

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 3**

MICHAEL CETTA, INC. d/b/a
SPARKS RESTAURANT,

Respondent,

v.

UNITED FOOD AND COMMERCIAL
WORKERS LOCAL 342,

Complainant.

Case Nos.: 02-CA-142626 and
02-CA-144852

**MOTION FOR EXTENSION TO RESPOND TO NOTICE TO SHOW CAUSE
AND MOTION FOR PARTIAL SUMMARY JUDGMENT**

Comes now RESPONDENT, pursuant to Section 102.24(b) of the National Labor Relations Board's Rules and Regulations, and brings the following Motion for Extension of Time to Oppose Motion for Partial Summary Judgment.

The above-captioned Compliance Specification is dated April 8, 2020. At present, the hearing is at a date to be determined. Respondent has timely Answered and Counsel for the General Counsel filed the underlying Motion for Partial Summary Judgment on July 9, 2020. Respondent previously filed a similar motion on July 15, 2020, but said Motion was denied on July 16, 2020 on the basis that no formal hearing had been set in this matter. However, on August 19, 2020, this matter was transferred to the Board and a Notice to Show Cause issued.¹

Respondent seeks an indefinite postponement of its obligation to respond to the Notice to Show Cause, until the Chief Administrative Law Judge either appoints or declines to appoint a

¹ The original motion was denied, notwithstanding the prejudice suffered by Respondent but not being afforded the opportunity to oppose the Partial Motion for Summary Judgment PRIOR to a NSC being issued.

settlement judge.² Respondent has a high degree of good faith certainty that this matter will settle under the supervision of a Settlement Judge. Respondent does not wish to undertake the time and expense of filing a formal opposition if its focus can be placed on achieving a resolution. Due to the pandemic, Respondent is in an exceptionally perilous financial condition and the time and expense of formally responding to the Notice to Show Cause is an expense that it would prefer to forego.

Respondent telephonically solicited the positions of the Region and Union accordingly, but has received no reply.

Accordingly, Respondent respectfully submits that the Board postpone the time to respond to the Notice to Show Cause until a Settlement Conference is held. In the event that the Chief Administrative Law Judge declines appointment of a Settlement Judge to this matter, Respondent will file its Opposition forthwith. Alternatively, Respondent requests that its response to the Notice to Show Cause be postponed until September 30, 2020.

² Respondent filed a formal motion for appointment of a Settlement Judge on July 15, 2020. That motion has not been ruled upon to date.

Dated: August 28, 2020

Respectfully submitted,

/s/ Michael P. MacHarg
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Attorneys for Respondent

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on August 28, 2020, I caused a true and correct copy of the foregoing **Respondent Michael Cetta, Inc. d/b/a Sparks Restaurant's Motion For Extension To Respond To Notice To Show Cause and Motion For Partial Summary Judgment** to be electronically filed with the U.S. National Labor Relations Board (Region 3), Buffalo, New York utilizing the Board's custom electronic file system, whereas electronic notification of such filing was subsequently provided on this date by Counsel for the Respondent by 5:00 p.m. (CST) to all interested parties:

Brian Cugini
Organizer
United Food & Commercial Workers
Local 342
166 East Jericho Turnpike
Mineola, NY 11501-2033

Steven Cetta
Owner
Michael Cetta, Inc. d/b/a Sparks Restaurant
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/s/ Michael M. MacHarg

Under penalties as provided by law pursuant to Section-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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