

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 6**

**UNITED FOOD AND COMMERCIAL WORKERS UNION  
LOCAL 400, CLC (KROGER STORE NO. 755)**

**and**

**Case 06-CB-222829**

**SHELBY KROCKER, an Individual**

**JOINT MOTION TO REMAND CASE TO THE REGION**

Pursuant to Section 102.45 of the National Labor Relations Board rules and Regulations, Clifford E. Spungen, Counsel for the Acting General Counsel, and Carey R. Butsavage, Counsel for the Respondent, jointly file this Motion to Remand Case to the Region so that the Informal Settlement Agreement that was approved by the Regional Director in the above-referenced case may be processed. In support of this Motion, the Counsel for the Acting General Counsel and Respondent state as follows:

1. On September 27, 2019, Region Six's Regional Director Nancy Wilson issued a complaint in this case alleging that Respondent violated Section 8(b)(1)(A) of the Act by maintaining a single three-part dues check-off authorization form for employees to sign that was (1) confusing and ambiguous and failed to clearly provide information to employees in order for them to make an informed decision on union membership and dues check-off, (2) contained language that negated the voluntary requirement for such a voluntary check-off authorization form, (3) did not contain clear language informing signers when they may revoke their dues check-off authorizations or permitting revocation, and (4) contained language that authorized the

transfer of the check-off obligations to a new employer. The complaint further alleges that Respondent rejected the Charging Party's request to revoke her dues deduction authorization as untimely and failed to inform her of the actual dates within which to timely request a revocation.

2. On December 13, 2019, Regional Director Wilson issued an Amendment to Complaint correcting the date on which Respondent rejected the Charging Party's request to revoke her dues deduction authorization

3. The parties submitted a joint motion to proceed on a stipulated record on January 9, 2020. Chief Administrative Law Judge Robert Giannasi granted the parties' motion on January 10, 2020.

4. The parties filed briefs on February 28, 2020 and reply briefs on April 9, 2020.

5. Judge Giannasi issued his Decision and Order Transferring Proceedings to the Board on April 20, 2020. The decision recommended that the Board find that Respondent did not violate the Act as alleged in the Complaint.

6. On July 2, 2020 the Charging Party and Counsel for the former General Counsel filed exceptions and briefs in support of exceptions to Judge Giannasi's decision.

7. On September 1, 2020 the Respondent filed an answering brief, and on September 10 and September 15 Counsel for the former General Counsel and the Charging Party, respectively, filed reply briefs.

8. Pursuant to settlement discussions, the Region and the Respondent have agreed to the terms of an Informal Board Settlement, attached as Exhibit 1.

9. The settlement fully remedies the allegations contained in the complaint and comports with the remedial provisions of Board orders in cases involving such violations.

Respondent also agreed to the sixty (60) day posting of a notice at two physical locations and on its website.

10. On February 23, 2021 the Charging Party submitted objections to the settlement, attached as Exhibit 2. On March 1, 2021 Regional Director Wilson responded to those objections, attached as Exhibit 3. On the same day, the Charging Party responded by noting its continued objections to the settlement, attached as Exhibit 4.

11. Respondent has agreed to be bound by the settlement, and the Region approves of the settlement. The settlement is reasonable in light of the nature of the violations alleged, the risks inherent in litigation, and the stage of the litigation. None of the parties have engaged in fraud, coercion, or duress in reaching the settlement. Respondent does not have a history of unfair labor practices beyond the allegations resolved by this settlement, and Respondent has not previously breached any settlements resolving unfair labor practice allegations. Therefore, remand of this case for settlement is appropriate. See *Independent Stave*, 287 NLRB 740, 790 (1987).

**WHEREFORE**, for the foregoing reasons, Counsel for the Acting General Counsel and Counsel for Respondent respectfully request that the Board grant this motion and remand the case to the Region for processing of the settlement agreement, where the Charging Party will

have a right to appeal Regional Director Wilson's decision to approve the unilateral settlement over the Charging Party's objections.

Dated at Pittsburgh, Pennsylvania, this 8th day of March 2021.

Respectfully submitted,

*Clifford E. Spungen*

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