 102.111(a) of the Rules provides that when the period of time provided by any of the Board's rules is less than 7 days, the intermediate Saturdays, Sundays, and holidays shall be excluded from the computation. Here, the subpoena was received by the Employer on December 2, 2015. Therefore, the petition was timely filed on December 8.

³ With the following exceptions relating to paragraphs 3 and 8 of the subpoena, Member Miscimarra joins his colleagues in denying the petition to revoke.

Paragraph 3 of the subpoena states as follows:

Documents as will show [the Charging Party's] complete personnel file, including her job description, prior discipline, and any electronic, paper, internal, and external communications and her disciplinary file, including documents related to the disciplinary decisions made about her culminating in the decision to terminate her on or about May 12, 2015.

Dated, Washington, D.C., March 17, 2016

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

In its petition to revoke, the Employer argues that this paragraph “confusingly seeks to identify what may be in said personnel file[,]” and that the “request seeks undefined external communications.” Member Miscimarra believes the language, “as will show . . . [the] complete personnel file” and “any electronic, paper, internal and external communications” is ambiguous insofar as it does not clearly state what it is referring to, and could be misinterpreted. Thus, he would require the Region to clarify what it seeks to obtain through this particular language – specifically, whether the Region seeking the Charging Party’s “complete personnel file” (as defined by Respondent consistent with its internal practice) supplemented by additional documents, if any, that fall in the subsequent categories, and what the Region intends by “any electronic, paper, internal and external communications.” The Employer also argues, among other things, that the Region’s investigation of the charge “does not necessitate the release of the full contents of Ramon’s personnel file, which may include her new hire paperwork, W-4 form, I-9 form, payroll deduction forms, and similar documents.” In addition, the Employer states that the Charging Party’s “privacy rights preclude production of such information as well.” Member Miscimarra would require the Region to consult with the Employer to clarify whether it is, in fact, seeking such items and, if so, to consult with the Employer about potentially redacting information such as social security numbers from the documents.

Paragraph 8 of the subpoena requests: “Documents as will show the names and addresses of customers staying in rooms cleaned by [the Charging Party] on May 2, 2015 and May 3, 2015.” In its petition to revoke, the Employer argues: “For obvious reasons, this request seeks confidential information and disclosure of such information will violate the privacy rights of such guests. Furthermore, the request seeks irrelevant information as the names and addresses of the hotel’s guests are not relevant to [the Charging Party’s] terminable offense.” Member Miscimarra would grant the petition to revoke as to this request, without prejudice to the Region’s right to issue a subpoena seeking these documents at such time that the Region could prove that these documents are directly relevant to matters “in question” in this case and that the need for these documents outweighs the confidentiality and privacy interests described above.