

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C.**

**ATRIUM HOSPITALITY LP d/b/a THE WESTIN
SOUTHFIELD-DETROIT**

Respondent

and

Case 07-CA-239593

CATHERINE WALKER, an Individual

Charging Party

**COUNSEL FOR THE GENERAL COUNSEL'S
MOTIONS TO TRANSFER CASE TO AND CONTINUE PROCEEDINGS BEFORE
THE BOARD AND FOR DEFAULT JUDGMENT**

Pursuant to Sections 102.24 and 102.50 of the Board's Rules and Regulations, Series 8, as amended (Board's Rules and Regulations), Counsel for the General Counsel Rana Roumayah files these Motions to Transfer Cases to and Continue Proceedings Before the Board and Motion for Default Judgment, and in support of the Motions, states as follows:

1. (a) The charge in this proceeding was filed by the Charging Party on April 12, 2019, and a copy was served on Respondent by U.S. mail on April 16, 2019. A copy of the charge and affidavit of service of the charge are attached as Exhibit A.

(b) The amended charge in this proceeding was filed by the Charging Party on May 1, 2019, and a copy was served on Respondent by U.S. mail on May 1, 2019. A copy of the amended charge and affidavit of service of the amended charge are attached as Exhibit B.

2. On October 3, 2019, the Regional Director for Region Seven issued and served upon Respondent by certified mail at Respondent's address,¹ a Complaint and Notice of Hearing. Respondent was notified that it must file an answer to the Complaint on or before October 17, 2019. A copy of the Complaint and Notice of Hearing, including the affidavit of service, is attached as Exhibit C.

3. Respondent failed to file an answer on or before October 17, 2019.

4. On October 23, 2019, the Regional Director for Region Seven issued and served upon Respondent and its Counsel a letter by regular and certified mail advising Respondent that it had not filed an answer to the Complaint. A copy of the Complaint was attached to this letter. Respondent was further advised that unless it filed an appropriate answer by October 30, 2019, a Motion for Default Judgment would be filed with the Board. A copy of the letter and the United States Postal Service Certified Mail Tracking Receipt are attached as Exhibits D and E, respectively.

5. To date, no answer to the Complaint has been filed by Respondent, nor has Respondent filed any document purporting to be an appropriate answer or a request for an extension of time to file an answer.

6. In the Complaint and Notice of Hearing served upon Respondent, as noted above, Respondent was advised as follows:

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, they must file an answer to the complaint. The answer must be **received by this office on or before October 17, 2019, or postmarked on or before October 16, 2019.** Respondent should file an original

¹ The Region did not receive a certified mail return receipt; however, the Region also served Respondent's counsel by regular mail on the same date. Moreover, as noted above, the Region served on Respondent a letter by regular and certified mail advising Respondent that it had not filed an answer to the Complaint, and a copy of the Complaint was attached to that letter. See Exhibit E for the certified mail receipt. Further, the failure of the USPS to return documents served by regular mail indicates actual receipt of those documents by the Respondent. See *Lite Flight, Inc.*, 285 NLRB 649, 650 (1987) enfd. sub nom *NLRB v. Sherman*, 843 F.2d 1392 (6th Cir 1988).

and four copies of the answer with this office and serve a copy of the answer on each of the other parties. . . . 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.

7. Section 102.20 of the Board's Rules and Regulations, provides, in pertinent part: "All allegations in the complaint, if no answer is filed . . . will be deemed to be admitted to be true and will be so found by the Board, unless good cause to the contrary is shown." Because no answer has been filed to the Complaint, all of the allegations of the Complaint should be deemed to be admitted and found to be true. *Local 307, National Postal Mailhandlers Union*, 367 NLRB No. 144 (June 4, 2019); *SDS Distributing Corp.*, 245 NLRB 322 (1979); *Neal B. Scott Commodities, Inc.*, 238 NLRB 32 (1978). Based on the foregoing, it is clear that a merits hearing in this matter is not necessary and it is appropriate for the Board to issue a Decision and Order without further proceedings.

WHEREFORE, Counsel for the General Counsel respectfully moves:

1. That these Cases and these Motions be transferred to the Board and ruled on immediately so that in the event they are granted, the necessity and expense of a hearing involving Respondent will be obviated.
2. That all allegations of the Complaint be deemed to be admitted to be true, and so found by the Board, and that Respondent be found by the Board to have violated Section 8(a)(1) and (3) of the National Labor Relations Act, as amended, without taking evidence in support of the Complaint.
3. That the Board issue a Decision containing findings of fact, conclusions of law, and an Order, all consistent with the allegations in the Complaint against Respondent and the prayer for relief set forth therein.

Respectfully submitted this 6th day of November 2019,



Rana Roumayah
Counsel for the General Counsel
National Labor Relations Board
Region Seven
477 Michigan Avenue, Room 05-200
Detroit, Michigan 48226
Telephone: (313) 335-8064
Fax: (313) 226-2090
E-mail: rana.roumayah@nlrb.gov

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C.**

**ATRIUM HOSPITALITY LP d/b/a THE WESTIN
SOUTHFIELD-DETROIT**

Respondent

and

Case 07-CA-239593

CATHERINE WALKER, an Individual

Charging Party

CERTIFICATE OF SERVICE

I certify that I have caused a true and correct copy of the foregoing **COUNSEL FOR THE GENERAL COUNSEL'S MOTIONS TO TRANSFER CASE TO AND CONTINUE PROCEEDINGS BEFORE THE BOARD AND FOR DEFAULT JUDGMENT** to be served upon the following via the NLRB's e-filing system on November 6, 2019:

Roxanne L. Rothschild, Executive Secretary
Office of the Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

I further certify that I have caused a true and correct copy of the above-referenced documents to be served on the following by U.S. Mail on November 6, 2019:

Jerry Tononi, General Manager
Atrium Hospitality LP d/b/a The Westin Hotel
Southfield-Detroit
1500 Town Center
Southfield, MI 48075

Mark DeLoach, Assistant General Counsel
Atrium Hospitality LP d/b/a The Westin
Southfield-Detroit
Deerfield Point II
12735 Morris Road Ext, Suite 400
Alpharetta, GA 30004

Catherine Walker
18415 Lenore
Detroit, MI 48219

Dorothy L. Hawkins, Organizer
Local 24, UNITE-HERE!, AFL-CIO
300 River Place Drive, Suite 2700
Detroit, MI 48207

Marshall J. Widick, Esq.
Nickelhoff & Widick PLLC
333 West Fort Street, Suite 1400
Detroit, MI 48226



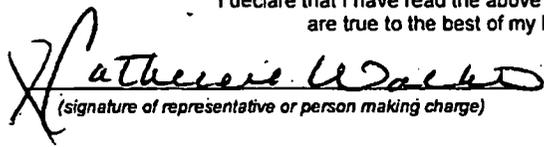
Rana Roumayah
Counsel for the General Counsel
National Labor Relations Board
Region Seven
477 Michigan Avenue, Room 05-200
Detroit, Michigan 48226
Telephone: (313) 335-8064
Fax: (313) 226-2090
E-mail: rana.roumayah@nlrb.gov

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 07-CA-239593	Date Filed 4-12-2019

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 The Westin Southfield - Detroit	b. Tel. No. (248) 827-4000
	c. Cell No.
d. Address (Street, city, state, and ZIP code) 1500 Towne Center Southfield, MI 48075	f. Fax No.
	e. Employer Representative Jerry Tononi,, General Manager
i. Type of Establishment (factory, mine, wholesaler, etc.) Lodging and hospitality	g. e-mail
	h. Number of workers employed About 200
j. Identify principal product or service Hotel	
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 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 April 4, 2019, the Employer suspended me for two and a half days because I requested to file a grievance.	
On April 8, 2019, the Employer issued a final written warning to me because I requested to file a grievance.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Catherine Walker	
4a. Address (Street and number, city, state, and ZIP code) 18415 Lenore Detroit, MI 48219	4b. Tel. No.
	4c. Cell No. (734) 578-2205
	4d. Fax No.
	4e. e-mail catherinewalker8865@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.	
 <small>(signature of representative or person making charge)</small>	Tel. No.
	Office, if any, Cell No.
An Individual	Fax No.
<small>(Print/type name and title or office, if any)</small>	e-mail
Address <u>Same as above</u>	Same as above
Date <u>April 12, 2019</u>	

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 of the information are 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 information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

**GENERAL COUNSEL'S
EXHIBIT
A**

RECEIVED
MLK8 REGION 7
2019 APR 12 AM 9:24
DETROIT, MI



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 7

Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 300
Detroit, MI 48226

Agency Website: www.nlr.gov
Telephone: (313)226-3200
Fax: (313)226-2090



Download
NLRB
Mobile App

April 16, 2019

Mr. Jerry Tononi, General Manager
The Westin Hotel Southfield-Detroit
1500 Town Center
Southfield, MI 48075

Re: The Westin Southfield-Detroit
Case 07-CA-239593

Dear Mr. Tononi:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Renee D. McKinney whose telephone number is (313)335-8033. If this Board agent is not available, you may contact Deputy Regional Attorney Erikson C.N. Karmol whose telephone number is (313)335-8025.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

April 16, 2019

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Terry Morgan". The signature is written in a cursive style with a large, sweeping initial "T".

Terry Morgan
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

Renee D. McKinney **QUESTIONNAIRE ON COMMERCE INFORMATION**

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

The Westin Southfield-Detroit

CASE NUMBER

07-CA-239593

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

 CORPORATION LLC LLP PARTNERSHIP SOLE PROPRIETORSHIP OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7. A. PRINCIPAL LOCATION:

B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): CALENDAR YR 12 MONTHS or FISCAL YR (FY dates)

YES NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$

H. Gross Revenues from all sales or performance of services (Check the largest amount):

 \$100,000 \$250,000 \$500,000 \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

 YES NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

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 representation and/or unfair labor practice proceedings 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 may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

THE WESTIN SOUTHFIELD-DETROIT

Charged Party

and

CATHERINE WALKER

Charging Party

Case 07-CA-239593

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on April 16, 2019, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Mr. Jerry Tononi, General Manager
The Westin Hotel Southfield-Detroit
1500 Town Center
Southfield, MI 48075

Ms. Catherine Walker
18415 Lenore
Detroit, MI 48219

April 16, 2019

Date

Carol A. Koper, Designated Agent of
NLRB

Name:
/s/ Carol A. Koper

Signature

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

INSTRUCTIONS:

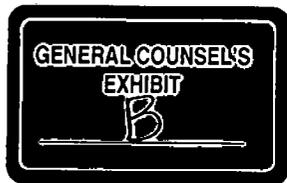
DO NOT WRITE IN THIS SPACE	
Case	Date Filed
07-CA-239593	5-1-2019

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 Atrium Hospitality LP d/b/a The Westin Hotel Southfield-Detroit	b. Tel. No. (248)827-4000
	c. Cell No.
d. Address (street, city, state ZIP code) 1500 Town Center, Southfield, MI 48075	e. Employer Representative Jerry Tononi General Manager
	f. Fax No.
	g. e-Mail
	h. Dispute Location (City and State) Southfield, MI
i. Type of Establishment (factory, nursing home, hotel) Hotel	j. Principal Product or Service Lodging and Hospitality
	k. Number of workers at dispute location Approximately 200
l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (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)	
<p>Since about April 4, 2019, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights by Section 7 of the Act by denying the request of its employee Catherine Walker to be represented by the Union during an investigative interview.</p> <p>Since about April 4, 2019, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by disciplining employees because of their protected concerted or union activities.</p>	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Catherine Walker	
4a. Address (street and number, city, state, and ZIP code) 18415 Lenore, Detroit, MI 48219	4b. Tel. No.
	4c. Cell No. (734) 578-2205
	4d. Fax No.
	4e. e-Mail catherinewalker8865@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.
By: <u>Catherine Walker</u> (signature of representative or person making charge)	Office, if any, Cell No. (734) 578-2205
Catherine Walker Print Name and Title	Fax No.
Address: 18415 Lenore, Detroit, MI 48219	e-Mail catherinewalker8865@gmail.com
Date: <u>5-1-2019</u>	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

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DETROIT, MI
MAY 1 - 1 AM 11:02
MIL 8 510N 7



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 7
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 300
Detroit, MI 48226

Agency Website: www.nlr.gov
Telephone: (313)226-3200
Fax: (313)226-2090



Download
NLRB
Mobile App

May 1, 2019

Mr. Jerry Tononi, General Manager
Atrium Hospitality LP d/b/a The Westin Hotel Southfield-Detroit
1500 Town Center
Southfield, MI 48075

Re: Atrium Hospitality LP d/b/a
The Westin Southfield-Detroit
Case 07-CA-239593

Dear Mr. Tononi:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney Renee D. McKinney whose telephone number is (313)335-8033. If the agent is not available, you may contact Deputy Regional Attorney Erikson C.N. Karmol whose telephone number is (313)335-8025.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence

May 1, 2019

submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Very truly yours,

A handwritten signature in black ink that reads "Terry Morgan". The signature is written in a cursive, flowing style.

Terry Morgan
Regional Director

Enclosure: Copy of first amended charge

cc: Mr. Mark DeLoach
Atrium Hospitality LP d/b/a The Westin
Southfield- Detroit
1500 Town Center Drive
Southfield, MI 48075

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**ATRIUM HOSPITALITY LP D/B/A THE
WESTIN HOTEL SOUTHFIELD-DETROIT**

Charged Party

and

CATHERINE WALKER

Charging Party

Case 07-CA-239593

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 May 1, 2019, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Mr. Jerry Tononi, General Manager
Atrium Hospitality LP d/b/a The Westin
Hotel Southfield-Detroit
1500 Town Center
Southfield, MI 48075

Mr. Mark DeLoach
Atrium Hospitality LP d/b/a The Westin
Southfield- Detroit
1500 Town Center Drive
Southfield, MI 48075

Ms. Catherine Walker
18415 Lenore
Detroit, MI 48219

May 1, 2019

Date

Carol A. Koper, Designated Agent of
NLRB

Name
/s/ Carol A. Koper

Signature

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

**ATRIUM HOSPITALITY LP d/b/a THE WESTIN
SOUTHFIELD-DETROIT**

Respondent

and

Case 07-CA-239593

CATHERINE WALKER, an Individual

Charging Party

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Charging Party. 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 Respondent has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Charging Party on April 12, 2019, and a copy was served on Respondent by U.S. mail on April 16, 2019.

(b) The amended charge in this proceeding was filed by the Charging Party on May 1, 2019, and a copy was served on Respondent by U.S. mail on May 1, 2019.

2. (a) At all material times, Respondent has been a limited partnership, with an office and place of business in Southfield, Michigan (Southfield facility), and has been engaged in the business of operating a hotel and providing food and lodgings.

(b) In conducting its operations during the 12-month period ending December 31, 2018, Respondent derived gross revenues in excess of \$500,000.

(c) During the period of time described above in paragraph 2(b) Respondent, in conducting its operations described above in paragraph 2(a), purchased and received at its Southfield, Michigan facility goods valued in excess of \$5,000 directly from points outside the State of Michigan.

3. At all material times, Local 24, UNITE HERE!, AFL-CIO (the Union) has been a labor organization within the meaning of Section 2(5) of the Act.

GENERAL COUNSEL'S
EXHIBIT

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4. 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:

Ruth Callahan – Outlets Supervisor
Sandra Delgadillo – Assistant General Manager
Julie Jankowski – Human Resources Manager
Alicia Jones – Outlets Supervisor
Earlene Smith – Accounting Manager
Michelle Strain – Outlets Manager
Jerry Tonomi – General Manager

5. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Lead Cook, Line Cook, Prep Cook, Pantry Attendant, Pantry Attendant Lead, Cafeteria Attendant, Steward, Stewarding Lead, Receiving Clerk, Room Attendant, Public Area Attendant, Laundry Attendant, Laundry Lead, House Attendant, Housekeeping Lead, Bartender, Beverage Server, Food Server, Greeter, Bus Attendant, Outlet Lead, Room Service Server, Room Service Expediter, Captain, Server, Bartender, House Attendant, House Attendant Lead, Banquet Runner, Concierge, Concierge Lobby, Front Desk Agent, Night Front Desk Agent, Front Desk Lead, Operator, Night Operator, Luggage Attendant, Night Luggage Attendant, Door Attendant, Bell Captain, and Lead employed by Respondent at its facility located at 1500 Town Center Drive, Southfield, Michigan 48075, but excluding all managers, confidential employees, security personnel, and guards and supervisors under the Act.

(b) At all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective for the period of December 5, 2016 through February 16, 2021.

(c) At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

6. (a) About April 4, 2019, Respondent, by Assistant General Manager Sandra Delgadillo, in Delgadillo's office at Respondent's Southfield facility, denied the request of its employee Catherine Walker to be represented by the Union during an interview.

(b) Respondent's employee Catherine Walker had reasonable cause to believe that the interview described above in paragraph 6(a) would result in disciplinary action being taken against her.

(c) About April 4, 2019, Respondent suspended its employee Catherine Walker because of the employee's request for union representation as described above in paragraphs 6(a) and (b).

7. About April 9, 2019, Respondent, by Human Resources Manager Julie Jankowski, at Respondent's Southfield facility, denied backpay to the Charging Party because she requested a Union representative on April 4, 2019.

8. Respondent engaged in the conduct described above in paragraph 6(c) because the named employee of Respondent engaged in Union activities, and to discourage employees from engaging in these activities.

9. By the conduct described above in paragraphs 6 and 7, 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.

10. By the conduct described above in paragraph 6(c), Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

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

WHEREFORE, it is prayed that Respondent be ordered to:

1. Cease and desist from:

(a) engaging in the conduct described in paragraphs 6 and 7, or in any like or related manner 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.

(b) engaging in the conduct described above in paragraphs 6(c) and 8, or in any like or related manner discriminating in regard to the hire or tenure or terms or conditions of employment of its employees so as to discourage their support for, membership in, assistance to, or activities on behalf of the Charging Party, or any other labor organization.

2. Take the following affirmative action:

(a) Remove from its files and records all references to Catherine Walker's suspension, notify her in writing that this has been done and that the discipline will not be used

against her in the future in any way, and make her whole for any loss of earnings or benefits she may have suffered, with interest calculated in accordance with Board policy.

(b) Grant the requests of employees for union representation during investigatory interviews that they reasonably believe may result in discipline.

(c) Post appropriate notices at Respondent's Southfield facility.

The General Counsel further prays for such other relief as may be just and proper to remedy the unfair labor practices herein alleged.

ANSWER REQUIREMENT

Respondent is 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 October 17, 2019, or postmarked on or before October 16, 2019.** 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 **January 22, 2020, 10:00 am**, at the **Patrick V. McNamara Federal Building, 477 Michigan Avenue, 5th Floor, Room 05-200, Detroit, Michigan**, 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: October 3, 2019



Terry Morgan
Regional Director
National Labor Relations Board - Region 7
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 05-200
Detroit, MI 48226

Attachments

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 7**

**ATRIUM HOSPITALITY LP d/b/a THE WESTIN
SOUTHFIELD-DETROIT**

and

Case 07-CA-239593

CATHERINE WALKER, an Individual

**AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338
and NLRB-4668 attached)**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on October 2, 2019, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

Jerry Tononi, General Manager
Atrium Hospitality LP d/b/a The Westin Hotel
Southfield-Detroit
1500 Town Center
Southfield, MI 48075

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED
7003 3110 0004 3671 9425**

Mark DeLoach, Assistant General Counsel
Atrium Hospitality LP d/b/a The Westin
Southfield-Detroit
Deerfield Point II
12735 Morris Road Ext, Suite 400
Alpharetta, GA 30004

FIRST CLASS MAIL

Catherine Walker
18415 Lenore
Detroit, MI 48219

**CERTIFIED MAIL
7003 3110 0004 3671 9432**

Dorothy L. Hawkins, Organizer
Local 24, UNITE-HERE!, AFL-CIO
300 River Place Drive, Suite 2700
Detroit, MI 48207

FIRST CLASS MAIL

Marshall J. Widick, Esq.
Nickelhoff & Widick PLLC
333 West Fort Street, Suite 1400
Detroit, MI 48226

FIRST CLASS MAIL

October 3, 2019

Date

J. Moore, Designated Agent of NLRB

Name

/s/ J. Moore

Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 07-CA-239593

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.

Jerry Tononi, General Manager
Atrium Hospitality LP d/b/a The Westin
Hotel Southfield-Detroit
1500 Town Center
Southfield, MI 48075

Dorothy L. Hawkins, Organizer
Local 24, UNITE-HERE!, AFL-CIO
300 River Place Drive, Suite 2700
Detroit, MI 48207

Mark DeLoach, Assistant General Counsel
Atrium Hospitality LP d/b/a The Westin
Southfield-Detroit
Deerfield Point II
12735 Morris Road Ext, Suite 400
Alpharetta, GA 30004

Marshall J. Widick, Esq.
Nickelhoff & Widick PLLC
333 West Fort Street, Suite 1400
Detroit, MI 48226

Catherine Walker
18415 Lenore
Detroit, MI 48219



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 7

Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 05-200
Detroit, MI 48226

Agency Website: www.nlr.gov
Telephone: (313)226-3200
Fax: (313)226-2090

October 23, 2019

Certified and Regular Mail

Jerry Tononi, General Manager
Atrium Hospitality LP d/b/a The Westin
Southfield-Detroit
1500 Town Center
Southfield, MI 48075

Mark DeLoach, Assistant General Counsel
Atrium Hospitality LP d/b/a The Westin
Southfield-Detroit
Deerfield Point II
12735 Morris Road Ext., Suite 400
Alpharetta, GA 30004

Re: Atrium Hospitality LP d/b/a The Westin
Southfield-Detroit
Case 07-CA-239593

Dear Mr. Tononi and Mr. DeLoach::

According to our records, the Respondent has not filed an answer to the Complaint and Notice of Hearing (hereinafter Complaint) which issued in this case on October 3, 2019, a copy of which is attached hereto. As you were advised at the time Complaint issued, Respondent was required to file an original and four copies of an Answer to the Complaint on or before October 17, 2019. This is pursuant to the Board's Rules and Regulations, Sections 102.20 and 102.21.

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

GENERAL COUNSEL'S
EXHIBIT

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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.

Any answer to the Complaint filed now would be untimely and should be accompanied by a statement indicating the reason for its late submission.

Please be advised that unless you comply with the Board's Rules and Regulations with respect to the filing of an appropriate Answer by **Wednesday, October 30, 2019**, we will have no alternative but to file a Motion for Default Judgment with the Board and, if granted, all the allegations in the Complaint would be deemed admitted as true.

In the event you are having problems meeting the time requirements as to filing an Answer, please be advised that you may receive an extension of time, pursuant to Section 102.22 of the Board's Rules and Regulations, by submitting proper cause therefore to the Regional Director. A letter to the Regional Director with copies to the other parties setting forth the reason for the request will suffice. Your request will be ruled upon promptly.

If you have any questions or requests concerning this letter or the Board's Rules, please call the agent to whom the case is assigned or in his/her absence, the immediate supervisor or me.

Thank you for your kind cooperation.

Very truly yours,

A handwritten signature in black ink that reads "Terry Morgan". The signature is written in a cursive, flowing style.

Terry Morgan
Regional Director

Attachment:
Copy of Complaint and Notice of Hearing

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 7**

**ATRIUM HOSPITALITY LP D/B/A THE WESTIN
SOUTHFIELD-DETROIT**

and

Case 07-CA-239593

CATHERINE WALKER, an Individual

AFFIDAVIT OF SERVICE OF: LETTER REQUESTING ANSWER TO COMPLAINT

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on October 23, 2019, I served the above-entitled document(s) by **certified and/or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

Jerry Tononi, General Manager
Atrium Hospitality LP d/b/a The Westin
Hotel Southfield-Detroit
1500 Town Center
Southfield, MI 48075

**FIRST CLASS MAIL and
CERTIFIED MAIL, RETURN RECEIPT
REQUESTED
7003 3110 0004 3671 9463**

Mark DeLoach, Assistant General Counsel
Atrium Hospitality LP d/b/a The Westin
Southfield- Detroit
Deerfield Point II
12735 Morris Road Ext., Suite 400
Alpharetta, GA 30004

FIRST CLASS MAIL

October 23, 2019

Date

J. Moore, Designated Agent of NLRB

Name

/s/ J. Moore

Signature

7003 3110 0004 3671 9463

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

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

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. 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. 	<p>A. Signature <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Agent <input type="checkbox"/> Addresssee</p> <p>B. Received by (Printed Name) <i>Baker Henry</i> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>C. Date of Delivery <i>10/25/19</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>	
<p>1. Article Addressed to:</p> <p>Jerry Tononi, General Manager Atrium Hospitality LP d/b/a The Westin Southfield-Detroit 1500 Town Center Southfield, MI 48075 CPT/CA-239593/RR/jm</p>		
<p>2. Article Number (Transfer from service label)</p> <p>7003 3110 0004 3671 9463</p>		
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail®</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p>	<p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

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