

September 1, 2023

Jennifer A. Abruzzo  
General Counsel  
National Labor Relations Board  
1015 Half Street, S.E.  
Washington, D.C. 20570

Re: Concerns re Labor Practices at Laguna Cliffs Marriott and Spa

Dear General Counsel Abruzzo,

We write in light of a series of concerning developments at the Laguna Cliffs Marriott Resort and Spa in Dana Point, California, a property operated by Aimbridge Hospitality and owned by the University of California Retirement System. We urge the National Labor Relations Board to swiftly investigate the allegations and hold management at the Laguna Cliffs Marriott and related entities accountable for any violations of federal labor law.

The developments concern two issues: (1) the use of automated management practices, together with the company Instawork, to penalize workers who engage in strikes or respect picket lines, and (2) incidents of violence and property destruction against striking workers. Both sets of issues are subject to pending unfair labor practice charges.<sup>1</sup>

In particular, we have received the following allegations from the union that represents workers at the hotel, UNITE HERE Local 11:

*Automated Management Practices*

As you may know, hotel workers in Southern California are currently engaged in a region-wide campaign to raise wages and improve working conditions that have involved strikes at numerous workplaces. In response, Laguna Cliffs Marriott Resort and Spa and other hotels have partnered with a “gig application” company called Instawork to supply workers to replace striking hotel workers. Many workers contracted through Instawork have found to their surprise and alarm when they arrived at the struck hotels that they were being used as strikebreakers. Some, including a worker named Thomas Bradley, have desired to respect the striking workers’ picket lines and to join the striking workers.

However, as a result of the automated management practices established and utilized by Instawork and its partner hotels like Laguna Cliffs Marriott, workers contracted through Instawork are unable to exercise their federal labor rights without interference. This is because Instawork’s algorithmic app-based management system imposes draconian penalties on workers who do not complete previously scheduled shifts, even if the reason they do not complete the shift is because they have chosen to respect a picket line or join a strike. These penalties include, among others, the cancellation of previously scheduled shifts and disqualification from obtaining future shifts at not only the hotel site where a temporary worker seeks to respect a picket line, but also at other unrelated sites. These penalties, which fall heavily upon Instawork’s base of low-wage workers like Thomas Bradley who are dependent on the company for their primary income, have a chilling effect on workers’ exercise of their rights.

*Pattern of Violent Incidents*

During the labor dispute at the Laguna Cliffs Marriot, workers have reported multiple allegations of violence and threats of violence against picketers to the management of the hotel, the police, and the

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<sup>1</sup> Cases No. 21-CA-321146 and 21-CA-321888. See also related 21-CA-322069 and 21-CA-323565.

National Labor Relations Board:

- On July 3, a hotel security leader allegedly told a guest who had threatened to assault workers that the guest should do what he wanted to do and that the security head would testify on the guest's behalf.
- On the following day, a hotel housekeeper named Emilse Pineda was punched in the head by a different hotel guest who called her a sexist epithet before walking back into the hotel. Ms. Pineda stated: "I was in shock as the punch came out of the blue ... I reported the incident to hotel security, but they did nothing to help identify the man or remove him. I felt almost drunk and woozy and had headaches over the next several days. The day after the punch, I passed out and the paramedics were called. As far as I know, the hotel has done nothing about this incident."
- On July 25, two workers were injured when a guest slammed a door into them while degrading them with racist, anti-immigrant epithets.
- In response to these and other episodes, the Union requested that the Laguna Cliffs Management and the UC provide information and records to help it identify the perpetrators of violence against its members. The Union sent formal requests on July 4, July 7, July 24, and July 28, 2023. To date, neither the hotel nor the UC has provided the Union with any of the requested information or records.
- On July 17, the Union filed an Unfair Labor Practice charge against the hotel alleging that the hotel had violated the National Labor Relations Act by "(1) encouraging, sanctioning, and/or failing to take reasonable steps to prevent and address violence by hotel guests against persons engaged in peaceful picketing during a labor dispute, and (2) failing to provide information requested by the Charging Party Union to investigate acts of violence against persons engaged in peaceful picketing during a labor dispute."<sup>2</sup>
- On July 24, with the violations unremedied, workers began an Unfair Labor Practice strike over multiple allegations, including violence.

The conduct alleged above is profoundly troubling and raises serious concerns about the ability of workers at this property to exercise their core labor rights. We ask that the NLRB investigate these issues thoroughly and prosecute the companies involved for all violations of the National Labor Relations Act.

Sincerely,



Barbara Lee  
Barbara Lee  
Member of Congress



Maxine Waters  
Maxine Waters  
Member of Congress



Sydney Kamlager-Dove  
Sydney Kamlager-Dove  
Member of Congress



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Mike Levin  
Member of Congress



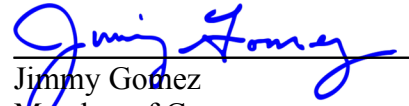
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J. Luis Correa  
Member of Congress



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Ted W. Lieu  
Member of Congress



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Jimmy Gomez  
Member of Congress