

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of: :
: :
LORRAINE CARUSO A/K/A LORI CARUSO :
AND PRECISION ASSEMBLY TECHNOLOGIES, :
INC., :
: :
Petitioners, : DOCKET NO. PR 15-365
: :
To Review Under Section 101 of the Labor Law: : RESOLUTION OF DECISION
An Order To Comply With Article 6 of the Labor :
Law, and an Order Under Article 6 of the Labor Law, :
both dated October 24, 2014, :
: :
- against - :
: :
THE COMMISSIONER OF LABOR, :
: :
Respondent. :
: :
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APPEARANCES

Stephen Serrecchia, authorized representative, for petitioners.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (*Kathleen Dix* of counsel), for respondent.

WHEREAS:

This proceeding was commenced when petitioners filed a petition with the Industrial Board of Appeals (Board) on November 9, 2015, which was subsequently amended. On December 2, 2015, the Board served the petition and amended petition on the Commissioner. Respondent moved on December 31, 2015, to dismiss the proceeding as untimely because the petition was filed more than 60 days after the orders being appealed were issued. Petitioners responded on January 15, 2016, alleging that the orders were not properly served on petitioners. Respondent replied on February 12, 2016, with proof of service of the orders.

Labor Law § 101 (1) provides that:

“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the

commissioner Such petition shall be filed with the board no later than sixty days after the issuance of such . . . order.”

There is no dispute that the proceeding was commenced more than 60 days after the orders were issued. Respondent’s affidavits of service indicate that copies of the orders were served by mail on both Lorraine Caruso A/K/A Lori Caruso and Precision Assembly Technologies, Inc. at petitioners’ last known place of business in Bohemia, New York. Petitioners do not deny that this is their last known place of business.

Labor Law § 33 allows the Commissioner to serve orders by mail to parties at their last known place of business. In this case, the affidavits of service show that the Commissioner mailed one copy of the orders to each party at their last known place of business, which constitutes proper service under Labor Law 33 (*Matter of Bancescu*, PR 15-180 at 2 (interim decision, October 28, 2015)).

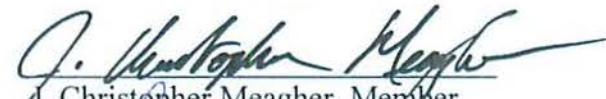
To the extent petitioners are requesting the Board vacate or otherwise review a judgment entered against petitioners by respondent, we do not have jurisdiction. As the petition in this proceeding was filed late, it must be dismissed.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

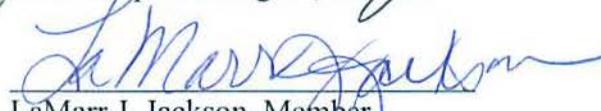
The Commissioner of Labor’s motion to dismiss the petition for review is granted, and the petition for review be, and the same hereby is, dismissed.



Vilda Vera Mayuga, Chairperson



J. Christopher Meagher, Member



LaMarr J. Jackson, Member

Michael A. Arcuri, Member

Dated and signed by the Members
of the Industrial Board of Appeals
at New York, New York
on March 2, 2016.

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To the extent petitioners are requesting the Board vacate or otherwise review a judgment entered against petitioners by respondent, we do not have jurisdiction. As the petition in this proceeding was filed late, it must be dismissed.

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Vilda Vera Mayuga, Chairperson

J. Christopher Meagher, Member

LaMarr J. Jackson, Member



Michael A. Arcuri, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at Albany, New York, on
March 2, 2016.