

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

JUICE PRESS, LLC

And

**LOCAL 1181-1061, AMALGAMATED TRANSIT
UNION, AFL-CIO**

And

THIERNO DIALLO, an Individual

And

CHRISTOPHER CARABALLO, an Individual

And

DANIEL MIRANDA, an Individual

and

DANIEL UVALDO, an Individual

**29-CA-191213
29-CA-191348
29-CA-191557
29-CA-199747
29-CA-199951
29-CA-200565
29-CA-201233
29-CA-201624
29-CA-202842
29-RC-190281**

JOINT MOTION TO REMAND CASES TO THE REGIONAL DIRECTOR

Pursuant to Section 102.24 of the Board's Rules and Regulations, Respondent Juice Press LLC and Counsel for the General Counsel hereby move that the Board remand the above-captioned cases to the Regional Director of Region 29 to effectuate a settlement of the dispute.

I. Statement of the Case

On December 22, 2016, Local 1181-1061, Amalgamated Transit Union, AFL-CIO ("the Union") filed petition 29-RC-190281 in which the Union sought to represent Respondent's

employees working at its Long Island City, Queens facility. The Union, Respondent, and the Regional Director entered into a Stipulated Election Agreement scheduling the election for January 23, 2017.

On January 12, 2017, the Union filed a charge alleging that Respondent fired employee Tequaan Daniels because he supported the Union. On January 17, 2018, the Union filed a new charge alleging that Respondent fired employee Jaby Sadio because he supported the Union. These charges also alleged that Respondent committed numerous violations 8(a)(1) of the Act in the days prior to the election.

On January 23, 2017, Region 29 of the NLRB conducted the election. Thirty-eight (38) employees voted for the Union, seventy-nine (79) voted against the Union, and there were three challenged ballots. The Union filed timely objections to the election which mirrored the pre-election unfair labor practice charges.

On May 30, 2017, June 13, 2017, and June 23, 2017, in case numbers 29-CA-199747, 29-CA-200565, and 29-CA-201233, Thierno Diallo, Christopher Caraballo, and Daniel Miranda, respectively, filed charges alleging that Respondent fired them because they engaged in protected activities. On July 20, 2017, Daniel Uvaldo filed a charge alleging that Respondent disciplined him because of his union support and protected concerted activities. During this time, the Union filed several amended charges and several new charges alleging that Respondent committed numerous violations of Section 8(a)(1) of the Act prior to and after the January 23 election.

On August 21, 2017, the Regional Director of Region 29 issued a Consolidated Complaint and Notice of Hearing on the various unfair labor practices charges. On September 1, 2017, the Regional Director issued a Decision on Objections, Order Consolidating Cases and Notice of Hearing, in which she consolidated the representation case and the objections to that case with the

unfair labor practice charges. A hearing was held before Administrative Law Judge Benjamin Green on various dates in October 2017.

On August 22, 2018, Judge Green issued a Decision and Recommended Order in the above matters, in which he found that Respondent violated the Act in various ways, including by terminating its employees Daniels, Sadio, Diallo, Caraballo, and Miranda. At the Union's urging, Judge Green found that Respondent's unfair labor practices made a fair rerun election unlikely. He therefore recommended an order requiring Respondent to bargain with the Union under *NLRB v. Gissel*, 395 U.S. 575 (1969). Judge Green noted that, should the Board or a Circuit Court decline to issue a bargaining order, he would "certainly recommend a rerun election." ALJD at 73.

On October 15, 2018, these cases entered the Board's Alternative Dispute Resolution program. Respondent, the Union, and Counsel for the General Counsel participated in an in-person mediation session on November 19, 2018, led by Associate Executive Secretary Farah Qureshi. On December 21, 2018, Respondent and Counsel for the General Counsel entered into the informal settlement agreement attached to this Motion (herein, "the Agreement"). The Union did not join the Agreement. The individual Charging Parties have orally agreed to the terms of the Agreement that provide for their backpay and reinstatement or waiver of reinstatement. In furtherance of the Agreement, Counsel for the General Counsel will not seek to enforce the Bargaining Order recommended by Judge Green in his August 22, 2018 Decision and Recommended Order.

II. Procedure Upon Remand

If the Board remands these cases to the Regional Director, the Regional Director will issue an Order severing the unfair labor practice cases from the representation case No. 29-RC-190281. The Regional Director will immediately approve the attached Informal Settlement Agreement and begin enforcing compliance with its terms. The Regional Director will then issue a Notice to Show Cause why a rerun election should not be conducted.

Respondent hereby agrees that a rerun election is appropriate upon remand by the Board. Respondent agrees to provide its position as to date, time, and place of the rerun election to the Region upon request.

III. Motion to Remand

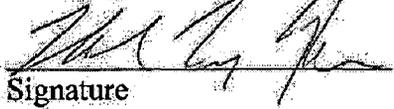
Respondent and Counsel for the General Counsel respectfully move that, under these circumstances, it will effectuate the purposes of the Act to Remand these cases to the Regional Director for further action consistent with the Procedure upon Remand and the attached Agreement, and that no further action be taken by the Board, the Region, Respondent, or the Union to otherwise effectuate Judge Green's Findings and Recommended Order.

Remanding the matter to the Regional Director is reasonable as the Agreement constitutes a complete make whole remedy, including 100% back pay for Charging Parties Daniels, Sadio, Diallo, Caraballo, and Miranda. Furthermore, the Regional Director has concluded that the Settlement Agreement makes a free and fair rerun election possible as it not only remedies all of the alleged unfair labor practices, but also provides the Union with the bargaining unit's contact information at the start of the Notice posting period and permits the Union to handbill at Notice Reading(s). The Regional Director has also concluded that there are various challenges to securing a bargaining order in this case, including the significant passage of time since Respondent

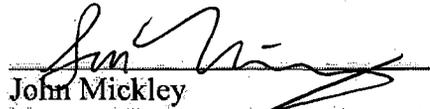
committed the unfair labor practices, the turnover of employees in the bargaining unit, and the departure of several of Respondent's managers who allegedly committed the unfair labor practices.

Therefore, Respondent and Counsel for the General Counsel respectfully move that the Board remand this matter to the Regional Director of Region 29 for further processing in accordance with the attached Agreement.

For Respondent Juice Press LLC:


Signature

Counsel for the General Counsel:


John Mickley
National Labor Relations Board
Region 29
(718) 765-6211
John.mickley@nlrb.gov

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
INFORMAL SETTLEMENT AGREEMENT

IN THE MATTER OF

JUICE PRESS, LLC

and

LOCAL 1181-1061, AMALGAMATED
TRANSIT UNION, AFL-CIO

And

THIERNO DIALLO, an Individual

And

CHRISTOPHER CARABALLO, an
Individual

And

DANIEL MIRANDA, an Individual

and

DANIEL UVALDO, an Individual

29-CA-191213
29-CA-191348
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29-CA-199747
29-CA-199951
29-CA-200565
29-CA-201233
29-CA-201624
29-CA-202842

Subject to the approval of the Regional Director for the National Labor Relations Board, Respondent Juice Press LLC and the Charging Parties **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS:**

POSTING OF NOTICE TO EMPLOYEES— After the Regional Director has approved this Agreement, the Regional Office will send copies of the approved Notice to Respondent in English, Spanish and in additional languages if the Regional Director decides that it is appropriate to do so. A responsible official of Respondent will then sign and date those Notices and immediately post them by the time clock at its 31-00 47th Avenue, Long Island City, New York facility and at any other locations where Respondent typically posts Notices to its employees. Respondent will keep all Notices posted for 60 consecutive days after the initial posting.

READING OF NOTICE TO EMPLOYEES— Respondent will hold a mandatory meeting or meetings, scheduled during work hours and to ensure the widest possible attendance of employees on each shift, at which a representative or representatives of the National Labor Relations Board will read the Notice in English, Spanish, and other languages if the Regional Director finds necessary. The reading(s) will take place at times when and in locations where Respondent would customarily hold meetings of this size and must be completed prior to the completion of the 60-day Notice posting period. The date(s), time(s), and location(s) of the reading(s) must be approved by the Regional Director. If the reading(s) occur outside of Respondent's facility, Respondent will pay any costs necessary for the location. Respondent will inform employees of the dates, times and places of the

meetings in the same manner in which Respondent normally announces meetings to its employees and must be approved by the Regional Director.

The meeting(s) will occur in the presence of a representative of Local 1181-1061, Amalgamated Transit Union, AFL-CIO ("the Union"). The Union may distribute handbills to the employees in attendance for the reading(s).

COMPLIANCE WITH NOTICE — Respondent will comply with all the terms and provisions of said Notice.

BACKPAY — Within 14 days after Respondent has been informed of the Regional Director's approval of this Agreement, Respondent will make whole its employees named below by payment to each of them in the amount opposite each name. Respondent is responsible for paying its share of FICA and will make appropriate withholdings for the named employee. Respondent will remit a separate check for the interest, excess tax and expenses portion of the backpay due (if applicable), from which no withholdings shall be made. Respondent will compensate the employees named below for the adverse tax consequences, if any, of receiving one or more lump-sum backpay awards covering periods longer than one (1) year. Respondent will also file with the Regional Director a completed Report of Backpay Paid under the National Labor Relations Act, which the Regional Director will file with the Social Security Administration for the purpose of allocating the payment to the appropriate calendar year.

Name	Backpay	Interest	Search for Work Expenses	Excess tax liability
Tequaan Daniels	\$14,965	\$985	\$429	\$742
Jaby Sadio	\$16,860	\$322		\$100
Thierno Diallo	\$2,914	\$192	\$131	\$124
Christopher Caraballo	\$3,315	\$184	\$156	\$135
Daniel Miranda	\$20,104	\$865	\$462	\$658

REINSTATEMENT FOR JABY SADIO — No later than 7 days after Respondent has been informed of the Regional Director's approval of this Agreement, Respondent will offer Jaby Sadio unconditional reinstatement to his former position, or if his former position does not exist, Respondent will offer Sadio reinstatement to a substantially similar position, without prejudice to his seniority or any other rights or privileges he previously enjoyed before Respondent we fired him. Respondent will make this offer of reinstatement to Sadio in writing.

REINSTATEMENT FOR THIerno DIALLO — No later than 7 days after Respondent has been informed of the Regional Director's approval of this Agreement, Respondent will offer to reinstate Thierno Diallo to his former position, without prejudice to his seniority or any other rights or privileges he previously enjoyed before Respondent fired him, conditioned upon Diallo providing Respondent, within a four year period from the date of the offer of reinstatement, a completed USCIS Form I-9 and valid corresponding I-9 documents. If Diallo's former position does not exist at the time Diallo presents the required documents, Respondent will offer Diallo reinstatement to a substantially similar position, without prejudice to his seniority or any other rights or privileges he previously enjoyed before Respondent fired him.

EMPLOYEE LISTS TO THE UNION—No later than 7 days after Respondent has been informed of the Regional Director's approval of this Agreement, and every thirty days thereafter until the Regional Director determines it is no longer necessary or until the due date of the voter list for the re-run election in 29-RC-190281

may be entered enforcing the Board order ex parte, after service or attempted service upon Respondent at the last address provided to the General Counsel.

NOTIFICATION OF COMPLIANCE — Each party to this Agreement will notify the Regional Director in writing what steps Respondent has taken to comply with the Agreement. This notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. No further action shall be taken in the above captioned cases provided that Respondent complies with the terms and conditions of this Settlement Agreement and Notice.

Respondent Juice Press, LLC	Charging Party Local 1181-1061, Amalgamated Transit Union, AFL-CIO
By: Name and Title Date <i>[Signature]</i> 12/21/18	By: Name and Title Date
Print Name and Title below <i>Howard Z. Robbins Attorney for Respondent</i>	Print Name and Title below
Charging Party THIERNO DIALLO, an Individual	Charging Party CHRISTOPHER CARABALLO, an Individual
By: Name and Title Date	By: Name and Title Date
Print Name and Title below	Print Name and Title below

Charging Party DANIEL MIRANDA, an Individual	Charging Party DANIEL UVALDO, an Individual
By: Name and Title Date	By: Name and Title Date
Print Name and Title below	Print Name and Title below

Recommended By:

Date

Approved By:

Date


JOHN M. CHIEN
Board Agent

12/21/18

KATHY DREW-KING
Regional Director, Region 29

(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 fire you because you exercise your right to bring work-related issues and complaints to us on behalf of yourself and other employees.

WE WILL NOT fire you because of your membership in or support for Local 1181-1061, Amalgamated Transit Union, AFL-CIO (“Union”), or for any other union.

WE WILL NOT send you home early from work, causing you to lose pay, because of your membership in or support for the Union, or any other union.

WE WILL NOT discipline you in any way, including by issuing warnings to you, because you exercise your right to bring work related issues and complaints to us on behalf of yourself and other employees.

WE WILL NOT discipline you in any way, including by issuing warnings to you, because of your membership in or support for the Union, or for any other union.

YOU HAVE THE RIGHT to talk to Union representatives during non-work time, including during your breaks and before and after your work shifts, and **WE WILL NOT** stop you from talking to Union representatives during those times.

YOU MAY speak to Union representatives during non-work time anywhere at the Falchi Building, other than Juice Press work areas, including in the eating area on the first floor, in the hallway, or outside of the Building.

YOU HAVE THE RIGHT to freely bring work-related complaints and issues, including wage and supervision issues, to us on behalf of yourself and other employees and **WE WILL NOT** do anything to interfere with your exercise of that right.

WE WILL NOT ask you about your support for the Union, or for any other union.

WE WILL NOT ask you about your co-workers’ support for the Union, or for any other union.

WE WILL NOT give you wage increases or promise you better work in order to discourage you from supporting the Union, or any other union.

WE WILL NOT ask you about your work-related complaints and grievances and tell you that we will fix them in order to discourage you from supporting the Union, or any other union.

WE WILL NOT watch you in order to find out about your activities in support of the Union, or any other union.

WE WILL NOT threaten to take away your work benefits because you support the Union, or any other union.

WE WILL NOT tell you that you cannot talk to the Union's representatives during non-work time.

WE WILL NOT tell you that you cannot talk to your coworkers about the Union, or any other union, or about joining together to improve your terms and conditions of employment.

WE WILL NOT threaten to take any actions against you if you choose to be represented by or support the Union, or any other union.

WE WILL NOT assign you more difficult work because of your membership in or support for the Union, or any other union.

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

WE WILL pay Tequaan Daniels, Jaby Sadio, Thierno Diallo, Christopher Caraballo and Daniel Miranda for the wages and other benefits they lost because we fired them.

WE WILL pay Tequaan Daniels, Jaby Sadio, Thierno Diallo, Christopher Caraballo, and Daniel Miranda the adverse tax consequences they will suffer, if any, due to these payments.

WE WILL file with the Regional Director a completed Report of Backpay Paid under the National Labor Relations Act, which the Regional Director will file with the Social Security Administration for the purpose of allocation of the payments to the appropriate calendar years.

Employees Jaby Sadio and Thierno Diallo **HAVE THE RIGHT** to immediate reinstatement to their former positions.

WE WILL offer Jaby Sadio and Thierno Diallo reinstatement to their former positions.

Employees Tequaan Daniels, Christopher Caraballo and Daniel Miranda **HAVE THE RIGHT** to immediate reinstatement to their former positions.

WE HAVE been informed that were we to offer reinstatement to Tequaan Daniels, Christopher Caraballo and Daniel Miranda, each would decline that offer.

WE WILL remove from our files all references to the discharges of Tequaan Daniels, Jaby Sadio, Thierno Diallo, Christopher Caraballo and Daniel Miranda and **WE WILL** notify them in writing that this has been done and that we will not use their discharges against them in any way.

WE WILL, remove from our files all references to all discipline, including warnings, that we issued to Tequaan Daniels and Daniel Uvaldo and **WE WILL** notify them in writing that this has been done and that we will not use the warnings against them in any way.

WE WILL, remove from our files all references to our having sent Tequaan Daniels home early and **WE WILL** notify him in writing that this has been done and that we will not use our having sent him home early against him in any way.

WE HAVE AGREED that the January 23, 2017 election conducted by the National Labor Relations Board will be set aside and the results of that election will not count because our conduct before the election interfered with your right to select to a representative of your own choosing.

Unless good cause is shown otherwise, **THE NATIONAL LABOR RELATIONS BOARD** will conduct a new election at which you will be able to vote on whether you want the Union to represent you. If the National Labor Relations Board determines that a new election should be held, you will be notified of the date, time, and place of that election.

Juice Press, LLC

(Employer)

Dated: 12/21/18 By: [Signature] Attorney for Respondent
(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.

Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Telephone: (718)330-7713
Hours of Operation: 9:00 a.m. to 5:30 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.