

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

HOSPITAL MENONITA DE GUAYAMA, INC.

and

Cases 12-CA-214830, 12-CA-214908,
12-CA-215039, 12-CA-215040,
12-CA-215665, 12-CA-217862,
12-CA-218260, and 12-CA-221108

UNIDAD LABORAL DE ENFERMERAS(OS)
Y EMPLEADOS DE LA SALUD

**MOTION OF THE ACTING GENERAL COUNSEL TO THE
NATIONAL LABOR RELATIONS BOARD FOR LEAVE TO WITHDRAW PORTIONS
OF THE FORMER GENERAL COUNSEL'S BRIEFS TO THE BOARD**

Pursuant to Section 102.24 of the Board's Rules and Regulations, Counsel for the Acting General Counsel hereby submits this Motion and urges the Board to grant the Acting General Counsel leave to withdraw the argument of former General Counsel Robb in General Counsel's Answering Brief to Respondent's Exceptions and General Counsel's Brief in Support of Cross-Exceptions, both filed on September 23, 2019, urging the Board to overrule *UGL-UNICCO Service Company*, 357 NLRB 801 (2011), and return to the rule of *MV Transportation*, 337 NLRB 770 (2002).

Former General Counsel Robb's term ended on January 20, 2021, and Acting General Counsel Peter Sung Ohr was designated by President Biden on January 25, 2021. Acting General Counsel Ohr disagrees with the recommendation to overturn existing Board law with respect to the successor bar doctrine outlined in *UGL-UNICCO*, *supra*, because overturning *UGL-UNICCO* would not be consistent with the mission of the Act. Acting General Counsel Ohr therefore seeks leave from the Board to withdraw the following portion of Section III-(F)(i) of former General Counsel Robb's Answering Brief to Respondent's Exceptions to the Decision of the Administrative

Law Judge, filed on September 23, 2019, specifically at the last sentence of page 40 and footnote 16 on page 40:

Notwithstanding the above, the General Counsel is of the view that the Board should overrule *UGL-UNICCO*, and return to the rule of *MV Transportation*, supra, substantially for the reasons expressed in the majority opinion in *MV Transportation*, Member Hayes’s dissenting opinion in *UGL-UNICCO*, and Member Miscimarra’s dissenting opinion in *FJC Security Services*, 360 NLRB 929 (2014). [Footnote 16: If the Board changes its blocking charge rules, the Board should consider an alternative to the *MV Transportation* rule whereby a successor employer is barred from unilaterally withdrawing recognition for a specified period. Under such an alternative rule, successor employers and employees would remain free to file representation petitions with the Board.]

For the same reason, Acting General Counsel Ohr seeks leave from the Board to withdraw the following excerpt from Section III-(B)(i) at page 6 of former General Counsel Robb’s Brief in Support of Cross-Exceptions to the Administrative Law Judge Decision, also filed on September 23, 2019: “...given that both Respondent and the General Counsel are of the view that the successor bar doctrine should be overruled...”

Dated at San Juan, Puerto Rico, this 1st day of March, 2021.

Respectfully submitted,

/s/ Celeste Hilerio Echevarria
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Motion of the Acting General Counsel to the National Labor Relations Board for Leave To Withdraw Portions of the Former General Counsel's Briefs to the Board in the matter of Hospital Menonita de Guayama, Inc., Cases 12-CA-214830, 12-CA-214908, 12-CA-215039, 12-CA-215040, 12-CA-215665, 12-CA-217862, 12-CA-218260, and 12-CA-221108, was electronically filed with the Executive Secretary of the National Labor Relations Board and served by electronic mail upon the below listed parties on this 1st day of March, 2021, as follows:

By Electronic Filing to:

Hon. Roxanne L. Rothschild
Executive Secretary
National Labor Relations Board
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By Electronic Mail to:

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