

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

**LINCOLN EASTERN MANAGEMENT
CORPORATION**

and

Case 28-CA-147123

ALECIA WINTERS, an Individual

**GENERAL COUNSEL'S MOTION TO WITHDRAW COMPLAINT
ALLEGATIONS AND REQUEST FOR REMAND
TO REGIONAL DIRECTOR**

On March 31, 2015, the Regional Director issued a complaint alleging that Respondent's maintenance of an arbitration agreement and related acknowledgement interfered with, restrained, and coerced employees in the exercise of their rights under Section 7 of the National Labor Relations Act (the Act) and amounted to an unfair labor practice within the meaning of Section 8(a)(1) of the Act.

On June 24, 2015, the parties submitted the matter to the National Labor Relations Board (the Board) through a joint motion and stipulation of facts, and, on May 31, 2016, the Board issued a Decision and Order finding the maintenance of the arbitration agreement and related acknowledgement to be unlawful as alleged.

Respondent petitioned for review with the Fifth Circuit Court of Appeals and subsequently filed an unopposed motion seeking an order summarily granting review of the portion of the Board's Order governed by *Epic Sys. Corp. v. Lewis*, 138 S. Ct. 1612 (2018), and seeking remand of the remaining portion of the Board's Order (finding that the agreement and acknowledgement at issue interfered with the right of employees to pursue charges with the Board) to the Board for further proceedings in light of *Boeing Co.*, 365 NLRB No. 154 (2017)

(overruling the “reasonably construe” prong of the standard for assessing the lawfulness of employer rules set forth in *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004)).

Respondent’s motion was granted, and the remaining portion of the Board’s Order, involving the allegation that the agreement and acknowledgement at issue interfered with the right of employees to pursue charges with the Board, is pending before the Board.

Counsel for the General Counsel (General Counsel) now respectfully requests to withdraw the remanded allegations and requests that the matter be remanded to the Regional Director for further action consistent with *Boeing Co.* and subsequent cases applying *Boeing Co.* to arbitration agreements, including *Hobby Lobby Stores, Inc.*, 369 NLRB No. 129 (2020); *Royal Motor Sales*, 369 NLRB No. 70 (2020); *Keiser University*, 368 NLRB No. 123 (2019); *Wendy’s Restaurant*, 368 NLRB No. 72 (2019); and *Prime Healthcare Paradise Valley, LLC*, 368 NLRB No. 10 (2019).

Dated at Albuquerque, New Mexico this 25th day of September 2020.

Respectfully submitted,

/s/ Rodolfo Martinez
Rodolfo Martinez
Counsel for the General Counsel
National Labor Relations Board, Region 28
421 Gold Ave SW, Suite 310
Albuquerque, New Mexico 87102
Telephone: (505) 313-7222
Facsimile: (505) 206-5695
Email: rodolfo.martinez@nlrb.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the GENERAL COUNSEL'S MOTION TO WITHDRAW COMPLAINT ALLEGATIONS AND REQUEST FOR REMAND TO REGIONAL DIRECTOR in *Lincoln Eastern Management Corporation*, Case 28-CA-147123, was served by E-Gov, E-Filing and E-Mail on this 25th day of September 2020 on the following:

Via E-Gov, E-Filing:

Roxanne L. Rothschild
Executive Secretary
National Labor Relations Board
Office of the Executive Secretary
1015 Half Street SE – Room 5100
Washington, DC 20570

Via E-Mail:

Debora L. Verdier, Attorney at Law
The Cavanagh Law Firm, PA
1850 North Central Avenue, Suite 2400
Phoenix, AZ 85004
dverdier@cavanaghlaw.com

Alecia Winters
14435 South 48th Street, Apt. 2199
Phoenix, AZ 85044
aleciawinters1@gmail.com



Dawn M. Moore
Program Support Assistant
National Labor Relations Board
Region 28 - Las Vegas Resident Office
Foley Federal Building
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101
Telephone: (702) 820-7466
Facsimile: (702) 388-6248
E-Mail: Dawn.Moore@nlrb.gov