

EXHIBIT 2

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

NORTHWESTERN UNIVERSITY,)	
)	
Employer,)	
)	
and)	Case No. 13-RC-177943
)	
SERVICE EMPLOYEES INTERNATIONAL)	
UNION, LOCAL NO. 73,)	
)	
Petitioner.)	

DECLARATION OF ANNELIESE WERMUTH

Anneliese Wermuth states and affirms the following facts:

1. I am over 18 years of age and am otherwise competent to make this declaration. I make this declaration based upon my personal knowledge.

2. On May 2, 2017, Field Examiner Jana Prokop contacted me and my colleagues Jenny Goltz and Alex Barbour to inform us that she had been “told” to schedule a time to count the 34 ballots that were the subject of the January 5, 2017 D&O that were not subject to the pending Request for Review. According to Ms. Prokop, the decision to schedule the count was made “in consultation with Headquarters.” (See Exhibit A, Email from J. Prokop to A. Wermuth dated May 2, 2017.)

3. Because the Acting Regional Director had incorrectly excluded one eligible voter and also incorrectly included one ineligible voter in the D&O’s list of ballots to be counted, I sought confirmation from Ms. Prokop on the ballots to be opened. (See Exhibit B, May 3, 2017 email from A. Wermuth to J. Prokop; Exhibit C, May 8, 2017 email from A. Wermuth to J.

Prokop.) In those communications, I included in my accounting of ballots the 25 ballots that were subject of the Request for Review. (*Id.*)

4. On May 10, 2017, I received confirmation of my accounting from Ms. Prokop, who also informed me that she had drafted a stipulation was seeking guidance from the Assistant Regional Director how to address the 25 challenged ballots. (*See* Exhibit D, May 10, 2017 email from J. Prokop to A. Wermuth.)

5. On May 11, 2017, the day before the scheduled count, I received a proposed stipulation from Daniel Nelson, Assistant to the Regional Director, in a PDF format. (*See* Exhibit E, May 11, 2017 email from D. Nelson to A. Wermuth, J. Goltz, A. Barbour, D. Zapata and T. Roan.) It did not include reference to the 25 challenged ballots.

6. That same day, I responded to Mr. Nelson, advising him that the stipulation was accurate with respect to which ballots were to be counted and which ballots were no longer in dispute. (*See* Exhibit F, May 11, 2017 email from A. Wermuth to D. Nelson.) I asked that the stipulation also include an accounting of those 25 ballots still in dispute. (*Id.*) I did not hear back from Mr. Nelson.

7. At the ballot count, counsel for the Petitioner and Ms. Prokop conferred privately in the hallway outside the hearing room. I inquired whether all parties should be party to the conversation and was told “no.”

8. When all the parties subsequently convened in the hearing room with Ms. Prokop, a discussion ensued about the content of the stipulation. I again requested that the stipulation contain an accounting of the 25 ballots subject to review.

9. Counsel for the Petitioner asserted that neither the stipulation nor the tally of ballots should include reference to the 25 challenged ballots, arguing that the Region's position was that those 25 ballots were cast by ineligible voters.

10. I explained repeatedly that because those 25 ballots could be determinative of the election outcome, Respondent was not prepared to sign the stipulation or participate in the count, and that if the Region proceeded in the manner advocated for by the Petitioner, Respondent would seek emergency relief.

11. During this discussion, Ms. Prokop also informed the parties that headquarters in Washington, D.C. had requested the count of the 34 ballots to take place.

12. Ms. Prokop announced that she wanted to consult with Mr. Nelson on the issue of the 25 ballots that are subject to the University's Request for Review, and left the hearing room.

13. When Ms. Prokop returned to the hearing room, she advised that the Region was prepared to make modifications to the stipulation to expressly indicate that it pertained solely to the challenged ballots that were not pending Request for Review. (*See Exhibit G, Stipulation as to Challenged Ballots Not Pending Request for Review.*)

14. Ms. Prokop also advised that the Revised Tally of Ballots would include the 25 ballots subject to the Request for Review.

15. At no time did the Region advise Respondent that the Petitioner's argument that the 25 ballots were deemed "resolved" as a result of the D&O. On the contrary, the Second Revised Tally of Ballots was revised, with a handwritten notation, to specifically indicate that there remained 25 "unresolved challenged ballots." (*See Exhibit H.*)

16. The Second Revised Tally of Ballots also included the following statement: “The remaining unresolved challenged ballots, if any, shown in the Final Tally column are sufficient to affect the results of the election.”

17. All parties and the Regional Director signed the Second Revised Tally of Ballots.

18. The first indication I received of the Supplemental Decision and Certification of Representative was at 1:37 p.m. On Friday May 26, 2017, before the Memorial Holiday weekend.

19. I called Mr. Nelson after receiving the Supplemental Decision and Certification of Representative and asked him to provide authority for issuing a Certification of Representative at this time. He was unable to provide that authority.

FURTHER DECLARANT SAYETH NOT.

I declare under penalty of perjury that the foregoing is true and correct.



Anneliese Wermuth

Executed on: May 26, 2017

EXHIBIT A

Henry, Orly M.

From: Prokop, Jana C. <Jana.Prokop@nlrb.gov>
Sent: Tuesday, May 2, 2017 3:07 PM
To: Barbour, Alex; Wermuth, Anna; Goltz, Jenny R.
Subject: Northwestern University 13-RC-177943

Hi Alex, Anna, and Jenny,

To confirm my phone call with Jenny this morning, I was told to contact the parties in this case, schedule a count, and count the ballots as directed in our Decision and Order dated January 5, 2017. We'd be counting the ballots of those listed on page 16 at the top under Order. I was told that while there was a Request for Review filed, it is not over these individuals' ballots that the Regional Director ordered to be opened and counted. Accordingly, in consultation with Headquarters, we are to go ahead and count.

Please let me know when you're available for a count here at our office. Would Tuesday the 9th (a week from today) work?

Jana Prokop
Field Examiner
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Chicago, IL 60604
312-353-8613 (p) | 312-886-1341 (f)
<http://www.nlrb.gov>

EXHIBIT B

Henry, Orly M.

From: Wermuth, Anna
Sent: Wednesday, May 3, 2017 2:56 PM
To: Prokop, Jana C.; Barbour, Alex; Goltz, Jenny R.
Subject: RE: Northwestern University 13-RC-177943

Jana – I checked with my client, and while 5/11 does not work, 5/12 in the morning does wok.

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Lenzen	Spencer*
Phelan	Piagentini*
Waller	Lyashenko*
Milton	Canez*
Kretzmann	Gorvine*
Enteen	Kerlova*
Grisinger	Savage*
Millikin	Witte*
Tataranni	Bouras*
Lenaghan	Chyi Chung*
Birdwell	Elliott*
Keller	Jiang*
Peterson	Licops*
Gallucci	Schwom*
Golden	Hirsch*
Kelly	Benjamin*
McGowan	DeCosta*
Zemelman	Mejia*
Ebels-Duggan	Russin*
Hayford	Dorgan
Rathgeber	Lecinski
Schwartz	Scalpone
Herendeen	Chandler
Hsaio	Sensenig
Meents-DeCaigny	Galbreath*
Bilotti	Yasohama*
Julia Chung-Lee	Odderstol
Naunheimer	Cibelli

Hauri	Hicks
Lassner	Walter
Stewart	Weber
Rodgers	Wood
	Alongi*
	Chiaro*



Anna Wermuth
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Sent: Wednesday, May 3, 2017 10:40 AM
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Hi Anna,

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As a side note, the Union said that Natalia Lyashenko is listed in the order among those to count, but at page 9, we say the challenge to her ballot is sustained. Also, I believe the Employer references her in its request for review. So, I think her name was erroneously included among those to count. That would leave 33 total to count, correct?

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Subject: RE: Northwestern University 13-RC-177943

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EXHIBIT C

Henry, Orly M.

From: Wermuth, Anna
Sent: Monday, May 8, 2017 11:17 AM
To: Prokop, Jana C.
Subject: RE: Northwestern University 13-RC-177943

Jana –

We received the Erratum correcting the Lyashenko/Gallucci issue. Can you confirm my other accounting below (e.g., that there will be 34 ballots opened and counted on Friday for the 34 individuals below; and that 25 ballots for the individuals below with asterisks/highlighting remain subject to challenge unless the tally on Friday is determinative)?

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From: Prokop, Jana C. [mailto:Jana.Prokop@nrlb.gov]
Sent: Thursday, May 4, 2017 8:37 AM
To: Wermuth, Anna <awermuth@cozen.com>
Subject: RE: Northwestern University 13-RC-177943

Thanks, Anna. I've confirmed that 10am on Friday 5-12 works for the union, so the count will be then at our office. Thanks for the information below. I assume you're correct, and I'm verifying it with the decision writer.

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From: Wermuth, Anna [mailto:awermuth@cozen.com]
Sent: Wednesday, May 03, 2017 2:57 PM
To: Prokop, Jana C. <Jana.Prokop@nrlb.gov>; Barbour, Alex <abarbour@cozen.com>; Goltz, Jenny R. <jgoltz@cozen.com>
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Enteen	Kerlova*
Grisinger	Savage*
Millikin	Witte*
Tataranni	Bouras*
Lenaghan	Chyi Chung*
Birdwell	Elliott*
Keller	Jiang*
Peterson	Licops*
Gallucci	Schwom*
Golden	Hirsch*
Kelly	Benjamin*
McGowan	DeCosta*
Zemelman	Mejia*
Ebels-Duggan	Russin*
Hayford	Dorgan
Rathgeber	Lecinski
Schwartz	Scalpone
Herendeen	Chandler
Hsaio	Sensenig
Meents-DeCaigny	Galbreath*
Bilotti	Yasohama*
Julia Chung-Lee	Odderstol
Naunheimer	Cibelli
Hauri	Hicks
Lassner	Walter
Stewart	Weber
Rodgers	Wood
	Alongi*
	Chiaro*



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EXHIBIT D

Henry, Orly M.

From: Prokop, Jana C. <Jana.Prokop@nlrb.gov>
Sent: Wednesday, May 10, 2017 4:11 PM
To: Wermuth, Anna
Subject: RE: Northwestern University 13-RC-177943

Hi Anna,

Your accounting looks correct. I've drafted a stipulation so we're all clear on who we're counting and not counting. I've left off the 25 on which you have a request for review. I sent that up for the ARD to look at this afternoon. If he doesn't get back to me today with it, he'll forward to the parties tomorrow. With this many challenges, we just want everyone to be on the same page regarding who we're opening.

I've also asked him to confirm with me how he wants the tally completed, seeing as we've issued a decision on the challenges, but there's an outstanding request for review. As we're opening up the 34, I assume we'll leave the 25 as remaining "undetermined challenged ballots", and write the 12 such that they are "sustained challenges (voters ineligible)."

Be on the lookout for the stipulation from either me or Dan. As I said, it will either come this afternoon or tomorrow morning.

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Lenaghan	Chyi Chung*
Birdwell	Elliott*
Keller	Jiang*
Peterson	Licops*
Gallucci	Schwom*
Golden	Hirsch*

Kelly	Benjamin*
McGowan	DeCosta*
Zemelman	Mejia*
Ebels-Duggan	Russin*
Hayford	Dorgan
Rathgeber	Lecinski
Schwartz	Scalpone
Herendeen	Chandler
Hsaio	Sensenig
Meents-DeCaigny	Galbreath*
Bilotti	Yasohama*
Julia Chung-Lee	Odderstol
Naunheimer	Cibelli
Hauri	Hicks
Lassner	Walter
Stewart	Weber
Rodgers	Wood
	Alongi*
	Chiaro*



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EXHIBIT E

Henry, Orly M.

From: Nelson, Daniel N. <Daniel.Nelson@nlrb.gov>
Sent: Thursday, May 11, 2017 11:26 AM
To: Goltz, Jenny R.; Barbour, Alex; Wermuth, Anna; Daniel Zapata; troan@seiu73.org
Cc: Prokop, Jana C.
Subject: Northwestern Ballot Count
Attachments: Northwestern Stipulation on Undisputed Ballots.pdf

Mr. Barbour, Ms. Goltz, Ms. Wermuth, Mr. Zapata and Mr. Roan,

Attached is a proposed Stipulation regarding the resolution of certain challenged ballots in Northwestern University, 13-RC-177943. We are scheduled to open and count 34 ballots tomorrow at the Regional Office at 10:00 a.m. which is reflected in the Stipulation. Also included in the Stipulation is agreement not to count 12 challenged ballots. Jana Prokop will be conducting the count.

We believe that the contents of the Stipulation are consistent with the Regional Director's Decision (and recent Erratum) and the position of all parties. Please review the attached Stipulation and if there are any aspects to which you have issue, please bring them to our attention as soon as possible so we can address them in advance of tomorrow morning, if possible. If there is no disagreement, please sign the Stipulation and return it to the Regional Office via e-mail or bring with you tomorrow for the count.

Sincerely,

Daniel N. Nelson
Assistant to the Regional Director
National Labor Relations Board, Region 13
219 S. Dearborn Street, Suite 808
Chicago, IL 60604
Direct: 312.886.3036
E-mail: Daniel.Nelson@nlrb.gov

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

NORTHWESTERN UNIVERSITY

Employer

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 73 CLC/CTW**

Case 13-RC-177943

Petitioner

STIPULATION

Following the Regional Director's Decision and Order that issued on January 5, 2017 and an Erratum that issued on May 4, 2017, IT IS HEREBY STIPULATED AND AGREED by and between Northwestern University and Service Employees International Union Local 73 CLC/CTW, that:

The following 34 employees are eligible to vote in the mail-ballot election, in which the ballots were mailed to voters on June 27, 2016 and counted on July 19, 2016, and their ballots will be opened and counted on May 12, 2017: Jay Birdwell, Jillana Enteen, Graziella Gallucci, Neil Golden, Joanna Grisinger, William Handy, Karl Keller, Juliane Kelly, John Kretzmann, Alexis Lauricella, Elizabeth Lenaghan, Natalie Lenzen, Patrick McGowan, Shannon Millikin, Blair Milton, Aaron Peterson, Jennifer Phelan, Francesca Tataranni, Nathan Waller, Susan Zelman, Anthony Bilotti, Sean Ebels-Duggan, Tina Hauri, Charles Hayford, Patrick Herendeen, Annie Hsiao, Phyllis Lassner, Julia Lee, Ellen Meents-DeCaigney, Christopher Naunheimer, Martin Rathgeber, Cynthia Rodgers, Amy Schwartz, and Byron Stewart.

It is further agreed that the following 12 employees are not eligible to vote in the afore-mentioned mail ballot election, and as such their ballots will not be counted: Plamen Petrov, Timothy Dorgan, James Lecinski, and Russel Scalpone, Susan Chandler, Eric Odderstol, and Joel Sensenig, Emily Cibelli, Charles Hicks, Callum Walter, James Weber, and Christine Wood.

Following the opening and counting of the above 34 ballots, a revised tally of ballots will issue which will also reflect the above 12 previously-challenged ballots that are no longer being challenged by either party.

Northwestern University

(Employer)

**Service Employees International
Union Local 73 CLC/CTW**

(Petitioner)

By _____
(Name) (Date)

By _____
(Name) (Date)

Case No. 13-RC-177943

EXHIBIT F

Henry, Orly M.

From: Wermuth, Anna
Sent: Thursday, May 11, 2017 1:42 PM
To: Nelson, Daniel N.; Goltz, Jenny R.; Barbour, Alex; Daniel Zapata; troan@seiu73.org
Cc: Prokop, Jana C.
Subject: RE: Northwestern Ballot Count

Mr. Nelson –

Thank you for preparing the stip, which in the University's review is accurate as to which ballots are being counted and which are no longer in dispute. I would suggest that the stip also include an accounting of the 25 ballots for which challenges are unresolved.

Thank you.

Anna



Anna Wermuth
Vice Chair, Labor & Employment Department | Cozen O'Connor
123 North Wacker Drive, Suite 1800 | Chicago, IL 60606
P: 312-474-7876 F: 312-878-2023
[Email](#) | [Map](#) | [cozen.com](#)

From: Nelson, Daniel N. [mailto:Daniel.Nelson@nrlb.gov]
Sent: Thursday, May 11, 2017 11:26 AM
To: Goltz, Jenny R. <jgoltz@cozen.com>; Barbour, Alex <abarbour@cozen.com>; Wermuth, Anna <awermuth@cozen.com>; Daniel Zapata <dzapata@seiu73.org>; troan@seiu73.org
Cc: Prokop, Jana C. <Jana.Prokop@nrlb.gov>
Subject: Northwestern Ballot Count

Mr. Barbour, Ms. Goltz, Ms. Wermuth, Mr. Zapata and Mr. Roan,

Attached is a proposed Stipulation regarding the resolution of certain challenged ballots in Northwestern University, 13-RC-177943. We are scheduled to open and count 34 ballots tomorrow at the Regional Office at 10:00 a.m. which is reflected in the Stipulation. Also included in the Stipulation is agreement not to count 12 challenged ballots. Jana Prokop will be conducting the count.

We believe that the contents of the Stipulation are consistent with the Regional Director's Decision (and recent Erratum) and the position of all parties. Please review the attached Stipulation and if there are any aspects to which you have issue, please bring them to our attention as soon as possible so we can address them in advance of tomorrow morning, if possible. If there is no disagreement, please sign the Stipulation and return it to the Regional Office via e-mail or bring with you tomorrow for the count.

Sincerely,

Daniel N. Nelson
Assistant to the Regional Director
National Labor Relations Board, Region 13

219 S. Dearborn Street, Suite 808
Chicago, IL 60604
Direct: 312.886.3036
E-mail: Daniel.Nelson@nlrb.gov

EXHIBIT G

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

NORTHWESTERN UNIVERSITY

Employer

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 73 CLC/CTW**

Case 13-RC-177943

Petitioner

STIPULATION AS TO CHALLENGED BALLOTS NOT PENDING REQUEST FOR REVIEW

Following the Regional Director's Decision and Order that issued on January 5, 2017 and an Erratum that issued on May 4, 2017, IT IS HEREBY STIPULATED AND AGREED by and between Northwestern University and Service Employees International Union Local 73 CLC/CTW, that:

The following 34 employees are eligible to vote in the mail-ballot election, in which the ballots were mailed to voters on June 27, 2016 and counted on July 19, 2016, and their ballots will be opened and counted on May 12, 2017: Jay Birdwell, Jillana Enteen, Graziella Gallucci, Neil Golden, Joanna Grisinger, William Handy, Karl Keller, Juliane Kelly, John Kretzmann, Alexis Lauricella, Elizabeth Lenaghan, Natalie Lenzen, Patrick McGowan, Shannon Millikin, Blair Milton, Aaron Peterson, Jennifer Phelan, Francesca Tataranni, Nathan Waller, Susan Zemelman, Anthony Bilotti, Sean Ebels-Duggan, Tina Hauri, Charles Hayford, Patrick Herendeen, Annie Hsiao, Phyllis Lassner, Julia Lee, Ellen Meents-DeCaigney, Christopher Naunheimer, Martin Rathgeber, Cynthia Rodgers, Amy Schwartz, and Byron Stewart.

The parties had previously agreed at the post-election hearing that Plamen Petrov was not eligible to vote in the afore-mentioned mail ballot election, and as such, his ballot shall not be counted.

It is further agreed that ballots of the following 11 employees shall be considered sustained challenges and their ballots will not be opened and counted, pursuant to the above-mentioned Decision

EXHIBIT H

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

NORTHWESTERN UNIVERSITY AND SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 73 (SEIU)	EMPLOYER PETITIONER
---	------------------------------------

Case No. 13-RC-177943
 Date Issued MAY 12, 2017

TYPE OF ELECTION: (Check one:)

Consent Agreement

Stipulation

Board Direction

RD Direction

(Also check box below where appropriate)

8(b) (7)

Second REVISED TALLY OF BALLOTS
 (Counting of Challenged Ballots)

The undersigned agent of the Regional Director certifies that the results of counting the challenged ballots directed to be counted by the National Labor Relations Board, Region 13, 219 South Dearborn Street, Suite 808, Chicago, IL 60604 on 5/12/2017 and the addition of these ballots to the original Tally of Ballots, executed on 8/11/2016, were as follows:

	<i>First Revised</i> Original Tally	Challenged Ballots Counted	Final Tally
Approximate number of eligible voters	678		
Number of Void ballots	4	0	4
Number of Votes cast for ----- PETITIONER -----	223	6	229
Number of Votes cast for -----			
Number of Votes cast for -----			
Number of Votes cast against participating labor organization(s)	191	28	219
Number of Valid votes counted	414		448
Number of <i>unresolved</i> undetermined challenged ballots	71		25
Number of Valid votes counted plus <i>unresolved</i> challenged ballots	485		473
Number of Sustained challenges (voters ineligible)			12

The remaining *unresolved* ~~undetermined~~ challenged ballots, if any, shown in the Final Tally column are *not* sufficient to affect the results of the election. ~~A majority of the valid votes plus challenged ballots as shown in the Final Tally column has not been cast for~~

For the Regional Director *Jana Prokop*

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that this counting and tabulating, and the compilation of the Final Tally, were fairly and accurately done, and that the results were as indicated above. We also acknowledge service of this Tally.

For EMPLOYER *A.O. Walsh* 5/12/17 For _____

For PETITIONER *[Signature]* 5/12/17 For _____