

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

DIVERSCO, INC., a wholly owned subsidiary of
ABM ONSITE SERVICES, INC.

and

Case 04-CA-177909

BAKERY, CONFECTIONERY, TOBACCO
WORKERS AND GRAIN MILLERS LOCAL 492

**ORDER DENYING RESPONDENT'S REQUEST
FOR A POSTPONEMENT OF THE HEARING.
ORDER DENYING THE GENERAL COUNSEL'S MOTION
FOR A BILL OF PARTICULARS.**

On November 14, 2016, Counsel for Respondent moved that the hearing currently scheduled for November 30, 2016 be postponed. The General Counsel Union opposes a postponement of the hearing. The General Counsel issued his complaint on October 17, 2016 alleging that Respondent violated the Act in terminating Angel Rivera. On November 3, 2016, Respondent, by newly retained counsel, filed its Answer. In that Answer Respondent raised, apparently for the first time, a defense that Rivera was a statutory supervisor.

The General Counsel filed a motion for a Bill of Particulars seeking Respondent's basis for this defense.

I **DENY** Respondent's motion to postpone the hearing to a later date and I **DENY** the General Counsel's motion for a Bill of Particulars. Respondent will have the burden of proving at trial that Rivera was a supervisor under existing Board law. The General Counsel will have ample opportunity to contradict the Respondent's case on this issue.

Dated: November 16, 2016

Washington, D.C.


Arthur J. Amchan
Deputy Chief Administrative Law Judge

Davidson, Carletta

From: Microsoft Outlook
To: michaelrkopac@comcast.net
Sent: Wednesday, November 16, 2016 12:21 PM
Subject: Relayed: DIVERSCO 4-CA-177909

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

michaelrkopac@comcast.net (michaelrkopac@comcast.net)

Subject: DIVERSCO 4-CA-177909

Davidson, Carletta

From: Microsoft Outlook
To: mbaskin@littler.com
Sent: Wednesday, November 16, 2016 12:21 PM
Subject: Relayed: DIVERSCO 4-CA-177909

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

mbaskin@littler.com (mbaskin@littler.com)

Subject: DIVERSCO 4-CA-177909

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From: Microsoft Outlook
To: Green, Benjamin
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Davidson, Carletta

From: Davidson, Carletta
Sent: Wednesday, November 16, 2016 12:22 PM
To: Tisdale, Patrice; Rodriguez, David; 'mbaskin@littler.com'; 'michaelrkopac@comcast.net'
Cc: Green, Benjamin
Subject: DIVERSCO 4-CA-177909
Attachments: DIVERSCO ORDER DENYING.pdf

Tracking:

Recipient

Tisdale, Patrice
Rodriguez, David
'mbaskin@littler.com'
'michaelrkopac@comcast.net'
Green, Benjamin

Delivery

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