

ROBERT BONSALE, ESQ. (SBN 119261)
STEPHANIE PLATENKAMP, ESQ. (SBN 298913)
BEESON, TAYER & BODINE, APC
520 Capitol Mall, Suite 300
Sacramento, CA 95814-4714
Telephone: (916) 325-2100
Facsimile: (916) 325-2120
Email: rbonsall@beesontayer.com
splatenkamp@beesontayer.com

Attorneys for Petitioner TEAMSTERS LOCAL 601

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CANNERY, WAREHOUSEMEN, FOOD
PROCESSORS, DRIVERS AND
HELPERS, LOCAL UNION NO. 601,
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS,

Petitioner,

v.

CONSTELLATION BRANDS,
WOODBIDGE WINERY,

Employer.

Case Nos.: 32-CA-148431

**UNION'S SUPPLEMENTAL
STATEMENT OF POSITION ON
REMAND**

On November 21, 2016, this case was remanded by the Second Circuit Court of Appeals ("Court") to the National Labor Relations Board for further proceedings consistent with the Court's opinion. Applying the *Specialty Healthcare* analysis, the Court found that the Regional Director appropriately recited the community of interest standard and declared that employees in the petitioned-for unit to have distinct

characteristics. However, the Court concluded that the Regional Director “did not explain *why* those employees had interests “sufficiently distinct from those of the other employees to warrant the establishment of a separate unit.” (*Constellation Brands v. NLRB*, Case Nos. 15-2442, 15-4106, slip op. 18 (2d Cir., 2016) (emphasis in original)). The Court held that “[t]his misapplication of *Specialty Healthcare* requires us to deny the Board’s petition for enforcement.” (*Id.* at 20.)

Pursuant to the request of the National Labor Relations Board, on March 28, 2017, the Charging Party, Teamsters Local 601 (“Charging Party”) and the Respondent, Constellation Brands (“Respondent”), each submitted briefing regarding whether additional fact-finding by the Regional Director was necessary or whether the Board could resolve the unit determination issue based on the existing record. The Charging Party argued that the Board should decide the unit certification question without further fact-finding, while the Respondent argued that the Board should remand this matter to the Regional Director with instructions to reopen the record.

Subsequent to the remand from the Court and the submission of the Statements of Positions by the Parties, the Board overturned *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934 (2011), with *PCC Structurals, Inc.*, 365 NLRB No. 160 (Dec. 15, 2017). In light of the change in law, the Charging Party hereby submits this supplemental briefing on the issue of whether this matter should be remanded to the Regional Director.

The Regional Director analyzed the record facts garnered through the administrative hearing based upon and pursuant to the standard set forth in *Specialty Healthcare*, rather than the traditional community of interest standard mandated by *PCC*

Structurals. The Charging Party now contends that, in light *PCC Structurals*, remand of the certification question to the Regional Director is the most expeditious and efficient way to resolve the certification question, both factually and legally. Immediate remand to the Regional Director for appropriate fact-finding and analysis applying the applicable community of interest standard set forth in *PCC Structurals* will better effectuate the policies and purposes of the National Labor Relations Act, rather than a decision by the Board based on the existing record garnered under the *Specialty Healthcare* standard.

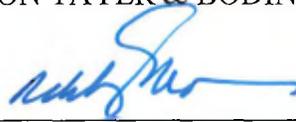
On February 7, 2018, Respondent's counsel was advised of the Charging Party's intent to file this Supplemental Statement of Position. To date, Respondent has raised no objection to this Supplemental Statement of Position seeking the remand to the Regional Director for further fact-finding.

Dated: February 13, 2018

Respectfully Submitted,

BEESON TAYER & BODINE, APC

By:



ROBERT BONSALE, Attorneys for
Charging Party/Petitioner Teamsters
Local 601

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**PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF SACRAMENTO**

I declare that I am employed in the County of Sacramento, State of California. I am over the age of eighteen (18) years and not a party to this action. My business address is 520 Capitol Mall, Suite 300, Sacramento, CA 95814-4714. On February 13, 2018, I served the following document(s):

**UNION'S SUPPLEMENTAL STATEMENT OF POSITION ON REMAND
(32-CA-148431)**

By Mail to the parties in this action, as addressed below, in accordance with Code of Civil Procedure §1013(a), by placing a true and correct copy thereof enclosed in a sealed envelope in a designated area for outgoing mail. At Beeson, Tayer & Bodine, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business in a United States mailbox in the City of Sacramento, California.

By Personal Delivery to the parties in this action, as addressed below, of a true and correct copy thereof in accordance with Code of Civil Procedure §1011.

By Messenger Service to the parties in this action, as addressed below, by placing a true and correct copy thereof in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service in accordance with Code of Civil Procedure § 1011.

By Overnight Delivery to the parties in this action, as addressed below, in accordance with Code of Civil Procedure §1013(c), by placing a true and correct copy thereof enclosed in a sealed envelope, with delivery fees prepaid or provided for, in an area designated for outgoing overnight mail. Mail placed in that designated area is picked up that same day, in the ordinary course of business, for delivery the following day via United Parcel Service Overnight Delivery.

By Facsimile Transmission to the parties in this action, as addressed below, a true and correct copy thereof in accordance with Code of Civil Procedure §1013(e).

By Electronic Service to the parties in this action, at the electronic notification address(es) below. Based on a court order or an agreement, the parties have agreed to accept service by electronic transmission in accordance with Code of Civil Procedure § 1010.6. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Michael Kaufman
Kaufman Dolowich & Voluck, LLP
135 Crossways Park, Suite 201
Woodbury, NY 11797
Fax No.: (516) 681-1101
Email: mkaufman@kdvlaw.com

Valerie Hardy-Mahoney
Regional Director
National Labor Relations Board, NLRB
Region 32
1301 Clay Street, Suite 300N
Oakland, CA 94612-5211
Email:
Valerie.Hardy-Mahoney@nlrb.gov

I declare under penalty of perjury that the foregoing is true and correct. Executed in Sacramento, California, on February 13, 2018.


Johanna Gibson Ford