

From: [Thomas, Paul](#)
To: [Peter Perla](#); [Fricke, Rhonda M.](#)
Cc: [Lerner, Helene](#)
Subject: RE: Rochelle Park (22-CA-194401): Additional documents required for calculations
Date: Wednesday, March 11, 2020 9:44:00 AM

Interpreting this as a request to extend the production date to March 31, the request is granted.

From: Peter Perla <pperla@jplawfirm.com>
Sent: Tuesday, March 10, 2020 6:11 PM
To: Fricke, Rhonda M. <Rhonda.Fricke@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>
Cc: Lerner, Helene <Helene.Lerner@nlrb.gov>
Subject: RE: Rochelle Park (22-CA-194401): Additional documents required for calculations

I spoke with the Client. They will pull daily holiday schedules from September 8, 2016, to the present for the holidays listed in the CBA. They will need at least 3 weeks to complete this task though as they are inundated with issues because of the Coronavirus. Plus, we are dealing with a 4 year period. Let me know if that is acceptable.

From: Fricke, Rhonda M. [<mailto:Rhonda.Fricke@nlrb.gov>]
Sent: Tuesday, March 10, 2020 12:02 PM
To: Peter Perla <pperla@jplawfirm.com>; Thomas, Paul <Paul.Thomas@nlrb.gov>
Cc: Lerner, Helene <Helene.Lerner@nlrb.gov>
Subject: RE: Rochelle Park (22-CA-194401): Additional documents required for calculations

Good Afternoon-

The burden here is on Respondent to show that employees were paid properly. In the other case you refer to that we were able to easily resolve this issue, the charging party agreed that only one person's holiday pay was in dispute. We do not have that same situation in the instant case and need to review Respondent's records to determine the remedy owed, if any.

Thanks,
Rhonda

Rhonda M. Fricke, Compliance Officer
National Labor Relations Board, Region 22

862.229.7055 direct phone
973.645.2100 office receptionist
Rhonda.Fricke@NLRB.gov

All parties, including individuals, are now required to use the NLRB's electronic filing system for the submission of affidavits, correspondence, position statements, documentary or other evidence. Beginning January 21, 2020, these documents will no longer be accepted through means other than the Agency's e-filing process, absent acceptable written explanation as to why a party is unable to file the documents electronically. See GC 20-01, E-Filing System User Guide and www.nlr.gov for more information.

E-File here: <https://apps.nlr.gov/eservice/efileterm.aspx>

From: Peter Perla <pperla@jplawfirm.com>

Sent: Tuesday, March 10, 2020 11:55 AM

To: Fricke, Rhonda M. <Rhonda.Fricke@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>

Cc: Lerner, Helene <Helene.Lerner@nlrb.gov>

Subject: RE: Rochelle Park (22-CA-194401): Additional documents required for calculations

I will reach out to the Client. Just out of curiosity, are any of the employees at this facility grieving that they were not properly paid their holiday pay? I ask because Rhonda and I addressed a similar issue at another facility where one employee ... just one ... said they weren't properly paid for a holiday, but the documentation showed that she was properly paid ... and the issue was resolved. I readily turned over the documentation for that particular employee rather than taking the carpet bomb approach by turning it over for hundreds of employees who were not complaining ...

My concern is that we're talking about 4 years' worth of records that could take quite some time to manually go through and pull ... Is it reasonable to spend all this time when no one has come forward to say they weren't properly paid for working a holiday?

From: Fricke, Rhonda M. [<mailto:Rhonda.Fricke@nlrb.gov>]

Sent: Tuesday, March 10, 2020 8:12 AM

To: Thomas, Paul <Paul.Thomas@nlrb.gov>; Peter Perla <pperla@jplawfirm.com>

Cc: Lerner, Helene <Helene.Lerner@nlrb.gov>

Subject: RE: Rochelle Park (22-CA-194401): Additional documents required for calculations

Hi Paul-

Yes, I agree with you. From the Board's Order: "Rescind the change in terms and conditions of employment for its unit employees that was unilaterally implemented on September 8, 2016."

Thanks!
Rhonda

From: Thomas, Paul <Paul.Thomas@nrlb.gov>
Sent: Monday, March 9, 2020 11:13 AM
To: Peter Perla <pperla@jplawfirm.com>
Cc: Fricke, Rhonda M. <Rhonda.Fricke@nrlb.gov>; Lerner, Helene <Helene.Lerner@nrlb.gov>
Subject: RE: Rochelle Park (22-CA-194401): Additional documents required for calculations

I've reviewed the Board decision, and the findings of fact relate to the period from September 8, 2016 to the present. Rhonda can correct me if I'm wrong, but I believe that that is the start of the backpay calculation period.

From: Peter Perla <pperla@jplawfirm.com>
Sent: Monday, March 9, 2020 11:04 AM
To: Thomas, Paul <Paul.Thomas@nrlb.gov>
Cc: Fricke, Rhonda M. <Rhonda.Fricke@nrlb.gov>; Lerner, Helene <Helene.Lerner@nrlb.gov>
Subject: RE: Rochelle Park (22-CA-194401): Additional documents required for calculations

Paul

The handbooks went into effect in August of 2017. So to be clear, the Board only needs the documents from that date to the present, correct?

[REDACTED]

Peter

From: Thomas, Paul [<mailto:Paul.Thomas@nrlb.gov>]
Sent: Tuesday, March 3, 2020 1:13 PM
To: Peter Perla <pperla@jplawfirm.com>
Cc: David Jasinski <djasinski@jplawfirm.com>; Fricke, Rhonda M. <Rhonda.Fricke@nrlb.gov>; Lerner, Helene <Helene.Lerner@nrlb.gov>
Subject: Rochelle Park (22-CA-194401): Additional documents required for calculations
Importance: High

Peter,

We've reviewed the recently-produced payroll records in this case. While they go a good ways toward calculating the amount of backpay owed, they are not sufficient—although they demonstrate which employees received holiday pay, they cannot show which employees *should have* received holiday pay and did not. That calculation, per our compliance officer, requires the daily schedules which would show which employees worked on each holiday.

Moreover, I believe that this logic would also apply to the period since the court's judgment, in order for us to make a determination as to whether there has been substantial compliance. Accordingly, I am interpreting the first two paragraphs of the subpoena to extend to the daily schedules* for unit employees for both periods of time: (1) the period from the time the unilateral change was made to the October 19, 2018 date of the court judgment, and (2) the postjudgment period from that date to present.

We do not need schedules that do not encompass a holiday, although if the schedules are maintained in a single file it may prove easier to simply produce all of them (even the ones not containing holidays).

I am requesting that your client produce these schedules by no later than **March 20, 2020**.

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* My understanding is that Alaris homes produce two forms of schedule—the “master schedule” which projects and assigns employees to work particular days, and the “daily schedule” which accounts for call-outs, subsequently-approved vacations, etc etc and shows who actually worked on a given day. The latter is the document we need.

Paul A. Thomas
Trial Attorney
National Labor Relations Board
Contempt, Compliance and Special Litigation Branch

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