

Per PACER docket, no objections to the Board's proposed judgment were filed within 14 days as per the terms of the order. Consequently, the proposed judgment submitted by the Board in this case has been adopted by the Circuit.

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General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 19-73167 NLRB v. Santos Cruz, LLC Appeal From: National Labor Relations Board Fee Status: USA - No Fee Req	Docketed: 12/12/2019 Termed: 06/24/2020
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Case Type Information:

- 1) agency
- 2) enforcement
- 3) null

Originating Court Information:

District: NLRB-1 : 28-CA-221286

Date Filed: 12/12/2019

Date Decided:
09/24/2019

Date Rec'd COA:
12/12/2019

12/12/2019	1	FILED NLRB'S APPLICATION FOR SUMMARY ENTRY OF A JUDGMENT ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD. DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. NOTIFIED RESPONDENTS OF FILING. SEND MQ: No. [11530037] (HC) [Entered: 12/12/2019 11:26 AM]
12/12/2019	2	RECEIVED PROPOSED JUDGMENT. [11530069] (HC) [Entered: 12/12/2019 11:35 AM]
12/17/2019	3	Filed (ECF) Petitioner NLRB Mediation Questionnaire. Date of service: 12/17/2019. [11534434] [19-73167] (Habenstreit, David) [Entered: 12/17/2019 07:06 AM]
12/17/2019	4	The Mediation Questionnaire for this case was filed on 12/17/2019. To submit pertinent confidential information directly to the Circuit Mediators, please use the following link . Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts.[11535339]. [19-73167] (AD) [Entered: 12/17/2019 12:44 PM]
01/06/2020	5	MEDIATION ORDER FILED: This case is RELEASED from the Mediation Program. All further inquiries regarding this appeal, including request for extensions of time, should be directed to the Clerk's Office. Counsel are requested to contact the Circuit Mediator should circumstances develop that warrant further settlement discussions. [11551365] (VS) [Entered: 01/06/2020 09:55 AM]
06/11/2020	6	Filed (ECF) Petitioner NLRB Correspondence: Notification pursuant to Advisory Committee Note to Circuit Rule 25-2.. Date of service: 06/11/2020 [11718739] [19-73167] (Habenstreit, David) [Entered: 06/11/2020 12:09 PM]
06/24/2020	7	Filed order (SUSAN P. GRABER, KIM MCLANE WARDLAW and RYAN D. NELSON) The application (Docket Entry No. [1]) of the National Labor Relations Board for enforcement of its September 24, 2019 order is granted. Unless objections as to form are received within fourteen days of the date of this order, the form of judgment submitted at Docket Entry No. [2] will be the judgment of the court. The Clerk will serve the proposed judgment submitted at Docket Entry No. [2] on respondent. [11732743] (JBS) [Entered: 06/24/2020 04:17 PM]
07/07/2020	8	Mail returned on 07/07/2020 addressed to Antonio Padilla for Santos Cruz, LLC, re: 06/24/2020 Order [7] . Returned envelope notes: Return to sender, attempted - not known, unable to forward. Resending to: Santos Cruz LLC, d/b/a Filiberto's 3434 West Anthem Way, Suite 146 Anthem, AZ 85086-0450. [11744901] (JBS) [Entered: 07/07/2020 03:19 PM]

PACER Service Center			
Transaction Receipt			
U.S. Court of Appeals for the 9th Circuit - 07/09/2020 07:26:39			
PACER Login:	NLRB2014	Client Code:	
Description:	Case Summary	Search Criteria:	19-73167
Billable Pages:	1	Cost:	0.10

NATIONAL LABOR RELATIONS BOARD

v.

SANTOS CRUZ, LLC, D/B/A FILIBERTO'S

ORDER

Santos Cruz, LLC, d/b/a Filiberto's, Anthem, Arizona, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Directing employees to investigate other employees' protected concerted activities and report them to the Respondent.
 - (b) Threatening employees with negative consequences for engaging in protected concerted activities.
 - (c) Directing employees not to engage in protected concerted activities.
 - (d) Inviting employees to quit in response to their protected concerted activities.
 - (e) Discharging employees because they engage in protected concerted activities.
 - (f) Coercively questioning employees about their protected concerted activities or the protected concerted activities of other employees.
 - (g) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
 - (a) Within 14 days from the date of this Order, offer Jairo E. Aguirre full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.
 - (b) To the extent it has not already done so, make whole Jairo E. Aguirre for any loss of earnings and other benefits suffered as a result of his discharge, in the manner set forth in the remedy section of this decision, plus reasonable search-for-work and interim employment expenses.
 - (c) Compensate Jairo E. Aguirre for the adverse tax consequences, if any, of

receiving a lump-sum backpay award, and file with the Regional Director for Region 28, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years.

- (d) Within 14 days from the date of this Order, remove from its files all references to the discharge of Aguirre and, within 3 days thereafter, notify him in writing that this has been done and that the discharge will not be used against him in any way.
- (e) Preserve and, within 14 days of a request, or such additional time as the Regional Director for Region 28 may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
- (f) Within 14 days after service by the Region, post at its facility in Anthem, Arizona, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's authorized representative, shall be posted by the Respondent, in English and in additional languages if the Regional Director decides that it is appropriate to do so, and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 6, 2018.
- (g) Within 21 days after service by the Region, file with the Regional Director for Region 28 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE
UNITED STATES COURT OF APPEALS ENFORCING AN
ORDER OF THE NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join or assist a union

Choose representatives 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 do anything to prevent you from engaging in protected concerted activities, including raising concerns with other employees about your wages, hours, and working conditions, or acting together with other employees to raise such concerns with us.

WE WILL NOT direct you to investigate other employees' protected concerted activities and report them to us.

WE WILL NOT threaten you with negative consequences for engaging in protected concerted activities.

WE WILL NOT direct you not to engage in protected concerted activities.

WE WILL NOT invite you to quit in response to your protected concerted activities.

WE WILL NOT fire you for engaging in protected concerted activities.

WE WILL NOT coercively question you about your protected concerted activities or the protected concerted activities of other employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights under Section 7 of the National Labor Relations Act.

WE WILL, within 14 days from the date of the Board's Order, offer Jairo E. Aguirre full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges enjoyed.

WE WILL make Aguirre whole for any loss of earnings and other benefits resulting from his discharge, less any net interim earnings, plus interest, to the extent this has not already been done, and WE WILL also make Aguirre whole for reasonable search-for-work and interim employment expenses, plus interest.

WE WILL compensate Aguirre for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and WE WILL file with the Regional Director for Region 28, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years.

WE WILL, within 14 days of the date of the Board's Order, remove from our files all references to the discharge of Aguirre, and WE WILL, within 3 days thereafter, notify him in writing that this has been done and that the discharge will not be used against him in any way.

SANTOS CRUZ LLC, D/B/A FILIBERTO'S

The Board's decision can be found at www.nlr.gov/case/28-CA-221286 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

