

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:	:
	:
ANTHONY LEONE,	:
	:
Petitioner,	:
	:
To Review Under Section 101 of the Labor Law:	:
An Order to Comply with Article 19 of the Labor Law	:
and an Order Under Article 6 of the Labor Law, both	:
dated February 12, 2016,	:
	:
- against -	:
	:
THE COMMISSIONER OF LABOR,	:
	:
Respondent.	:
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DOCKET NO. PR 16-035

INTERIM
RESOLUTION OF DECISION

APPEARANCES

Tusa P.C., Southhold (*Joseph S. Tusa* of counsel) and *Bartlett, McDonough & Monaghan, LLP*, Mineola (*Ruth B. Kraft* of counsel), for petitioners.

Pico Ben-Amotz, General Counsel, NYS Department of Labor, Albany (*Roya Sadiqi* of counsel), for respondent.

WHEREAS:

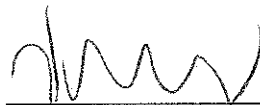
The above proceeding was commenced on April 11, 2016 when petitioner Anthony Leone filed a petition for review pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (12 NYCRR Part 66) of two orders issued by respondent Commissioner of Labor against him and Energy Kitchen 23rd Street, Inc. (T/A Energy Kitchen). Energy Kitchen did not file a petition challenging the orders. The petition states that Anthony Leone is improperly named in the orders, and that such orders should instead name Michael Repole as the proper party responsible for any unpaid wages and other Labor Law violations relating to Energy Kitchen.

On November 18, 2016, respondent moved for an order granting respondent permission to amend and reissue the orders. Specifically, respondent seeks to amend the orders to add Michael Repole as an employer. Petitioner does oppose respondent's motion

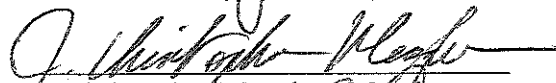
The Board approves the amendment and reissuance of the orders as requested by respondent. The Board suspends any interest that has accrued between November 18, 2016 and the date respondent files an answer with the Board.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

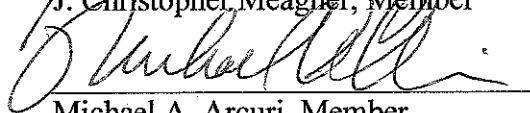
1. The Board approves respondent's amendment of the orders to include "Michael Repole" as a responsible party, and upon amendment of the orders, their reissuance; and
2. Respondent shall serve the amended orders on all parties named by the amended orders, including petitioner, in accordance with Labor Law § 33 within 30 days of this decision, with proof of service filed with the Board; and
3. No later than sixty days from respondent's service of the amended orders, petitioner shall file with the Board an amended petition or writing stating he relies on his earlier petition, with proof of service of the petition or writing on respondent; and
4. Upon receipt of petitioners' amended petition, if any, respondent shall file an answer in accordance with Board Rule (12 NYCRR) § 66.5; and
5. Any petition filed by Energy Kitchen or Michael Repole shall be consolidated with the petition of Anthony Leone under Board docket number PR 16-035; and
6. The accrual of interest in the amended orders is suspended from November 18, 2016 until the date that respondent files an answer with the Board, with proof of service on petitioners.



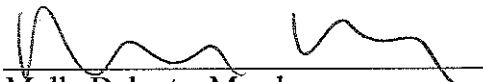
Vilda Vera Maynga, Chairperson



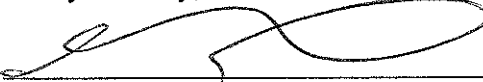
J. Christopher Meagher, Member



Michael A. Arcuri, Member



Molly Doherty, Member



Gloribelle J. Perez, Member

Dated and signed by the Members
of the Industrial Board of Appeals
at New York, New York
on March 1, 2017.