

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

**FOOD SERVICES OF AMERICA, INC.,
a subsidiary of SERVICES GROUP OF
AMERICA, INC.**

and

Case 28-CA-063052

PAUL LOUIS CARRINGTON, an Individual

**GENERAL COUNSEL'S MOTION TO REMAND CASE
TO THE REGIONAL DIRECTOR TO PROCESS WITHDRAWAL REQUEST**

Pursuant to Section 102.47 of the National Labor Relations Board's Rules and Regulations, Counsel for the General Counsel (General Counsel) respectfully moves that the Board remands the above-captioned case to the Regional Director to process a withdrawal request submitted by Paul Louis Carrington (Charging Party). In support of this motion, the General Counsel states:

1. On May 30, 2014, the National Labor Relations Board issued its decision, reported at 360 NLRB No. 123, finding that Food Services of America, Inc., a subsidiary of Services Group of America, Inc. (Respondent) violated Section 8(a)(1) of the Act by the following: maintaining overly-broad and discriminatory rules, threatening its employees with unspecified reprisals if they engaged in protected concerted activities, and discharging its employee Elba Rubio (Rubio) for engaging in protected concerted activities. The Board's Order, *inter alia*, required Respondent to offer Rubio full reinstatement to her former job (or to a substantially equivalent position) and to make Rubio whole for any loss of earnings and other benefits suffered as a result of her discriminatory discharge.

2. On June 9, 2014, Respondent filed with the Board a Motion for Modification or, in the Alternative, for Stay of National Labor Relations Board Decision and Order Dated May 30, 2014 (Respondent's Motion). Respondent's Motion was premised, in part, on a finding by the United States District Court for the District of Arizona in Case No. 2:12-CV-00175-GMS – in a Stipulated Motion for Entry of Consent Final Judgment and Permanent Injunction filed February 20, 2014 – that the Charging Party and Rubio “wrongly misappropriated [Respondent's] trade secrets and proprietary information” in violation of the Arizona Trade Secrets Act. Respondent averred that this finding made Rubio ineligible for reinstatement and backpay.

3. On October 3, 2014, the United States Court of Appeals for the District of Columbia Circuit issued an Order remanding the case to the Board so it could resolve Respondent's Motion. To date, the case is pending before the Board and the Board has not ruled on Respondent's Motion.

4. On February 14, 2014, the Charging Party, Rubio and Respondent entered into a non-Board settlement agreement and general release that resolves this case, the federal district court litigation referenced above, two additional charges filed with the Board over this district court litigation, charges filed by the Charging Party and Rubio with the Equal Employment Opportunity Commission, and an additional action commenced by the Charging Party and Rubio in the district court. As part of the non-Board settlement agreement, the Charging Party requested that the instant charge be withdrawn.

5. Considering the expressed desire of the parties to be bound by the non-Board settlement agreement resolving this case and other cases, as well as the passage of time,

General Counsel requests that this case be remanded to the Regional Director for Region 28 for approval and processing of the instant withdrawal request.

Dated at Phoenix, Arizona, this 18th day of October 2016.

Respectfully submitted,

/s/ Chris J. Doyle

Chris J. Doyle

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CERTIFICATE OF SERVICE

I hereby certify that a copy of GENERAL COUNSEL'S MOTION TO REMAND CASE TO THE REGIONAL DIRECTOR TO PROCESS WITHDRAWAL REQUEST in *Food Services of America, Inc., a subsidiary of Services Group of America, Inc.*, Case 28-CA-063052, was served via E-Gov, E-Filing, and E-Mail on this 18th day of October 2016, on the following:

Via E-Gov, E-Filing:

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