

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21**

SOS INTERNATIONAL, LLC

and

**PACIFIC MEDIA WORKERS GUILD,
COMMUNICATIONS WORKERS OF AMERICA,
LOCAL 39521, AFL-CIO**

**Cases 21-CA-178096
21-CA-185345
21-CA-187995**

**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 (Board), and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 21-CA-178096, 21-CA-185345, and 21-CA-187995, which are based on charges filed by Pacific Media Workers Guild, Communications Workers of America, Local 39521, AFL-CIO (Union), against SOS International, 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 Rules and Regulations of the Board, and alleges that Respondent has violated the Act as described below:

1. (a) The charge in Case 21-CA-178096 was filed by the Union on June 7, 2016, and a copy was served by regular mail on Respondent on June 10, 2016.

(b) The original charge in Case 21-CA-185345 was filed by the Union on September 30, 2016, and a copy was served by regular mail on Respondent on October 3, 2016.

(c) The first amended charge in Case 21-CA-185345 was filed by the Union on December 15, 2016, and a copy was served by regular mail on Respondent on December 19, 2016.

(d) The second amended charge in Case 21-CA-185345 was filed by the Union on January 31, 2017, and a copy was served by regular mail on Respondent on January 31, 2017.

(e) The third amended charge in Case 21-CA-185345 was filed by the Union on February 22, 2017, and a copy was served by regular mail on Respondent on February 23, 2017.

(f) The fourth amended charge in Case 21-CA-185345 was filed by the Union on February 24, 2017, and a copy was served by regular mail on Respondent on February 24, 2017.

(g) The fifth amended charge in Case 21-CA-185345 was filed by the Union on March 2, 2017, and a copy was served by regular mail on Respondent on March 2, 2017.

(h) The sixth amended charge in Case 21-CA-185345 was filed by the Union on March 14, 2017, and a copy was served by regular mail on Respondent on March 14, 2017.

(i) The charge in Case 21-CA-187995 was filed by the Union on November 9, 2016, and a copy was served by regular mail on Respondent on November 10, 2016.

2. (a) At all material times, Respondent has been a Virginia corporation with its operational headquarters located in Reston, Virginia (Reston facility), and has been engaged in the business of contracting services to the government of the United States.

(b) In conducting its operations described above in paragraph 2(a), during the 12-month period ending August 31, 2016, a representative period, Respondent provided services

valued in excess of \$50,000 to the Executive Office of Immigration Review (EOIR), a division of the United States Department of Justice, an entity of the United States Government, which is directly involved in interstate commerce.

3. 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.

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

5. (a) At all material times, Martin Valencia held the position of Respondent's Program Manager 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.

(b) At all material times, Haroon Siddiqi held the position of Respondent's Coordinator and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

6. (a) From about August 2015 to the present, employees of Respondent named below engaged in concerted activities with other employees for the purposes of mutual aid and protection by discussing their wage rates and other terms and conditions of employment, acting concertedly for better employment contracts, acting concertedly for better working conditions, bargaining concertedly with Respondent for better employment contracts and better working conditions, concertedly complaining to Respondent about their employment contracts, wage rates, working conditions and other terms of employment, and engaging in demonstrations because of Respondent's alleged unfair labor practices and in order to get better terms and conditions of employment:

Jo Ann Gutierrez Bejar

Hilda Estrada

Stephany Magana

Kathleen Morris

Maria Portillo

Patricia Rivadeniera

(b) About August 24, 2016, Respondent failed and refused to renew the contracts of its employees named below, thereby terminating them:

Jo Ann Gutierrez Bejar

Hilda Estrada

Stephany Magana

Kathleen Morris

Maria Portillo

Patricia Rivadeniera

(c) About September 15 or 16, 2016, Respondent offered and then rescinded a contract and work to its employee Maria Portillo.

(d) Respondent engaged in the conduct described above in paragraphs 6(b) and 6(c) because the named employees of Respondent engaged in the conduct described above in paragraph 6(a), and to discourage employees from engaging in these or other concerted activities.

(e) Respondent engaged in the conduct described above in paragraphs 6(b) and 6(c) because the named employees of Respondent joined and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

7. (a) From about August 2015 to the present, employee Irma Rosas engaged in concerted activities with other employees for the purposes of mutual aid and protection by discussing wage rates and other terms and conditions of employment, acting concertedly for better employment contracts, acting concertedly for better working conditions, bargaining concertedly with Respondent for better employment contracts and better working conditions, concertedly complaining to Respondent about employees' employment contracts, wage rates, working conditions and other terms of employment, and participating in demonstrations with

other employees because of Respondent's alleged unfair labor practices and in order to get better terms and conditions of employment.

(b) About August 26, 2016, Respondent took away the work of employee Irma Rosas for the last week of August 2016 and all of September 2016, and gave her more onerous work and fewer assignments for the same time period.

(c) By the conduct described above in paragraph 7(b), Respondent caused the termination of its employee Irma Rosas.

(d) Respondent engaged in the conduct described above in paragraphs 7(b) and 7(c) because employee Irma Rosas engaged in the conduct described above in paragraph 7(a), and to discourage employees from engaging in these or other concerted activities.

(e) Respondent engaged in the conduct described above in paragraphs 7(b) and 7(c) because employee Irma Rosas assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

8. (a) About the third week of September 2016, Respondent's employee Rosario Espinosa engaged in concerted activities with other employees for the purposes of mutual aid and protection by sharing her contract information, including wage rates and other terms and conditions of employment, with her coworkers.

(b) About September 27, 2016, Respondent rescinded the contract of employee Rosario Espinosa, thereby terminating her.

(c) Respondent engaged in the conduct described above in paragraph 8(b) because employee Rosario Espinosa engaged in the conduct described above in paragraph 8(a), and to discourage employees from engaging in these or other concerted activities.

9. (a) About the third week of September 2016, Respondent's employee Ismail Charania engaged in concerted activities with other employees for the purposes of mutual aid and protection by discussing wage rates and a breach of employees' personal data with other employees and communicating those wage rates and the data breach in emails and in a Facebook post.

(b) About October 4, 2016, Respondent rescinded the contract of employee Ismail Charania, thereby terminating him.

(c) Respondent engaged in the conduct described above in paragraph 9(b) because employee Ismail Charania engaged in the conduct described above in paragraph 9(a) and to discourage employees from engaging in these and other concerted activities.

10. Since at least January 10, 2016 and at all material times, Respondent has misclassified its employees as independent contractors, thereby inhibiting them from engaging in Section 7 activity and depriving them of the protections of the Act.

11. About August 26, 2016, Respondent, by Haroon Siddiqi, by text message and over the phone:

(a) Interrogated employees about their protected concerted activities;

(b) Engaged in surveillance of employees engaged in concerted activities;

(c) Created an impression among its employees that their concerted activities were under surveillance by Respondent;

(d) Impliedly threatened employees because of their protected concerted activities.

12. About September 15 or 16, 2016, Respondent, by Martín Valencia, during a phone call, told employees that they could not work for Respondent because of their protected concerted activities.

13. About September 22, 2016, Respondent, by an agent, by letter:

- (a) Told employees not to discuss their protected concerted activities;
- (b) Interrogated employees about their protected concerted activities;
- (c) Threatened legal action against employees because of their protected

concerted activities.

14. About October 6, 2016, Respondent, by an agent, by letter:

- (a) Told employees not to discuss their protected concerted activities;
- (b) Interrogated employees about their protected concerted activities;
- (c) Threatened legal action against employees because of their protected

concerted activities.

15. At all material times since at least September 14, 2016, Respondent has maintained in its Independent Contractor Agreement the following Publicity Clause: “No news release or other public announcement shall be made about this Agreement without the prior written consent of SOSi.”

16. At all material times since at least September 14, 2016, Respondent has maintained in its Confidentiality Agreement for Contractors the following provision: “Except as necessary in the performance of my duties under this contract, I will not: Disseminate any oral or written information obtained as a result of execution of this contract or work hereunder.”

17. At all material times since at least September 14, 2016, Respondent has maintained a SOSi Code of Business Ethics and Conduct, which contains the following provisions:

(a) “Confidential and/or sensitive information such as a person’s [. .] compensation data should only be used for legitimate business purposes and be accessed by, and communicated to, only those individuals who have a need to know such information.”

(b) “Use of Company Assets:[. .]SOSi personnel are not permitted to use Company assets, including but not limited to phones, computers, [. .] email accounts [. .] for other than legitimate business purposes.”

(c) “Social media should never be used to discuss any information concerning SOSi business or to disclose confidential or proprietary information [. .]. Also, individuals who use social media must refrain from sending any messages that are offensive or embarrassing to the Company or to other people.”

(d) “SOSi personnel are not permitted to communicate directly with the media unless explicitly permitted.”

18. At all material times and since at least September 14, 2016, Respondent has maintained in its Code of Professional Responsibility the following provision: “Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.”

19. By the conduct described above in paragraphs 6(b), (c), and (e), and 7(b), (c), and (e), Respondent has discriminated and is 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.

20. By the conduct described above in paragraphs 6(b), (c) and (d), 7(b), (c) and (d), 8(b) and (c), 9(b) and (c) and 10 to 18, Respondent has been interfering with, restraining, and coercing employees in the exercise of rights guaranteed by Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

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

WHEREFORE, as part of the remedy of the unfair labor practices alleged above in paragraph 10, the General Counsel seeks an order requiring Respondent to immediately reclassify all of its interpreters as employees nationwide, and to post notices nationwide in every EOIR location. Further, as part of the remedy of the unfair labor practices alleged above in paragraphs 6 (b), (c), (d) and (e), 7(b), (c), (d) and (e), 8(b) and (c), and 9(b) and (c), the General Counsel seeks an order requiring that Respondent make the employees whole by paying them for all consequential damages incurred by reason of Respondent's termination of them. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

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 June 14, 2017, or postmarked on or before June 13, 2017.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also 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. The 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 **August 21, 2017, at 1:00 p.m. at National Labor Relations Board, Region 21, Hearing Room 902, 888 South Figueroa Street, Ninth Floor, Los Angeles, CA 90017**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. 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: May 31, 2017



William B. Cowen, Regional Director
National Labor Relations Board, Region 21
888 S Figueroa Street, Ninth Floor
Los Angeles, CA 90017-5449

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 21-CA-178096, et al.

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.

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Reston, VA 20191-1572

Pacific Media Workers Guild,
Communications Workers of America,
Local 39521, AFL-CIO
433 Natoma Street, Third Floor
San Francisco, CA 94103

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

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:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21**

SOS INTERNATIONAL, LLC

and

**PACIFIC MEDIA WORKERS GUILD,
COMMUNICATIONS WORKERS OF AMERICA,
LOCAL 39521, AFL-CIO**

**Cases 21-CA-178096
21-CA-185345
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**AFFIDAVIT OF SERVICE OF: Order Consolidating Cases, Consolidated 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 **May 31, 2017**, 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:

Charles P. Roberts III, Attorney at Law
Constangy, Brooks, Smith & Prophete, LLP
100 North Cherry Street, Suite 300
Winston-Salem, NC 27101-4016

FIRST CLASS MAIL

SOS International, LLC
1881 Campus Commons Drive Suite 500
Reston, VA 20191-1572

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED
(7015 0920 0001 7975 8074)**

Sheila K. Sexton, Attorney at Law
Lorrie E. Bradley, Attorney at Law
Beeson, Tayer & Bodine
483 - 9th Street, 2nd Floor
Oakland, CA 94607-4051

FIRST CLASS MAIL

Pacific Media Workers Guild,
Communications Workers of America,
Local 39521, AFL-CIO
433 Natoma Street, Third Floor
San Francisco, CA 94103

**CERTIFIED MAIL
(7015 0920 0001 7975 8081)**

May 31, 2017

Date

Aide Carretero, Designated Agent of NLRB

Name



Signature