

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

JOSE CASTELLANOS,

Petitioner,

To Review Under Section 101 of the Labor Law:
An Order to Comply with Article 6 of the Labor Law
and an Order Under Article 19 of the Labor Law, both
dated July 27, 2010,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 10-262

INTERIM
RESOLUTION OF DECISION

APPEARANCES

Jose Castellanos, *pro se* petitioner.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Benjamin T. Garry of counsel), for the respondent.

WHEREAS:

The above proceeding was commenced on August 13, 2010, when Petitioner Jose Castellanos filed a petition for review pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (12 NYCRR Part 66).


On August 26, 2010, the Board served the petition on Respondent Commissioner of Labor (Respondent), who moved on October 5, 2011, for an order granting the Respondent permission to withdraw the orders at issue in this matter and issue amended orders to comply. The grounds for the motion are that the orders are inaccurate in that they omitted the word "and" between Castellanos and Tu Sabor Restaurant Corp and also failed to name Martin Millan as a joint employer. The Respondent seeks to withdraw the orders and issue amended orders naming Jose Castellanos, Martin Millan, and Tu Sabor Restaurant Corp.

The Petitioner does not oppose the motion.

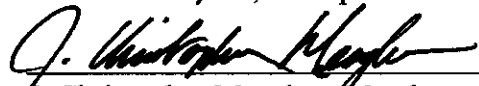
Accordingly, the Board approves the withdrawal of the July 27, 2010 orders and their amendment and reissuance as requested by the Respondent.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. Effective the date of this Interim Resolution of Decision, the Board approves Respondent's withdrawal of the Order to Comply with Article 6 of the Labor Law and the Order under Article 19 of the Labor Law, both dated July 27, 2010
2. The accrual of interest in the Order to Comply with Article 6 of the Labor Law is suspended from July 27, 2010, until the date that Respondent issues and serves an amended order on petitioner and anyone else named in the order.



Anne P. Stevenson, Chairperson



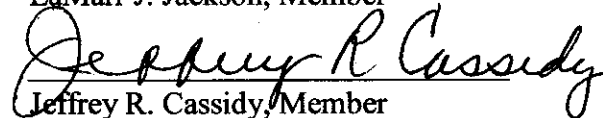
J. Christopher Meagher, Member



Jean Grumet, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at New York, New York, on
May 30, 2012.

LaMarr J. Jackson, Member



Jeffrey R. Cassidy, Member

Accordingly, the Board approves the withdrawal of the July 27, 2010 orders and their amendment and reissuance as requested by the Respondent.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

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2. The accrual of interest in the Order to Comply with Article 6 of the Labor Law is suspended from July 27, 2010, until the date that Respondent issues and serves an amended order on petitioner and anyone else named in the order.

Anne P. Stevason, Chairperson

J. Christopher Meagher, Member

Jean Grumet, Member



LaMarr J. Jackson, Member

Jeffrey R. Cassidy, Member

Dated and signed by a Member
of the Industrial Board of Appeals
at Rochester, New York, on
June 4, 2012.