

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

LONGO EN-TECH PUERTO RICO, LLC

and

Cases 12-CA-248406
12-CA-252309

UNITED STEEL WORKERS, LOCAL 6781,
AFL-CIO, CLC

JOINT MOTION TO REMAND CASES TO THE REGIONAL DIRECTOR

Pursuant to Section 102.24 of the Board's Rules and Regulations, Respondent Longo-En Tech Puerto Rico, LLC and Counsel for the General Counsel hereby move that the Board remand the above-captioned cases to the Regional Director of Region 12 to effectuate a settlement of the dispute.

I. Statement of the Case

On September 16, 2019, and November 22, 2019, United Steelworkers, Local 6871, AFL-CIO, CLC (the Union) filed charges in Cases 12-CA-248406 and Case 12-CA-252309, respectively, alleging that Respondent failed and refused to bargain in good faith with the Union in violation of Section 8(a)(5) and (1) of the National Labor Relations Act (Act) by: failing and refusing to meet and bargain at reasonable times; informing the Union that Respondent would select the Union's shop steward as a condition of reaching a collective-bargaining agreement; informing the Union that as a condition of continued bargaining the Union must accept Respondent's proposed drug policy; and unilaterally laying off an employee, who is also a shop steward, in violation of seniority and superseniority provisions in the expired collective-bargaining agreement.

On February 7, 2020, the Regional Director of Region 12, issued a Consolidated Complaint and Notice of Hearing on the various unfair labor practices charges. A hearing was held before Administrative Law Judge Kimberly R. Sorg-Graves on various dates in March 2020.

On August 7, 2020, Judge Sorg-Graves issued a Decision and Recommended Order in the above matter, in which she concluded that Respondent violated the Act in various ways, including by failing to bargain collectively and in good faith with the Union for a successor collective-bargaining agreement, unilaterally implementing terms and conditions of unit employees' seniority and superseniority rights as they apply to layoffs of employees, including employee Ernesto Fernandez. Judge Sorg-Graves also recommended that Respondent be ordered to take certain affirmative actions, including, on request of the Union, rescind the changes to the seniority and superseniority rights of unit employees with respect to layoff order; offer Ernesto Fernandez full reinstatement, make whole affected employees, including Ernesto Fernandez, for any loss of earnings and other benefits resulting from their layoffs, compensate them for the adverse tax consequences, if any, of receiving lump-sum backpay awards, filing a report with the Regional Director for Region 12 allocating backpay awards of to the appropriate calendar years, and notice posting.

On September 29, 2020, these cases entered the Board's Alternative Dispute Resolution program. Respondent and Counsel for General Counsel participated in telephone mediation sessions on various dates during the months of September, October, November and December 2020, led by Associate Executive Secretary Farah Qureshi. Respondent, Counsel for the General Counsel and the Union have entered into the informal settlement agreement attached to this Motion (herein, "the Agreement"). The discriminatee has orally agreed to the terms of the Agreement that

provide for his reinstatement, backpay, and expungement of references to his layoff from Respondent's files.

II. Procedure Upon Remand

If the Board remands these cases to the Regional Director, the Regional Director will immediately approve the attached Informal Settlement Agreement and begin enforcing compliance with its terms.

III. Motion to Remand

Respondent and Counsel for General Counsel respectfully move that, under these circumstances, it will effectuate the purposes of the Act to Remand these cases to the Regional Director to further action consistent with the Procedure upon Remand and the attached Agreement, and that no further action be taken by the Board, the Region, Respondent or the Union to otherwise effectuate Judge's Sorg-Graves' Findings and Recommended Order.

Remanding the matter to the Regional Director is reasonable as the Agreement includes appropriate remedies for the alleged violations of the Act based on the findings of fact, conclusions of law, and recommended remedies and order issued by Judge Sorg-Graves. Specifically, the Settlement Agreement provides for appropriate cease and desist language, and affirmative remedies including a bargaining order, a requirement to rescind the unilateral changes upon request, a provision for the reinstatement of Ernesto Fernandez, the only employee affected by the alleged unilateral changes, a substantially complete make whole remedy for Ernesto Fernandez, with interest, compensation of Ernesto Fernandez for the adverse tax consequences, if any, of receiving a lump-sum backpay award, filing of a report with the Regional Director for Region 12 allocating the backpay of Ernesto Fernandez to the appropriate calendar years, and a notice posting requirement.

