

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 25

MEDINA GENERAL CONSTRUCTION, LLC

and

Cases 25-CA-224263
25-CA-225180

LABORERS LOCAL 645, a/w LABORERS
INTERNATIONAL UNION OF NORTH AMERICA

MOTION TO TRANSFER CASE TO THE BOARD
AND FOR DEFAULT JUDGMENT

Pursuant to Sections 102.20, 102.24, and 102.50 of the amended Rules and Regulations of the National Labor Relations Board (the “Board”), Counsel for the General Counsel respectfully moves that the Board: (1) transfer the above-captioned matter and continue the proceedings before the Board; (2) deem the allegations in the outstanding Consolidated Complaint in this matter, issued on November 10, 2020, as admitted to be true without taking substantive evidence supporting the allegations; and (3) grant Default Judgment and issue a Decision and Order herein on the basis of the following:

1. On July 23, 2018, Laborers Local 645, a/w Laborers International Union of North America (“Charging Party” or “Union”) filed an unfair labor practice charge in Case 25-CA-224263 against Medina General Construction, LLC (“Respondent”) alleging violations of Sections 8(a)(1) and 8(a)(3) of the National Labor Relations Act (the “Act”). The charge in Case 25-CA-224263 was duly served on the Respondent by U.S. Mail on or about July 25, 2018. A copy of the charge and the affidavit of service are attached as Exhibits 1(a) and 1(b) respectively.

2. On August 7, 2018, the Charging Party filed an unfair labor practice charge in Case 25-CA-225180 against the Respondent alleging violations of Section 8(a)(1) of the Act. The charge in Case 25-CA-225180 was duly served on the Respondent by U.S. Mail on or about August 8, 2018. A copy of the charge and the affidavit of service are attached as Exhibits 2(a) and 2(b) respectively.

3. On November 10, 2020, based on the charges described above in paragraphs 1 and 2, the Regional Director issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing (the “Consolidated Complaint”) alleging that Respondent violated Sections 8(a)(1) and 8(a)(3) of the Act. The Consolidated Complaint was served by U.S. Certified Mail on November 10, 2020. Copies of the Consolidated Complaint, affidavit of service, and tracking information are attached as Exhibits 3(a), 3(b), and 3(c) respectively.

4. As set forth in the Consolidated Complaint, pursuant to Sections 102.20 and 102.21 of the Board’s Rules, Respondent must file an Answer to the Consolidated Complaint on or before November 24, 2020, and if no answer is filed or an answer is filed untimely, the Board may find that the allegations in the Consolidated Complaint are true. No Answer was received.

5. By letter dated December 2, 2020, sent by U.S. Mail and electronic mail, the Region notified Respondent that it had failed to submit an Answer in response to the Consolidated Complaint and the significance of that failure. The letter provided Respondent with additional time until December 9, 2020 to file an Answer and advised Respondent that if an Answer was not filed by that date, a Motion for Default Judgment would be filed with the Board. A copy of the December 2, 2020 letter is attached as Exhibit 4.

6. To date, no Answer has been filed, and Respondent has given no satisfactory reason for its failure to do so.

On the basis of the foregoing and the exhibits attached hereto, it is respectfully submitted that the pleadings in the instant case raise no material issues of fact, that Respondent submitted no Answer or defense for the acts alleged in the Consolidated Complaint, that no hearing is necessary in this matter, and that it is appropriate for the Board to issue a Decision and Order without further proceedings. Thus, it is respectfully requested that the Board make findings of fact and conclusions of law, finding that the

conduct of Respondent violated Sections 8(a)(1) and 8(a)(3) of the Act as alleged in the Consolidated Complaint.

WHEREFORE, Counsel for the General Counsel respectfully requests, in accordance with Sections 102.20 and 102.24 of the Board's Rules and Regulations, that the Board deem all matters alleged in the Consolidated Complaint to be true, that they be so found, and that a Decision and Order be issued containing findings of fact, conclusions of law, and an appropriate remedy for the unfair labor practices alleged in the Consolidated Complaint.

DATED at Indianapolis, Indiana, this 21st day of December 2020.

Respectfully submitted,

/s/ Tiffany Limbach
Tiffany Limbach
Counsel for the General Counsel
National Labor Relations Board, Region 25
Minton Capehart Federal Building
575 North Pennsylvania Street, Room 238
Indianapolis, IN 46204

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Transfer Case to the Board and for Default Judgement has been filed electronically with the Executive Secretary for the Board through the Board's E-Filing System this 21st day of December 2020. Copies of the filing are being served upon the following persons by electronic mail:

Sandra Medina Treto
Medina General Construction, LLC
treto83@icloud.com

David Williams
Laborers, Local 645
dawilli1@union1.org

/s/ Tiffany J. Limbach

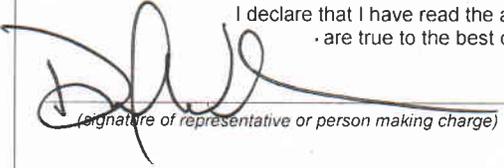
Tiffany J. Limbach
Counsel for the General Counsel
National Labor Relations Board
Region 25
575 North Pennsylvania St., Room 238
Indianapolis, IN 46204
(317) 991-7960
tiffany.limbach@nlrb.gov

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 25-CA-224263	Date Filed 7/23/18

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 Medina General Construction, LLC	b. Tel. No. 765-654-0187
	c. Cell No.
	f. Fax No.
d. Address (Street, city, state, and ZIP code) 1521 North 17th Street Lafayette, IN	e. Employer Representative Sandra Medino Treto
	g. e-mail
	h. Number of workers employed 10
i. Type of Establishment (factory, mine, wholesaler, etc.) Contractor	j. Identify principal product or service Construction
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) 8(a)(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 or about, Friday, July 13, 2018, Medina Superintendent "Jason" terminated Medina employees Jonathan Williams and Perry Bradshaw for speaking with a union representative in a non-work area on non-work time in violation of their legally protected Section 7 rights. By the above and other acts, the above named employer has interfered with, restrained, and coerced employees in the exercise of the right guaranteed in Section 7 of the Act.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Laborers Local 645	
4a. Address (Street and number, city, state, and ZIP code) 23698 Western Avenue South Bend, IN 46619	4b. Tel. No. 574-287-2967
	4c. Cell No.
	4d. Fax No. 574-287-2968
	4e. e-mail
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) Laborers International Union of North America	
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.	
 <i>(Signature of representative or person making charge)</i>	David Williams, Field Operations Coordinator <i>(Print/type name and title or office, if any)</i>
Tel. No. 317-634-8551	
Office, if any, Cell No.	
Fax No. 317-536-1373	
e-mail	
Address <u>1520 East Riverside Drive, Indianapolis, IN 46202</u>	Date <u>7/23/18</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 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 decline to invoke its processes.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

MEDINA GENERAL CONSTRUCTION, LLC

Charged Party

and

LABORERS LOCAL 645

Charging Party

Case 25-CA-224263

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on July 25, 2018, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Sandra Medino Treto
MEDINA GENERAL CONSTRUCTION,
LLC
1521 N 17th St
Lafayette, IN 47904-1401

July 25, 2018

Date

Jamila Franklin, Designated Agent of
NLRB

Name

/s/ Jamila Franklin

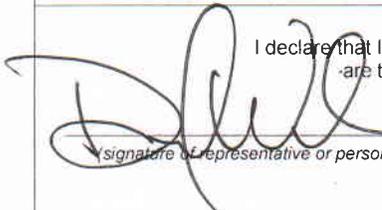
Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 25-CA-225180	Date Filed 8/7/18

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 Medina General Construction, LLC	b. Tel. No. 765-654-0187
	c. Cell No.
	f. Fax No.
d. Address (Street, city, state, and ZIP code) 1521 North 17th Street Lafayette, IN	e. Employer Representative Sandra Medino Treto
	g. e-mail
	h. Number of workers employed 10
i. Type of Establishment (factory, mine, wholesaler, etc.) Contractor	j. Identify principal product or service Construction
<p>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) 8(a)(1) 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.</p>	
<p>2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)</p> <p>On or about, Wednesday, July 11, 2018, Medina Superintendent "Jason" interrogated Medina employee Jonathan Williams about his union activities and/or affiliation in violation of his legally protected Section 7 rights.</p> <p>By the above and other acts, the above named employer has interfered with, restrained, and coerced employees in the exercise of the right guaranteed in Section 7 of the Act.</p>	
<p>3. Full name of party filing charge (if labor organization, give full name, including local name and number) Laborers Local 645</p>	
4a. Address (Street and number, city, state, and ZIP code) 23698 Western Avenue South Bend, IN 46619	4b. Tel. No. 574-287-2967
	4c. Cell No.
	4d. Fax No. 574-287-2968
	4e. e-mail
<p>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) Laborers International Union of North America</p>	
6. DECLARATION	
<p>I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.</p>	
 <small>(Signature of Representative or person making charge)</small>	Tel. No. 317-634-8551
David Williams, Field Operations Coordinator <small>(Print/type name and title or office, if any)</small>	Office, if any, Cell No.
Address <u>1520 East Riverside Drive, Indianapolis, IN 46202</u>	Fax No. 317-536-1373
Date <u>8/7/18</u>	e-mail

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 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 decline to invoke its processes.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

MEDINA GENERAL CONSTRUCTION, LLC

Charged Party

and

LABORERS LOCAL 645

Charging Party

Case 25-CA-225180

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on August 8, 2018, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Sandra Medino Treto
MEDINA GENERAL CONSTRUCTION,
LLC
1521 N 17th St
Lafayette, IN 47904-1401

August 8, 2018

Date

Jamila Franklin, Designated Agent of
NLRB

Name

/s/ Jamila Franklin

Signature

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 25

MEDINA GENERAL CONSTRUCTION, LLC

and

Cases 25-CA-224263
25-CA-225180

LABORERS LOCAL 645, a/w LABORERS
INTERNATIONAL UNION OF NORTH AMERICA

ORDER CONSOLIDATING CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Case 25-CA-224263 and Case 25-CA-225180, which are based on charges filed by Laborers Local 645, a/w Laborers International Union of North America (Charging Party or Union) respectively, against Medina General Construction, LLC (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, 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 Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1. (a) The charge in Case 25-CA-224263 was filed by the Charging Party on July 23, 2018, and a copy was served on Respondent by U.S. mail on July 25, 2018.

(b) The charge in Case 25-CA-225180 was filed by the Charging Party on August 7, 2018, and a copy was served on Respondent by U.S. mail on August 8, 2018.

2. (a) At all material times, Respondent has been a limited liability company with an office and place of business in Lafayette, Indiana and has been engaged in the business of general construction.

(b) A subpoena duces tecum (No. B-1-139LP4N) was properly served upon Respondent by certified mail on October 30, 2018, requiring and directing Respondent to appear before the Regional Director on November 14, 2018 and produce certain documents relevant to whether Respondent's operations, described above in paragraph 2(a), meet the Board's standard for assertion of jurisdiction. A copy of the subpoena duces tecum and affidavit of service are incorporated by reference hereto as Exhibits A and B, respectively.

(c) Since October 30, 2018 Respondent has not filed a Petition to Revoke the subpoena duces tecum described above in paragraph 2(b).

(d) Respondent did not appear on November 14, 2018, nor has Respondent produced the documents requested by the subpoena duces tecum described above in paragraph 2(b).

(e) Annually, Respondent, in conducting its operations described above in paragraph 2(a), purchases and receives at its Lafayette, Indiana facility goods valued in excess of \$5,000 directly from entities located outside the State of Indiana.

(f) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.¹

3. (a) At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

(b) At all material times, Bricklayers and Allied Crafts Local 4 (Local 4) has been a labor organization within the meaning of Section 2(5) of the Act.

¹ Pursuant to *Tropicana Products, Inc.*, 122 NLRB 121 (1958), General Counsel need only establish statutory jurisdiction where an employer refuses, upon a reasonable request, to provide information relevant to a jurisdictional determination. The General Counsel asserts that it has made more than reasonable efforts to permit Respondent to provide any and all evidence demonstrating that it does not meet the Board's discretionary standards for the assertion of jurisdiction. Respondent has refused to cooperate with General Counsel's requests and failed to provide any documents pursuant to a validly issued subpoena. See *Valentine Painting & Wallcovering, Inc.*, 331 NLRB 883 (2000), enfd, 8 Fed.Appx. 116 (2d. Cir., 2001), *Continental Packaging Corp.*, 327 NLRB No. 74 (1998); *Edward J. Alexander*, 235 NLRB 1500 (1978); *Quality Courts Motels, Inc.*, 194 NLRB 1035 (1972).

4. At all material times, Jason (last name unknown) held the position of Respondent's Superintendent and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

5. About July 11, 2018, Respondent, by Jason (last name known), at Respondent's baseball stadium jobsite in South Bend, Indiana, interrogated employees about their union membership, activities, and sympathies.

6. (a) About July 13, 2018, Respondent discharged its employees Perry Bradshaw and Jonathan Williams.

(b) Respondent engaged in the conduct described above in paragraph 6(a) because the named employees of Respondent formed, joined and assisted Local 4 and engaged in concerted activities, and to discourage employees from engaging in these activities.

7. By the conduct described above in paragraph 5, 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.

8. By the conduct described above in paragraph 6, 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.

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

The General Counsel seeks, as part of the remedy for the allegations in paragraphs 6, 8, and 9 that Respondent be required to submit the W-2 reflecting backpay paid to the discriminatees to the Regional Director.

ANSWER REQUIREMENT

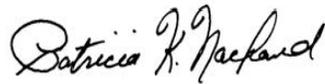
Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. The answer must be received by this office on or before November 24, 2020. Respondent also must serve a copy of the answer on each of the other parties.

The answer must 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. 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 consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on February 11, 2021 a hearing will be conducted before an administrative law judge of the National Labor Relations Board. The hearing will be conducted via videoconference using the Zoom for Government platform, or by such other means and method as directed by the administrative law judge. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated 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: November 10, 2020



PATRICIA K. NACHAND
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 25
575 N Pennsylvania St Ste 238
Indianapolis, IN 46204-1520

Attachments

SUBPOENA DUCES TECUM**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

To Custodian of Records, MEDINA GENERAL CONSTRUCTION, LLC
1521 N 17th St, Lafayette, IN 47904-1401

As requested by ROBERT GLEASON, on behalf of the General Counsel
 whose address is 575 N Pennsylvania St Ste 238, Indianapolis, IN 46204-1520
 (Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE the Regional Director or his/her designee
 of the National Labor Relations Board

at 575 N Pennsylvania St., Ste 238
 in the City of Indianapolis, IN 46204

on Wednesday, November 14, 2018 at 10:00 AM (EST) or any adjourned

or rescheduled date to testify in MEDINA GENERAL CONSTRUCTION, LLC
25-CA-224263 & 25-CA-225180
 (Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

B-1-139LP4N

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Peoria, IL

Dated: October 30, 2018



John J. Ring
 John Ring, Chairman

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

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 mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

Exhibit A

Ex. 3(a)

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

- a. **“Document”** means any existing printed, typewritten or otherwise recorded material of whatever character, records stored on computer or electronically, records kept on microfiche or written by hand or produced by hand and graphic material, including without limitation, checks, cancelled checks, computer hard drives, discs and/or files and all data contained therein, computer printouts, E-mail communications and records, any marginal or “post-it” or “sticky pad” comments appearing on or with documents, licenses, files, letters, facsimile transmissions, memoranda, telegrams, minutes, notes, contracts, agreements, transcripts, diaries, appointment books, reports, records, payroll records, books, lists, logs, worksheets, ledgers, summaries of records of telephone conversations, summaries of records of personal conversations, interviews, meetings, accountants’ or bookkeepers’ work papers, records of meetings or conference reports, drafts, work papers, calendars, interoffice communications, financial statements, inventories, news reports, periodicals, press releases, graphs, charts, advertisements, statements, affidavits, photographs, negatives, slides, disks, reels, microfilm, audio or video tapes and any duplicate copies of any such material in the possession of, control of, or available to the subpoenaed party, or any agent, representative or other person acting in cooperation with, in concert with or on behalf of the subpoenaed party.
- b. **“Charged Party”** means Medina General Construction LLC.
- c. **“Charged Party’s facility”** means the facility located at 1521 North 17th Street, Lafayette, IN 47904.
- d. **“The Union”** means Laborers Local 645.
- e. **“Person”** or **“persons”** means natural persons, corporations, limited liability companies, partnerships, sole proprietorships, associations, organizations, trusts, joint ventures, groups of natural persons or other organizations, or any other kind of entity.
- f. **“Period covered by this subpoena”** means the period from January 1, 2017 through the present and the subpoena seeks only documents from that period unless another period is specified. This subpoena request is continuing in character and if additional responsive documents come to your attention after the date of production, such documents must be promptly produced.
- g. Any copies of documents that are different in any way from the original, such as by interlineation, receipt stamp, notation, or indication of copies sent or received, are considered original documents and must be produced separately from the originals.
- h. If any document covered by this subpoena contains codes or classifications, all documents explaining or defining the codes or classifications used in the document must also be produced.

- i. Electronically stored information should be produced in the form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
- j. All documents produced pursuant to this subpoena should be presented as they are kept in the usual course of business or organized by the subpoena paragraph to which the document or set of documents is responsive.
- k. This subpoena applies to documents in your possession, custody, or control.
- l. If a claim of privilege is made as to any document which is the subject of this subpoena, a claim of privilege must be expressly made and you must describe the nature of the withheld document, communication, or tangible thing in a manner that, without revealing information itself privileged or protected, will enable an assessment of the claim to be made.
- m. Unless otherwise stated, this subpoena does not supersede, revoke or cancel any other subpoena(s) previously issued in this proceeding.

DOCUMENTS TO BE PRODUCED

1. Documents that show all **revenue derived by Charged Party** during the period covered by this subpoena, and for each transaction by which Charged Party derived revenue during that period, documents that show the following:
 - a) the identity of the other person or entity involved in the transaction;
 - b) the dollar amount of the transaction;
 - c) the locations and addresses of each other person or entity involved in the transaction;
 - d) the location at which goods or services involved in the transaction were provided or performed;
 - e) the addresses and locations to and from which any goods were shipped or received; and
 - f) the name and title of the person(s) who handled the transaction for Charged Party.
2. Documents that show all **expenses incurred by Charged Party** during the period covered by this subpoena, and for each transaction by which Charged Party incurred expense during that period, documents that show the following:
 - a) the dollar amount of the transaction;
 - b) the locations and addresses of each other entity involved in the transaction;
 - c) the location at which goods or services involved in the transaction were provided or performed;
 - d) the locations to and from which any goods were shipped or received; and
 - e) the name and title of the person(s) who handled the transaction for Charged Party.
3. The complete **personnel and employment files** (excluding medical records but including documents showing dates of employment, job titles, job duties, dates of job titles, rates of pay, corrective action or discipline, and all documents showing the reasons for corrective action or discipline) of the following employees:

Perry Bradshaw

Jonathan Williams
4. Documents showing all disciplinary actions, including oral warnings, issued to employees at Charged Party's facility during the period covered by this subpoena, for reasons similar to that for which Perry Bradshaw and Jonathan Williams were discharged, together with the personnel file of each disciplined employee showing all other discipline to that employee.
5. All organizational charts and other documents that show the Charged Party's managerial structure, hierarchy, or chain of command for Charged Party's facility during the period covered by this subpoena, including documents that show any changes to the reporting protocols and chain of command.
6.
 - a) The personnel file and all other documents which in any manner concern the employment history with Charged Party, as well as documents which contain the information described herein in paragraphs 6(b) through 13, for Jason Menk.

- b) the date Jason Menk began his employment with Charged Party, and the date of termination or separation, if applicable;
 - c) each job classification, job title, and job position occupied by Jason Menk during the period covered by this subpoena, including any change(s) thereto and the date(s) thereof;
 - d) the work hours and shift assigned to Jason Menk during the period covered by this subpoena, including any change(s) thereto and the date(s) thereof;
 - e) the name and identification number (if applicable) of each department and work area (including specific construction projects or jobsites) in which Jason Menk has performed work during the period covered by this subpoena, including any change(s) thereto and the date(s) thereof;
 - f) the salary, hourly wage, and rate of pay received by Jason Menk during the period covered by this subpoena, including any change(s) thereto and the date(s) thereof; and
 - g) all other forms of remuneration (including but not limited to stock options, bonuses, lump-sum payments, and profit sharing) received by Jason Menk during the period covered by this subpoena, including any change(s) thereto and the date(s) thereof.
7. All job descriptions and other documents which in any manner describe, identify, mention, or discuss the duties, job functions, responsibilities, and authority of each job classification, job title, and position occupied by Jason Menk at any time during the period covered by this subpoena.
 8. All documents and other forms of written communication which occurred at any time during the period covered by this subpoena between Charged Party (including any officer, director, manager, supervisor, agent, and representative thereof) and Jason Menk which in any manner describes, identifies, mentions, or discusses the duties, job functions, responsibilities, authority, and any financial interest of Menk in Charged Party.
 9. All performance evaluations, appraisals, and other documents issued at any time during the period covered by this subpoena which evaluates, rates, assesses, appraises, or discusses the work performance of Jason Menk.
 10. All documents that indicate or reflect warnings, reprimands, discharges, and other forms of discipline issued to Jason Menk at any time during the period covered by this subpoena.
 11. All performance evaluations, appraisals, and other documents issued at any time during the period covered by this subpoena which evaluates, rates, assesses, appraises, or discusses the work performance of any employee of Charged Party, and which were issued by and/or bear the signature or initials of Jason Menk.
 12. All documents that indicate or reflect warnings, reprimands, discharges, and other forms of discipline issued to employees of Charged Party at any time during the period covered by this subpoena and which were issued by and/or bear the signature or initials of Jason Menk.

13. All Documents that indicate or reflect involvement or participation, including recommendations, by Jason Menk in the following actions concerning employees at Charged Party's facility at any time during the period covered by this subpoena: hiring, transferring, suspending, laying off, recalling, promoting, assigning work, rewarding, scheduling or granting time off, assigning overtime, adjusting grievances, directing work, or evaluating.

RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

- (Check method used.)
- by person
 - by certified mail
 - by registered mail
 - by telegraph
 - by leaving copy at principal office or place of business at

on the named person on

Oct. 30, 2018

(Month, day, and year)

Sara Mol

(Name of person making service)

Designated Staff

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 25-CA-224263

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.

David Williams
LABORERS LOCAL 645
23698 Western Avenue
South Bend, IN 46619-1507

David Williams
LABORERS LOCAL 645
1520 E Riverside Dr
Indianapolis, IN 46202-2074

Sandra Medino Treto
MEDINA GENERAL CONSTRUCTION,
LLC
1521 N 17th St
Lafayette, IN 47904-1401

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

(OVER)

Ex. 3(a)

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 25**

MEDINA GENERAL CONSTRUCTION, LLC

and

Case 25-CA-224263; 25-CA-225180

LABORERS LOCAL 645

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 November 10, 2020, 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:

Sandra Medino Treto
MEDINA GENERAL
CONSTRUCTION, LLC
1521 N 17th St
Lafayette, IN 47904-1401

CERTIFIED MAIL
7008 1830 0004 5874 2737

David Williams
LABORERS LOCAL 645
23698 Western Avenue
South Bend, IN 46619-1507

CERTIFIED MAIL
7008 1830 0004 5874 2706

David Williams
LABORERS LOCAL 645
1520 E Riverside Dr
Indianapolis, IN 46202-2074

FIRST CLASS MAIL

November 10, 2020

Date

Renee Laux, Designated Agent of NLRB

Name

/s/ Renee Laux

Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 25-CA-224263

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ALERT: USPS IS EXPERIENCING UNPRECEDENTED VOLUME INCREASES AND LIMITED EMPLOYEE AVAILABILIT...



FAQs >

Track Another Package +

Tracking Number: 70081830000458742737

Remove X

Your item was delivered to an individual at the address at 2:10 pm on November 16, 2020 in LAFAYETTE, IN 47904.

Delivered

November 16, 2020 at 2:10 pm
Delivered, Left with Individual
LAFAYETTE, IN 47904

Get Updates v

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Text & Email Updates v

Tracking History ^

November 16, 2020, 2:10 pm
Delivered, Left with Individual
LAFAYETTE, IN 47904

Your item was delivered to an individual at the address at 2:10 pm on November 16, 2020 in LAFAYETTE, IN 47904.

Product Information v

See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs

Feedback



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 25
575 North Pennsylvania Street - Room 238
Indianapolis, IN 46204-1577

phone: (317) 991-7642
fax: (317) 226-5103
derek.johnson@nlrb.gov

December 2, 2020

Sandra Medina Treto
Medina General Construction, LLC
1521 N 17th St
Lafayette, IN 47904

Re: Medina General Construction, LLC
Case 25-CA-224263 et al.

Dear Ms. Medina Treto:

This letter is to inform you that this office has not yet received an answer to the Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing issued on November 10, 2020, in the above-referenced case. Under Section 102.20 of the Rules and Regulations of the National Labor Relations Board (the "Board"), a failure to file an answer can result in the Board finding all of the allegations in the complaint to be true. Therefore, if you intend to file an answer, please be advised that we must have your answer no later than **December 9, 2020**. If we do not receive an answer by this date, the Region will have no alternative but to file a Motion for Default Judgment with the Board asking that the Board deem all allegations in the complaint to be admitted.

For your convenience, I have enclosed a copy of Sections 102.20 and 102.21 of the Board's Rules and Regulations. As stated in Section 102.20, your answer should consist of specifically admitting or denying each paragraph of the complaint, unless you are truly without knowledge of the facts alleged in the paragraph, in which case you should so state.

Please be advised that, pursuant to Section 102.5 of the Board's Rules and Regulations, your answer must be submitted electronically (E-Filing) through the Agency's web site (<http://www.nlrb.gov/>) or you must provide a written statement explaining why electronic submission is not possible or feasible. **FAILURE TO COMPLY WITH SECTION 102.5 WILL RESULT IN REJECTION OF YOUR SUBMISSION.**

If you have any questions, please do not hesitate to contact me at (317) 991-7642.

Sincerely,

A handwritten signature in black ink, appearing to read "Derek Johnson".

Derek A. Johnson
Field Attorney

Rules & Regulations
National Labor Relations Board

Answer

Sec. 102.20 *Answer to complaint; time for filing; contents; allegations not denied deemed admitted.* — The Respondent must, within 14 days from the service of the complaint, file an answer. The Respondent must specifically admit, deny, or explain each of the facts alleged in the complaint, unless the Respondent is without knowledge, in which case the Respondent must so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the Respondent states in the answer that the Respondent is without knowledge, 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.

Sec. 102.21 *Where to file; service upon the parties; form.* — An original and four copies of the answer shall be filed with the Regional Director issuing the complaint. Immediately upon the filing of the answer, Respondent shall serve a copy thereof on the other parties. An answer of a party represented by counsel or non-attorney representative shall be signed by at least one such attorney or non-attorney representative of record in his/her individual name, whose address shall be stated. A party who is not represented by an attorney or non-attorney representative shall sign his/her answer and state his/her address. Except when otherwise specifically provided by rule or statute, an answer need not be verified or accompanied by affidavit. The signature of the attorney or non-attorney party representative constitutes a certificate by him/her that he/she has read the answer; that to the best of his/her knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If an answer is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the action may proceed as though the answer had not been served. For a willful violation of this section an attorney or non-attorney party representative may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.