

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

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<b>NEW HUDSON FACADES, LLC</b>	:	
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	:	
<b>and</b>	:	<b>CASE NOS. 04-CA-201420</b>
	:	<b>04-CA-202224</b>
	:	<b>04-CA-203073</b>
	:	<b>04-CA-204648</b>
<b>INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 542</b>	:	

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**EMPLOYER NEW HUDSON FACADES, LLC’S  
MOTION TO EXTEND HEARING DATE**

The Employer, New Hudson Facades, LLC (“NHF”), by and through its undersigned counsel, hereby submits the following Motion to Extend the Hearing Date in the above-captioned matter and in support thereof avers as follows:

1. This matter originated with an RC Petition (04-RC-201002) that was filed by the International Union of Operating Engineers, Local 542 (the “Union”) on June 20, 2017 seeking to represent NHF’s production and maintenance employees.
2. An election was held at NHF’s facility on July 20, 2017 at which time a majority of NHF’s employees rejected the Union’s representation.
3. The Union has filed a number of unfair labor practice charges in connection with its organizing campaign: 04-CA-201420; 04-CA-202224; 04-CA-203073; 04-CA-204648.
4. The Union also filed eleven (11) objections to the conduct of the election.
5. In addition, the ballots of thirty-three (33) voters have been challenged which are pending.<sup>1</sup>

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<sup>1</sup> Twenty-Three (23) of the ballots were challenged pursuant to the Stipulated Election Agreement (“STIP”). Four (4) voters were challenged by the Board, including two (2) former employees – James Groce and Lateif

6. On October 13, 2017, the Regional Director issued a complaint and Notice of Hearing in connection with the above-referenced Unfair Labor Practice Charges.

7. The Notice of Hearing set forth a hearing date of November 15, 2017.

8. On October 26, 2017, the Regional Director provided formal notice to the parties that the Board would consolidate the unfair labor practice charges that are the subject of the complaint with the eleven (11) objections and thirty-three (33) challenges.

9. Although the Office of General Counsel has expressed its belief that a hearing on the consolidated R and C cases will last only between two (2) and three (3) days, NHF strongly believes that the hearing will require *at least* six (6) full days, possibly seven (7) or eight (8) days, in light of: (a) the sheer number of challenges that must be adjudicated (33), many of which are unique and must be adjudicated individually; (b) the number of objections to the election and the complexity of those objections; and (c) the number of discrete factual issues presented in the unfair labor practice cases and objections.

10. The Union's counsel has likewise expressed that he believes the hearing will require at least a full week.

11. Accordingly, if the hearing begins on November 15, 2017, it is extremely likely that it will overlap with the Thanksgiving holiday (November 23), and therefore, many of NHF's witnesses will be unavailable.

12. Co-counsel for NHF, Jonathan Landesman and Joshua Brand, are expected to be unavailable in early December due to an injunction matter that is currently being scheduled in New Jersey Superior Court, Camden County.

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Killingsworth – and then-temporary employee, Craig Singleton. In addition, the Union challenged the eligibility of six (6) voters at the election which the Union did not raise at the pre-election conference. Had the Union presented its challenges to those six (6) voters, a hearing would have been held on their eligibility as well as the twenty-three other individuals who voted subject to challenge (due to the 20% threshold), which, in turn, would have dispensed with the need to now have a hearing on the challenges to those ballots.

13. On October 26, 2017, NHF, through its counsel, sought the Union's position with respect to the above request. The Union responded that it has "no position," which NHF interprets to mean the Union does not object to the request. See Exhibit "A."

14. The Office of General Counsel opposes this request on the stated basis that "this is a case where we are seeking permission for 10(j) injunctive relief." See Exhibit "B."

15. NHF notes that, to its knowledge, no petition for injunctive relief has been filed with the U.S. District Court, despite that the election took place more than three (3) months ago and almost all of the conduct that is the subject of the unfair labor practice charges pertains to alleged discrete acts that the Union claims took place before the election.

16. The Office of General Counsel is not available for the hearing from December 18, 2017 to January 10, 2018 due to their vacation schedules. See Exhibit "B."

17. Therefore, in light of the above stated facts and the schedules of counsel, NHF respectfully requests that the hearing be adjourned until the week of January 15, 2018.

Respectfully Submitted,

**COHEN SEGLIAS PALLAS  
GREENHALL & FURMAN, P.C.**

Dated: October 27, 2017

*/s/ Jonathan Landesman, Esquire*  
**MARC FURMAN, ESQUIRE**  
**JONATHAN LANDESMAN, ESQUIRE**  
**JOSHUA A. BRAND, ESQUIRE**  
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*Attorneys for New Hudson Facades, LLC*

**CERTIFICATE OF SERVICE**

I, Jonathan Landesman, Esquire, hereby certify that on this 27<sup>th</sup> day of October, 2017, a true and correct copy of the foregoing Employer New Hudson Facades, LLC's Motion to Extend Hearing Date was filed electronically using the Board's website, <http://www.nlr.gov>, and was served via email upon the following:

Louis Agre, Esquire  
International Union of Operating Engineers Local 542 AFL-CIO  
1375 Virginia Drive, Suite 100  
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*/s/ Jonathan Landesman, Esquire*  
**JONATHAN LANDESMAN, ESQUIRE**

# **EXHIBIT “A”**

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**From:** Louis Agre <agrelou@gmail.com>  
**Sent:** Thursday, October 26, 2017 4:50 PM  
**To:** Joshua A. Brand  
**Subject:** Re: IUOE Local 542 and New Hudson Facades - Scheduling of Trial [CSPGF-Active.FID490549]

No position

On Thu, Oct 26, 2017 at 4:00 PM, Joshua A. Brand <[jbrand@cohenseglias.com](mailto:jbrand@cohenseglias.com)> wrote:

Hi Lou – I work with Marc Furman and Jon Landesman. We are planning to file a motion to adjourn the hearing date in the above matter until January. Would you let me know your position on that request so I can include it in our motion?

Thanks,

Josh Brand

**Joshua A. Brand** ■ Attorney At Law  
**Cohen Seglias Pallas Greenhall & Furman PC**  
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# **EXHIBIT “B”**

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**From:** Alvo-Sadiky, Lea <Lea.Alvo-Sadiky@nlrb.gov>  
**Sent:** Friday, October 27, 2017 10:39 AM  
**To:** Joshua A. Brand; Schumsky, Fallon  
**Cc:** Jonathan Landesman; Marc Furman  
**Subject:** RE: New Hudson Facades, LLC and IUOE 542, Cases 04-CA-201420 et al [CSPGF-Active.FID490549]

Also, I should add that both Fallon Schumsky and I will be out on planned vacations at the end of December and beginning of January. I am out from 12/18/17-1/2/18 and Fallon is out from 12/20/17-1/10/18.

## Lea

Lea Alvo-Sadiky  
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**From:** Alvo-Sadiky, Lea  
**Sent:** Friday, October 27, 2017 10:35 AM  
**To:** 'Joshua A. Brand' <[jbrand@cohenseglias.com](mailto:jbrand@cohenseglias.com)>; Schumsky, Fallon <[Fallon.Schumsky@nlrb.gov](mailto:Fallon.Schumsky@nlrb.gov)>  
**Cc:** Jonathan Landesman <[jlandesman@cohenseglias.com](mailto:jlandesman@cohenseglias.com)>; Marc Furman <[mfurman@cohenseglias.com](mailto:mfurman@cohenseglias.com)>  
**Subject:** RE: New Hudson Facades, LLC and IUOE 542, Cases 04-CA-201420 et al [CSPGF-Active.FID490549]

Counsel for the General Counsel opposes the request because this is a case where we are seeking permission for 10(j) injunctive relief.

## Lea

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**From:** Joshua A. Brand [<mailto:jbrand@cohenseglias.com>]  
**Sent:** Friday, October 27, 2017 9:50 AM  
**To:** Schumsky, Fallon <[Fallon.Schumsky@nlrb.gov](mailto:Fallon.Schumsky@nlrb.gov)>; Alvo-Sadiky, Lea <[Lea.Alvo-Sadiky@nlrb.gov](mailto:Lea.Alvo-Sadiky@nlrb.gov)>  
**Cc:** Jonathan Landesman <[jlandesman@cohenseglias.com](mailto:jlandesman@cohenseglias.com)>; Marc Furman <[mfurman@cohenseglias.com](mailto:mfurman@cohenseglias.com)>  
**Subject:** New Hudson Facades, LLC and IUOE 542, Cases 04-CA-201420 et al [CSPGF-Active.FID490549]

Counsel – We are planning to file a motion to extend the hearing date to the first two weeks in January. Would you let me know if the Board objects to the request? We will include your position in our Motion.

Thanks,  
Josh Brand

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