

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

W.R. Transport, LLC *
*
and *
* Case 15-CA-185397
*
KIANYO DESHONE FOUCHA *
An Individual *
*

**MOTION TO TRANSFER AND CONTINUE CASE
BEFORE THE NATIONAL LABOR RELATIONS BOARD
AND MOTION FOR DEFAULT JUDGMENT AND FOR ISSUANCE
OF BOARD DECISION AND ORDER**

Counsel for the General Counsel (General Counsel) hereby moves that said case be transferred to and continued before the National Labor Relations Board (Board), and further moves for Default Judgment on the pleadings and supporting papers for issuance of a Decision and Order by the Board, pursuant to Sections 102.24 and 102.50 of the Board’s Rules and Regulations. In support of this motion, the General Counsel avers as follows:

1.

The charge in the instant case was filed by Kianyo Deshone Foucha, an individual (Foucha), on October 3, 2016, alleging W.R. Transport, LLC (Respondent) violated Section 8(a)(1) of the National Labor Relations Act (Act). The charge was served on Respondent, by regular mail, on October 3, 2016. On October 19, 2016, Attorney Hester R. Hilliard (Attorney Hilliard) filed a Notice of Appearance on behalf of Respondent. On October 24, 2016, the first amended charge in the instant case was filed by Foucha and duly served on Respondent on October 25, 2016. On November 18, 2016, the second amended charge in the instant case was

filed by Foucha and duly served on Respondent on November 18, 2016. On April 26, 2016, the third amended charge in the instant case was filed by Foucha and duly served on Respondent on April 26, 2016. Copies of the initial charge, affidavit of service of the initial charge, first amended charge, affidavit of service of the first amended charge, second amended charge, affidavit of service of the second amended charge, third amended charge, and affidavit of service of the third amended charge are attached hereto and marked as Exhibits 1, 2, 3, 4, 5, 6, 7, and 8, respectively. The Notice of Appearance filed by Respondent's representative Attorney Hilliard is attached hereto and marked as Exhibit 9.

2.

On July 18, 2017, the Regional Director of Region 15 issued a Complaint and Notice of Hearing (Complaint) in Case 15-CA-185397. Copies of the Complaint and affidavit of service of the Complaint are attached hereto and marked as Exhibits 10 and 11, respectively.

3.

Respondent is a Louisiana limited liability corporation with offices located at 824 Kathy Street, Gretna Louisiana 70056-7636 (Kathy facility) and 75 Louisiana Street, Gretna, Louisiana 70094-4161 (Louisiana facility).

4.

On July 18, 2017, the Complaint in Case 15-CA-185397 was served by certified mail with certified receipt number 7015 1520 0002 9436 5219 on Respondent at its office located at 75 Louisiana Street, Gretna, Louisiana 70094-4161, which was signed for by Respondent on July 19, 2017. (a copy of the return receipt card is attached hereto and marked as Exhibit 12).

5.

On July 18, 2017, the Complaint in Case 15-CA-185397 was also served by certified mail with certified receipt number 7016 2070 0000 8750 9628 (See Exhibit 12) on Respondent at its

office located at 824 Kathy Street, Gretna, Louisiana 70056-7636. Although no postal return receipt card has been received by the General Counsel at this time, a copy of the United States Postal Service's computer generated tracking confirmation (see Exhibit 13) shows that a notice was left on July 19, 2017, but Respondent has not retrieved the mail.

6.

On July 18, 2017, the Complaint in Case 15-CA-185397 was also served by certified mail with certified receipt number 7015 1520 0002 9436 5158 on Respondent's representative, Attorney Hilliard, at his office located at 2100 Reverend Richard Wilson Drive, Suite 8, Kenner, Louisiana 70062-7600, which was signed for on July 19, 2017 (a copy of the return receipt card is attached hereto and marked as Exhibit 14).

7.

The Respondent failed to file an Answer to the Complaint by August 1, 2017, as requested in the Complaint and as required by Sections 102.20 and 102.21 of the Board's Rules and Regulations.

8.

On August 10, 2017, the Regional Director for Region 15 sent letters to the Respondent notifying Respondent that an Answer to the Complaint had not been received by the Region, and that a Motion for Default Judgment would be filed with the Board if an Answer was not filed by August 17, 2017. The letter was sent by certified mail to Respondent's addresses at 824 Kathy Street, Gretna, Louisiana 70056-7636, (certified receipt number 7016 2070 0000 8750 9352), 75 Louisiana Street, Gretna, Louisiana 70094-4161 (certified receipt number 7016 2070 0000 8750 9345), and by regular mail to Respondent's representative Attorney Hilliard's office address at 2100 Reverend Richard Wilson Drive Suite 8, Kenner, Louisiana 70062-7600. A copy of the Regional Director's letter is attached hereto and marked as Exhibit 15. The postal return receipt

card (see Exhibit 16) shows the delivery of the mail with certified receipt number 7016 2070 0000 8750 9345 was made at Respondent's 75 Louisiana Street, Gretna, Louisiana 70094-4161 address on August 11, 2017. Although no postal return receipt card has been received by the General Counsel at this time for the Kathy facility, a copy of the United States Postal Service's computer generated tracking confirmation (see Exhibit 17) shows that a notice was left on August 11, 2017, for certified receipt number 7016 2070 0000 8750 9352, but Respondent has not retrieved the mail. Additionally, the copy of the letter mailed to Respondent's representative Attorney Hilliard was not returned to the Region as undeliverable.

9.

As of this date, the Respondent has failed to respond to the Regional Director's letter of August 10, 2017, or to file an acceptable Answer as required by Sections 102.20 and 102.21 of the Board's Rules and Regulations.

10.

Section 102.20 of the Board's Rules and Regulations specifically states that if no Answer is filed, or any allegation of the Complaint is not specifically denied or explained in an Answer filed, that allegation shall be deemed to be admitted as true, and shall be so found by the Board.

11.

To date, no Answer or request for an extension of time to file an Answer has been filed by Respondent in the above-captioned matter.

WHEREFORE, the General Counsel respectfully moves:

1. That all allegations of the Complaint, which Respondent has failed to answer, be deemed to be admitted to be true, especially where, as here, it does not appear Respondent will participate in the conduct of an unfair labor practice hearing;

2. That the Board issue a Decision and Order finding that Respondent violated Section 8(a)(1) of the Act, all without taking evidence in support of the allegations in the Complaint;

3. That the Board grant all appropriate relief including, but not limited to, ordering

(a) Respondent W.R. Transport, LLC, its officers, agents, successors, and assigns to cease and desist from:

(1) Telling their bus drivers they are independent contractors and not employees.

(2) Misclassifying their bus drivers as independent contractors.

(3) Requiring their bus drivers to sign documents stating they are independent contractors.

(4) In any like or related manner interfering with, restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

(b) Respondent W.R. Transport, LLC, its officers, agents, successors, and assigns take the following affirmative actions necessary to effectuate the purposes and policies of the Act:

(1) Within 14 days of the Board issuing its Decision and Order, remove from the personnel files of Respondent's bus drivers all contracts they signed indicating they are independent contractors, and notify all the bus drivers in writing that Respondent no longer classifies them as independent contractors.

(2) Preserve and, within 14 days of request, make available to the Board or its agents for examination and copying, all records necessary to determine compliance with the terms of this Order.

(3) Within 14 days of service by the Region, post at its New Orleans, Louisiana corporate office copies of the attached notice marked "Appendix A." Copies of the notice, on forms provided by Region 15, after being signed by Respondent's authorized representative, shall be

posted by Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Respondent will take reasonable steps to ensure the notices are not altered, defaced or covered by any other material. In the event during the pendency of these proceedings, Respondent has gone out of business or closed its offices, Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by Respondent at the closed facility at any time since May 1, 2016.

(4) Within 14 days of service by the Region, Respondent shall also duplicate and mail, at its own expense, a copy of the notice to all of its current employees and former employees who worked as bus drivers at any time since May 1, 2016.

(5) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps Respondent has taken to comply.

Signed and dated at New Orleans, Louisiana, this 23rd day of August 2017.

/s/ Kevin McClue
Charles Rogers
Kevin McClue
Counsels for the General Counsel
National Labor Relations Board
Region 15
600 S. Maestri Place, 7th Floor
New Orleans, Louisiana 70130
Direct Dial: 504-321-9473
Email: crogers@nlrb.gov
Fax: 504-589-4069

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Transfer and Continue Cases before the National Labor Relations Board and Motion for Default Judgment and for Issuance of Board Decision and Order has been served on the following parties in this matter, by either regular U.S. Mail or certified U.S. Mail return receipt requested, as indicated below.

Parties served by certified and regular mail:

Walter Richardson, Owner
W.R. Transportation, LLC
824 Kathy Street
Gretna, LA 70056-7636

Walter Richardson, Owner
W.R. Transportation, LLC
75 Louisiana Street
Gretna, LA 70094-4161

Walter Richardson, Owner
W.R. Transportation, LLC
75 Louisiana Street
Westwego, LA 70094-4161

Hester R. Hilliard, Esquire
Hilliard Law Firm
2100 Reverend Richard Wilson Drive, Suite 8
Kenner, LA 70062-7600

Parties served by regular mail:

Kiany Deshone Foucha
4766 Eunice Street
New Orleans, LA 70127-3420

Signed and Dated at New Orleans, Louisiana this 23rd day of August 2017.

/s/ Kevin McClue
Charles Rogers
Kevin McClue
Counsels for the General Counsel
National Labor Relations Board
Region 15
600 S. Maestri Place, 7th Floor
New Orleans, Louisiana 70130
Direct Dial: 504-321-9473
Email: crogers@nlrb.gov
Fax: 504-589-4069

APPENDIX A

(To be printed and posted on official Board notice form)

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT tell our bus drivers that they are independent contractors.

WE WILL NOT tell our bus drivers that they are not employees within the meaning of the Act.

WE WILL NOT misclassify our bus drivers as independent contractors.

WE WILL NOT require our bus drivers to sign documents stating they are independent contractors.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE WILL, remove from the personnel file of our bus drivers any documents they signed indicating they are independent contractors, and **WE WILL** notify our bus drivers in writing that we no longer consider them independent contractors.

WR Transport, LLC

(Employer)

Dated: _____

By: _____

(Representative)

(Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-866-667-NLRB (1-866-667-6572). Hearing impaired persons may contact the Agency's TTY service at 1-866-315-NLRB. You may also obtain information from the Board's website: www.nlr.gov.

New Orleans, LA 70130-3413

Hours of Operation: 8 a.m. to 4:30 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 15-CA-185397	Date Filed October 3, 2016

INSTRUCTIONS:

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

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer WR TRANSPORTATION	b. Tel. No. (504) 390-3235
	c. Cell No. (504) 628-0248
	f. Fax No.
d. Address (Street, city, state, and ZIP code) 75 Louisiana St LA Westwego 70094-4161	e. Employer Representative WALTER RICHARDSON OWNER
	g. e-Mail
	h. Number of workers employed 14
i. Type of Establishment (factory, mine, wholesaler, etc.) Transportation	j. Identify principal product or service SCHOOL BUSES
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 (list subsections) 3 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) --See additional page--	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) KIANYO DESHONE FOUCHA Title:	
4a. Address (Street and number, city, state, and ZIP code) 4766 Eunice St LA New Orleans 70127-3420	4b. Tel. No. (504) 875-4819
	4c. Cell No. (504) 676-1572
	4d. Fax No.
	4e. e-Mail 31FOURKAY@GMAIL.COM
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)	
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 KIANYO D. FOUCHA (signature of representative or person making charge)	Title: KIANYO DESHONE FOUCHA (Print/type name and title or office, if any)
4766 Eunice St Address New Orleans LA 70127-3420	Tel. No. (504) 875-4819
	Office, if any, Cell No. (504) 676-1572
	Fax No.
	e-Mail 31FOURKAY@GMAIL.COM
	09/30/2016 20:56:28 (date)

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 (NLR) the National Labor Relations Board (NLRB) in processing unfair labor practice and related procedures in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain the information voluntarily; however, failure to supply the information will cause the NLRB to decline to invoke its

Basis of the Charge

Case No. 15-CA-185397

8(a)(3)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, protesting terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee discharged	Approximate date of discharge
KIANYO FOUCHA	09/30/2016

1 1016 OCT -31 AM 5:01

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

WR TRANSPORTATION

Charged Party

and

KIANYO DESHONE FOUCHA

Charging Party

Case 15-CA-185397

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on October 3, 2016, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Walter Richardson, Owner
WR Transportation
75 Louisiana St
Westwego, LA 70094-4161

October 3, 2016

Date

PAMLA ROBERTSON, Designated Agent
of NLRB

Name

- EXHIBIT 2 -

Signature

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

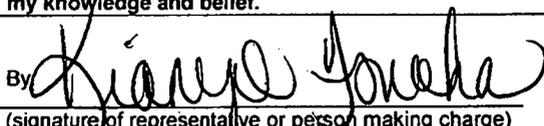
INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
15-CA-185397	October 24, 2016

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 WR TRANSPORTATION		b. Tel. No. (504)390-3235
		c. Cell No. (504)628-0248
d. Address (street, city, state ZIP code) 75 Louisiana St, Westwego, LA 70094-4161	e. Employer Representative WALTER RICHARDSON OWNER	f. Fax No.
		g. e-Mail
		h. Dispute Location (City and State) Westwego, LA
i. Type of Establishment (factory, nursing home, hotel) Transportation	j. Principal Product or Service school bus service	k. Number of workers at dispute location 14
l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) 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)		

On September 30, 2016, the Employer discriminated against employee Kianyoy Foucha by discharging her in retaliation for and or in order to discourage protected concerted activities.

3. Full name of party filing charge (if labor organization, give full name, including local name and number) KIANYO DESHON FOUCHA		
4a. Address (street and number, city, state, and ZIP code) 4766 Eunice St, New Orleans, LA 70127-3420	4b. Tel. No. (504)875-4819	
	4c. Cell No. (504)676-1572	
	4d. Fax No.	
	4e. e-Mail 31fourkay@gmail.com	
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)		
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.		Tel. No. (504)875-4819
By  (signature of representative or person making charge)	KIANYO DESHON FOUCHA, an Individual Print Name and Title	Office, if any, Cell No. (504)676-1572
		Fax No.
Address: 4766 Eunice St, New Orleans, LA 70127-3420	Date:	e-Mail 31fourkay@gmail.com

**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.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

WR TRANSPORTATION

• Charged Party

and

KIANYO DESHONE FOUCHA

Charging Party

Case 15-CA-185397

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on October 25, 2016, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Walter Richardson, Owner
WR Transportation
75 Louisiana St
Westwego, LA 70094-4161

Hester R. Hilliard, Esquire
Hilliard Law Firm
2100 Reverend Richard Wilson Dr Ste 8
Kenner, LA 70062-7600

October 25, 2016

Date

PAMLA ROBERTSON, Designated Agent
of NLRB

Name

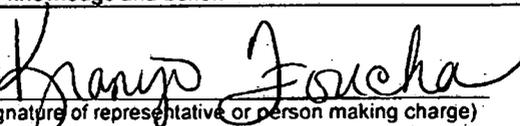
- EXHIBIT 4 -

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

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
15-CA-185397	November 18, 2016

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 WR TRANSPORTATION		b. Tel. No. (504)390-3235
		c. Cell No. (504)628-0248
d. Address (street, city, state ZIP code) 75 Louisiana St, Westwego, LA 70094-4161	e. Employer Representative WALTER RICHARDSON OWNER	f. Fax No.
		g. e-Mail
		h. Dispute Location (City and State) Westwego, LA
i. Type of Establishment (factory, nursing home, hotel) Transportation	j. Principal Product or Service school bus service	k. Number of workers at dispute location 14
l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) 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)		
<p>For the last six months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by misclassifying them as independent contractors.</p> <p>On September 30, 2016, the Employer discriminated against employee Kiany Foucha by discharging her in retaliation for and or in order to discourage protected concerted activities.</p>		
3. Full name of party filing charge (if labor organization, give full name, including local name and number) KIANYO DESHONE FOUCHA		
4a. Address (street and number, city, state, and ZIP code) 4766 Eunice St, New Orleans, LA 70127-3420		4b. Tel. No. (504)875-4819
		4c. Cell No. (504)676-1572
		4d. Fax No.
		4e. e-Mail 31fourkay@gmail.com
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)		
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.		Tel. No. (504)875-4819
By  KIANYO DESHONE FOUCHA, an Individual		Office, if any, Cell No. (504)676-1572
(signature of representative or person making charge)		Fax No.
Address: 4766 Eunice St, New Orleans, LA 70127-3420		e-Mail 31fourkay@gmail.com
Date: 11/18/16		

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.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

<p>WR TRANSPORTATION</p> <p>Charged Party</p> <p>and</p> <p>KIANYO DESHONE FOUCHA</p> <p>Charging Party</p>

Case 15-CA-185397

AFFIDAVIT OF SERVICE OF SECOND AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on November 18, 2016, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

WALTER RICHARDSON, OWNER
WR TRANSPORTATION
75 LOUISIANA ST
WESTWEGO, LA 70094-4161

HESTER R. HILLIARD, ESQUIRE
HILLIARD LAW FIRM
2100 REVEREND RICHARD WILSON
DR STE 8
KENNER, LA 70062-7600

November 18, 2016

Cristina Carroll Designated Agent of
NLRB

Date

Name

/s/

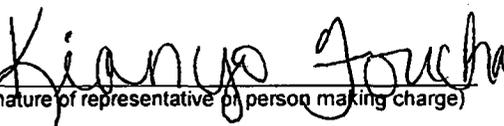
Signature

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

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
15-CA-185397	April 26, 2017

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 W.R. Transport, LLC		b. Tel. No. (504)628-0248
		c. Cell No.
d. Address (street, city, state ZIP code) 824 Kathy St, Gretna, LA 70056-7636	e. Employer Representative Walter Richardson, Owner	f. Fax No.
		g. e-Mail
		h. Dispute Location (City and State) Westwego, LA
i. Type of Establishment (factory, nursing home, hotel) Transportation	j. Principal Product or Service school bus service	k. Number of workers at dispute location 14
l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) 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)		
<p>For the last six months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by misclassifying them as independent contractors.</p> <p>On September 30, 2016, the Employer discriminated against employee Kiany Foucha by discharging her in retaliation for and or in order to discourage protected concerted activity.</p>		
3. Full name of party filing charge (if labor organization, give full name, including local name and number) KIANYO DESHON FOUCHA		
4a. Address (street and number, city, state, and ZIP code) 4766 Eunice St, New Orleans, LA 70127-3420		4b. Tel. No. (504)875-4819
		4c. Cell No. (504)351-8956
		4d. Fax No.
		4e. e-Mail 31fourkay@gmail.com
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)		
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.		Tel. No. (504)875-4819
By:  KIANYO DESHON FOUCHA, and Individual		Office, if any, Cell No. (504)351-8956
(signature of representative of person making charge) Print Name and Title		Fax No.
Address: 4766 Eunice St, New Orleans, LA 70127-3420 Date:		e-Mail 31fourkay@gmail.com

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.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

WR TRANSPORTATION
Charged Party
and
KIANYO DESHONE FOUCHA
Charging Party

Case 15-CA-185397

AFFIDAVIT OF SERVICE OF THIRD AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on April 26, 2017, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Hester R. Hilliard, Esquire
Hilliard Law Firm
2100 Reverend Richard Wilson Dr Ste 8
Kenner, LA 70062-7600

Walter Richardson
WR Transportation
824 Kathy St
Gretna, LA 70056-7636

April 26, 2017

Date

PAMLA ROBERTSON, Designated Agent
of NLRB

Name

/s/

Signature

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 15**

* * * * *
W.R. TRANSPORT, LLC
and Case 15-CA-185397
KIANYO DESHONE FOUCHA,
An Individual
* * * * *

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Kianyoy Deshone Foucha, an Individual (Foucha). 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 W.R. Transport, LLC (Respondent) has violated the Act as described below.

1(a) The charge in this proceeding was filed by Foucha on October 3, 2016, and a copy was served on Respondent by U.S. mail on October 3, 2016.

(b) The first amended charge in this proceeding was filed by Foucha on October 24, 2016, and a copy was served on Respondent by U.S. mail on October 25, 2016.

(c) The second amended charge in this proceeding was filed by Foucha on November 18, 2016, and a copy was served on Respondent by U.S. mail on November 18, 2016.

(d) The third amended charge in this proceeding was filed by Foucha on April 26, 2017, and a copy was served on Respondent by U.S. mail on April 26, 2017.

2. At all material times, Respondent has been a corporation with an office and place of business in Westwego, Louisiana (Respondent's facility), and has been engaged in providing school bus transportation services to children.

3(a) Annually, Respondent, in conducting its operations described above in paragraph 2, derived gross revenues in excess of \$250,000.

(b) Annually, Respondent, in conducting its operations described above in paragraph 2, purchased and received at its Westwego, Louisiana facility goods valued in excess of \$5,000 directly from points outside the State of Louisiana.

4. 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.

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:

Walter Richardson - Owner

Barron Robertson - Supervisor

6(a) Since about May 4, 2016, Respondent, at Respondent's facility, has classified its bus drivers as independent contractors.

(b) Respondent misclassified its employee-drivers to discourage them from engaging in Section 7 activity and to deprive them of the protections of the Act.

7. By the conduct described above in paragraph 6, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

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

ANSWER REQUIREMENT

Respondent is further 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 August 1, 2017, or postmarked on or before July 31, 2017.** 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, 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 **November 15, 2017 at 10:00 a.m. (CST)** in the **Courtroom, National Labor Relations Board, F. Edward Hebert Federal Building, 600 South Maestri Place, 7th Floor, New Orleans, Louisiana**, 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: July 18, 2017


M. KATHLEEN MCKINNEY
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 15
600 S. MAESTRI PLACE, 7th Floor
NEW ORLEANS, LA 70130-3413

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 15-CA-185397

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.

Walter Richardson, Owner
W.R. Transportation
824 Kathy St
Gretna, LA 70056-7636

Walter Richardson, Owner
W.R. Transportation
75 Louisiana Street
Gretna, LA 70094-4161

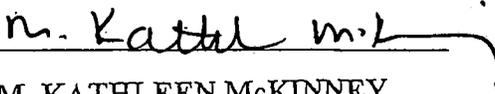
Hester R. Hilliard, Esquire
Hilliard Law Firm
2100 Reverend Richard Wilson Dr
Suite 8
Kenner, LA 70062-7600

Kianyoy Deshone Foucha
4766 Eunice St
New Orleans, LA 70127-3420

IMPORTANT NOTICE

The date, which has been set for hearing in this matter, should be checked immediately. If there is proper cause for not proceeding with the hearing on that date, a motion to change the date of hearing should be made within fourteen (14) days from the service of the complaint. Thereafter, it may be assumed that the scheduled hearing date has been agreed upon and that all parties will be prepared to proceed to the hearing on that date. Later motions to reschedule the hearing generally may not be granted in the absence of a proper showing of unanticipated and uncontrollable intervening circumstances.

All parties are encouraged to fully explore the possibilities of settlement. Early settlement agreements prior to extensive and costly trial preparation may result in substantial savings of time, money and personnel resources for all parties. The Board agent assigned to this case will be happy to discuss settlement at any mutually convenient time.


M. KATHLEEN MCKINNEY
REGIONAL DIRECTOR

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.

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, 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 to 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.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 15**

W.R. TRANSPORT, LLC

and

Case 15-CA-185397.

KIANYO DESHONE FOUCHA,
an Individual

AFFIDAVIT OF SERVICE OF: Copy of Complaint and Notice of Hearing with forms NLRB-4338, Important Notice and NLRB-4668 attached, dated July 18, 2017.

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 18, 2017, I served the above-entitled document(s) by **certified mail**, as noted below, upon the following persons, addressed to them at the following addresses:

Walter Richardson, Owner
W.R. Transportation, LLC
824 Kathy Street
Gretna, LA 70056-7636

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED**

Walter Richardson, Owner
W.R. Transportation
75 Louisiana Street
Gretna, LA 70094-4161

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED**

Hester R. Hilliard, Esquire
Hilliard Law Firm
2100 Reverend Richard Wilson Dr
Suite 8
Kenner, LA 70062-7600

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED**

Kianyos Deshone Foucha
4766 Eunice St
New Orleans, LA 70127-3420

CERTIFIED MAIL

July 18, 2017

DONNA M. SIMMONS, Designated Agent of
NLRB

Date

Name

/s/

Signature

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only**

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee \$

- Extra Services & Fees (check box, add fee as appropriate)
- Return Receipt (hardcopy) \$
 - Return Receipt (electronic) \$
 - Certified Mail Restricted Delivery \$
 - Adult Signature Required \$
 - Adult Signature Restricted Delivery \$

Postage \$

Postmark
Here

Total \$
Sent To **Walter Richardson, Owner**
Street **W.R. Transportation**
City **824 Kathy St**
Gretna, LA 70056-7636

PS Form 3800, April 2015 PSN 7530-02-000-8047 See Reverse for Instructions

7016 2070 0000 8250 9628

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only**

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee \$

- Extra Services & Fees (check box, add fee as appropriate)
- Return Receipt (hardcopy) \$
 - Return Receipt (electronic) \$
 - Certified Mail Restricted Delivery \$
 - Adult Signature Required \$
 - Adult Signature Restricted Delivery \$

Postage \$

Postmark
Here

Total \$
Sent To **Walter Richardson, Owner**
Street **W.R. Transportation**
City **75 Louisiana Street**
Gretna, LA 70094-4161

PS Form 3800, April 2015 PSN 7530-02-000-8047 See Reverse for Instructions

6725 9E46 2000 0257 5702

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.

1. Article Addressed to:

Walter Richardson, Owner
W.R. Transportation
75 Louisiana Street
Gretna, LA 70094-4161

2. Article Number (Transfer from) **7015 1520 0002 9436 5219**

PS Form 3811, February 2004

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature
x [Signature] Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

7/9/17

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

[Signature]

CA 185397 [Signature]

USPS Tracking® Results

FAQs > (<http://faq.usps.com/?articleId=220900>)

[Track Another Package +](#)

[Remove X](#)

Tracking Number: 70162070000087509628

Delivery Attempt: Action Needed

Product & Tracking Information

[See Available Actions](#)

Postal Product:

Features:
Certified Mail™

DATE & TIME

STATUS OF ITEM

LOCATION

Reminder to Schedule Redelivery of your item

This is a reminder to arrange for redelivery of your item or your item will be returned to sender. You may arrange redelivery by using the Schedule a Redelivery feature on this page or calling 800-ASK-USPS, or may pick up the item at the Post Office indicated on the notice.

July 19, 2017, 12:10 pm

Notice Left (No Authorized Recipient Available)

GRETNA, LA 70056

July 19, 2017, 4:39 am

Departed USPS Regional Facility

NEW ORLEANS LA DISTRIBUTION CENTER

July 18, 2017, 10:51 pm

Arrived at USPS Regional Facility

NEW ORLEANS LA DISTRIBUTION CENTER

[See More](#) ▾

Available Actions

Text Updates ▾

Email Updates ▾

[See Less](#) ▲

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

[FAQs \(http://faq.usps.com/?articleId=220900\)](http://faq.usps.com/?articleId=220900)

EXHIBIT 13

7015 1520 0002 9436 5158

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only**

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee \$ 3.00

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To Hester R. Hilliard, Esquire

Street and # Hilliard Law Firm

City, State, ZIP 2100 Reverend Richard Wilson Dr
Suite 8
Kenner, LA 70062-7600

Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for instructions

7015 1520 0002 9436 5158

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only**

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee \$ 3.00

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To Kianyoo Deshone Foucha

Street and # 4766 Eunice St

City, State, ZIP New Orleans, LA 70127-3420

Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for instructions

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.

1. Article Addressed to:

Hester R. Hilliard, Esquire
Hilliard Law Firm
2100 Reverend Richard Wilson Dr
Suite 8
Kenner, LA 70062-7600

2. Article Number (Transfer from): 7015 1520 0002 9436 5158

PS Form 3811, July 2013 Cnoh Domestic Return Receipt WR

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
[Signature] Addressee

B. Received by (Printed Name) Cathy Hilliard

C. Date of Delivery 7/19

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

3. Service Type RR

Certified Mail® Priority Mail Express™

Registered Return Receipt for Merchandise

Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 15

600 S. Maestri Place, 7th Floor

New Orleans, LA 70130-3408

Telephone 504/321-9493

August 10, 2017

(Sent via Certified Mail/RRR)

Certified # 7016 2070 0000 8750 9352

Walter Richardson, Owner
WR Transportation
824 Kathy St
Gretna, LA 70056-7636

(Sent via Certified Mail/RRR)

Certified # 7016 2070 0000 8750 9345

Walter Richardson, Owner
W.R. Transportation
75 Louisiana Street
Gretna, LA 70094-4161

Re: W.R. Transport, LLC
Gretna, Louisiana
Case 15-CA-185397

Dear Mr. Richardson:

Please find enclosed a copy of the Complaint and Notice of Hearing that issued on July 18, 2017, in the above-entitled matter.

To date, you have not filed an appropriate answer to the complaint, which issued in the above-captioned matter. I am enclosing a copy of Sections 102.20 through 102.23 of the Board's Rules and Regulations, which deal specifically with the filing of an answer to the complaint. You will note that Section 102.20 provides:

The respondent shall, within 14 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the

complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board.

At this time, I am writing to advise you that unless we receive an answer to the complaint which complies with the Board's Rules and Regulations enclosed herewith by the close of business, August 17, 2017, we will file a Motion for Default Judgment with the Board urging that the Board deem all allegations of the complaint not specifically denied or explained, to be true.

If you have any questions, please call Regional Attorney Sandra L. Hightower at (504) 321-9493.

Very truly yours,



M. Kathleen McKinney
Regional Director

Enclosures

MKM/dms

Hester R. Hilliard, Esquire
Hilliard Law Firm
2100 Reverend Richard Wilson Dr Ste 8
Kenner, LA 70062-7600

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 15**

* * * * *

W.R. TRANSPORT, LLC

and

KIANYO DESHONE FOUCHA,
An Individual

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*
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*
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Case 15-CA-185397

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Kianyoy Deshone Foucha, an Individual (Foucha). 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 W.R. Transport, LLC (Respondent) has violated the Act as described below.

1(a) The charge in this proceeding was filed by Foucha on October 3, 2016, and a copy was served on Respondent by U.S. mail on October 3, 2016.

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(c) The second amended charge in this proceeding was filed by Foucha on November 18, 2016, and a copy was served on Respondent by U.S. mail on November 18, 2016.

(d) The third amended charge in this proceeding was filed by Foucha on April 26, 2017, and a copy was served on Respondent by U.S. mail on April 26, 2017.

2. At all material times, Respondent has been a corporation with an office and place of business in Westwego, Louisiana (Respondent's facility), and has been engaged in providing school bus transportation services to children.

3(a) Annually, Respondent, in conducting its operations described above in paragraph 2, derived gross revenues in excess of \$250,000.

(b) Annually, Respondent, in conducting its operations described above in paragraph 2, purchased and received at its Westwego, Louisiana facility goods valued in excess of \$5,000 directly from points outside the State of Louisiana.

4. 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.

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:

Walter Richardson - Owner

Barron Robertson - Supervisor

6(a) Since about May 4, 2016, Respondent, at Respondent's facility, has classified its bus drivers as independent contractors.

(b) Respondent misclassified its employee-drivers to discourage them from engaging in Section 7 activity and to deprive them of the protections of the Act.

7. By the conduct described above in paragraph 6, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

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

ANSWER REQUIREMENT

Respondent is further 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 August 1, 2017, or postmarked on or before July 31, 2017.** 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.

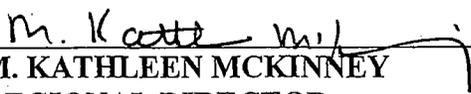
An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the 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 November 15, 2017 at 10:00 a.m. (CST) in the Courtroom, National Labor Relations Board, F. Edward Hebert Federal Building, 600 South Maestri Place, 7th Floor, New Orleans, Louisiana, 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: July 18, 2017


M. KATHLEEN MCKINNEY
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 15
600 S. MAESTRI PLACE, 7th Floor
NEW ORLEANS, LA 70130-3413

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 15-CA-185397

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.

Walter Richardson, Owner
W.R. Transportation
824 Kathy St
Gretna, LA 70056-7636

Walter Richardson, Owner
W.R. Transportation
75 Louisiana Street
Gretna, LA 70094-4161

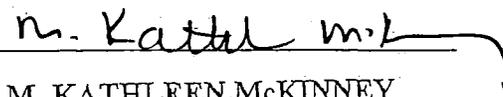
Hester R. Hilliard, Esquire
Hilliard Law Firm
2100 Reverend Richard Wilson Dr
Suite 8
Kenner, LA 70062-7600

Kiany Deshone Foucha
4766 Eunice St
New Orleans, LA 70127-3420

IMPORTANT NOTICE

The date, which has been set for hearing in this matter, should be checked immediately. If there is proper cause for not proceeding with the hearing on that date, a motion to change the date of hearing should be made within fourteen (14) days from the service of the complaint. Thereafter, it may be assumed that the scheduled hearing date has been agreed upon and that all parties will be prepared to proceed to the hearing on that date. Later motions to reschedule the hearing generally may not be granted in the absence of a proper showing of unanticipated and uncontrollable intervening circumstances.

All parties are encouraged to fully explore the possibilities of settlement. Early settlement agreements prior to extensive and costly trial preparation may result in substantial savings of time, money and personnel resources for all parties. The Board agent assigned to this case will be happy to discuss settlement at any mutually convenient time.


M. KATHLEEN MCKINNEY
REGIONAL DIRECTOR

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.

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, 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 to 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.

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Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage \$

Sent To \$

Street and A

City, State, Z

Walter Richardson, Owner
 W.R. Transportation
 75 Louisiana Street
 Gretna, LA 70094-4161

Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7016 2070 0000 8750 9345

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Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage \$

Sent To \$

Street and

City, State,

Walter Richardson, Owner
 WR Transportation
 824 Kathy St
 Gretna, LA 70056-7636

Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7016 2070 0000 8750 9345

no AMS LTR

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.

1. Article Addressed to:

Walter Richardson, Owner
 W.R. Transportation
 75 Louisiana Street
 Gretna, LA 70094-4161

2. Article Number 7016 2070 0000 8750 9345
 (Transfer from service label)

PS Form 3811, July 2013 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature *W Richardson* Agent Addressee

B. Received by (Printed Name) _____ C. Date of Delivery 8/11/17

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

3. Service Type *cert*

Certified Mail® Priority Mail Express™

Registered Return Receipt for Merchandise

Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes

CA 185397

USPS Tracking® Results

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Delivery Attempt: Action Needed

Product & Tracking Information

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Postal Product:

Features:
Certified Mail™

DATE & TIME

STATUS OF ITEM

LOCATION

**Reminder to Schedule Redelivery of your item
before August 25, 2017**

This is a reminder to arrange for redelivery of your item before August 25, 2017 or your item will be returned on August 26, 2017. You may arrange redelivery by using the Schedule a Redelivery feature on this page or may pick up the item at the Post Office indicated on the notice.

August 11, 2017, 10:49 am	Notice Left (No Authorized Recipient Available)	GRETNA, LA 70056
August 11, 2017, 3:49 am	Departed USPS Regional Facility	NEW ORLEANS LA DISTRIBUTION CENTER
August 10, 2017, 8:31 pm	Arrived at USPS Regional Facility	NEW ORLEANS LA DISTRIBUTION CENTER

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Available Actions

- [Text Updates](#) v
- [Email Updates](#) v
- [Schedule Redelivery](#) v

[See Less ^](#)

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Go to our [FAQs](#) section to find answers to

EXHIBIT 17