

PEOPLE OF THE STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
LABOR BUREAU

IN THE MATTER OF THE INVESTIGATION
OF LETITIA JAMES, ATTORNEY GENERAL
OF THE STATE OF NEW YORK

OF

SOUTHERNTIER CUSTOM FABRICATORS,
INC.

ASSURANCE OF
DISCONTINUANCE

AOD No. 25-030

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”) has investigated SOUTHERNTIER CUSTOM FABRICATORS, INC. (“Southerntier”) pursuant to New York Executive Law § 63(12).

The investigation examined whether Southerntier provided its unionized employees with paid sick leave as required under the New York Labor Law (“NYLL”).

This Assurance of Discontinuance (“AOD”) contains the findings in connection with this investigation of Southerntier and the relief agreed to by the OAG and Southerntier (collectively, the “Parties”).

FINDINGS

Introduction and Background

1. Southerntier is a commercial and industrial fabrication company. Southerntier is an employer within the meaning of NYLL.
2. Southerntier employs both unionized and non-unionized employees.

3. The OAG commenced its investigation in 2023 (the “Matter”).

4. For the purpose of this AOD, the “Relevant Period” will refer to September 30, 2020 through April 30, 2022. During the Relevant Period, Southerntier had Collective Bargaining Agreements (“CBAs”) in effect with Local 112 and Local 58 respectively.

Paid Sick Leave

5. NYLL § 196-b became effective in New York State as of September 30, 2020 and provides for the accrual of paid sick leave. Employees across New York State began accruing paid sick leave on September 30, 2020 and could begin using this time on January 1, 2021. NYLL § 196-b. For employers with one hundred or more employees in any calendar year, each employee is to be provided with up to fifty-six hours of paid sick leave each calendar year. NYLL § 196-b(1)(c). Employees accrue sick leave beginning at the commencement of employment at the rate of one hour per every thirty hours worked. NYLL § 196-b(2).

6. NYLL § 196-b expressly allows for CBAs that were entered into after September 30, 2020 to provide a comparable benefit to paid sick leave so long as the agreement specifically acknowledges the provisions of NYLL § 196-b.

7. At the time NYLL § 196-b became effective, Southerntier was party to existing CBAs with Local 112 and Local 58.

8. During some of the Relevant Period, Southerntier did not apply the provisions of NYLL § 196-b to Local 112 and/or Local 58.

9. Southerntier provided a comparable benefit as of the date of its collective bargaining agreements with each of these bargaining units entered into after the effective date of NYLL § 196-b.

10. Based on the foregoing, the Attorney General has concluded that Southerntier engaged in persistent and repeated illegality in violation of Executive Law § 63(12) and the NYLL.

11. Southerntier does not admit the findings made by the OAG or the alleged violations of law in paragraphs 5-8 and 10. This AOD, and any related negotiations or proceedings, shall not constitute, and shall not be construed as, an admission of any wrongdoing, fault, or liability whatsoever by Southerntier in the Matter or in any other proceeding.

12. The OAG finds the relief and agreements contained in this AOD appropriate and in the public interest. THEREFORE, the OAG is willing to accept this AOD pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of Executive Law § 63(12) based on the conduct described above.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

Entities Bound By the AOD

13. This AOD binds Southerntier, as well as their principals, directors, beneficial owners, officers, shareholders, successors.

Compliance with NYLL

14. Southerntier agrees and acknowledges that any violation of the paid sick leave law during the term of this AOD is a violation of this AOD, and that the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 12, in addition to any other appropriate investigation, action, or proceeding.

Monetary Payment and Settlement Distribution

Payments to OAG

15. Southerntier agrees to pay \$148,252.47 (One Hundred Forty Eight Thousand, Two Hundred Fifty Two Dollars and Forty Seven Cents) in resolution of the OAG's investigation (the "Monetary Relief Amount"), which will be paid to the Settlement Administrator within forty-five (45) days of the full execution of this AOD ("Effective Date") and will be used for distribution as wage restitution to current and former employees for violations of the NYLL for the time period September 30, 2020, through April 30, 2022. At least thirty (30) days before the Monetary Relief Amount is due, the OAG will provide sufficient information to allow Southerntier to arrange for payment to the Settlement Administrator.

16. Southerntier also agrees to pay up to \$13,000.00 (Thirteen Thousand Dollars) (the "Administration Fee") for the distribution of the settlement fund to the Settlement Administrator to cover the costs related to retaining a settlement administrator and distribution of the Monetary Relief Amount. The Settlement Administrator will inform Southerntier within sixty (60) days of the last payment to a current or former employee and the amount of the incurred Administration Fee up to the maximum amount of \$13,000.00.

17. The sum of the Monetary Relief Amount (Paragraph 15), the Administration Fee (Paragraph 16), and Southerntier's employment tax liability (Paragraph 21) shall constitute Southerntier's sole monetary obligations under this AOD notwithstanding any other provision of this AOD.

18. Unless otherwise specified herein, each party will bear its own costs, legal fees and expenses.

19. Southerntier will provide proof of payments to the New York State Attorney General's Office on the same day it makes payments to the Settlement Administrator to the attention of:

Abigail Ramos
Assistant Attorney General
Labor Bureau
28 Liberty Street
New York, New York 10005
Abigail.Ramos@ag.ny.gov

20. The payment and all correspondence related to this AOD must reference "AOD No. 25-030." Payment may be by electronic (ACH), wire transfer or check, and, if by check, payment will be deemed to have been made as of the date the payment is received to the attention of the Settlement Administrator.

21. The Settlement Administrator shall calculate, and Southerntier shall pay, separately and in addition to the Monetary Relief Amount, all of the employer's payroll taxes, including the employer portion of FICA, FUTA, SDI, and any other federal and state payroll taxes arising from the payments classified as wages. The OAG is not responsible for any tax withholding, reporting, or other obligations incurred as a result of the distribution. The Settlement Administrator is responsible for ensuring that it provides to Southerntier no later than thirty (30) days following each payment to any current or former employee made by the Settlement Administrator accurate information as to the amount paid to each individual and the accurate calculation of Southerntier's tax liability.

22. The OAG has the sole discretion to determine which employees shall be eligible for restitution and to determine the amount of such restitution.

23. The OAG has the sole discretion to select the Settlement Administrator and contract for their services. The OAG will similarly have the sole discretion to select and contract with a new Settlement Administrator upon a reasonable and good faith determination that the Settlement Administrator has materially failed to carry out its duties pursuant to this AOD. However, under no circumstances will Southerntier be required to pay an Administration Fee in excess of the maximum provided for in Paragraph 16.

24. Southerntier agrees to respond within a reasonable period of time to a request by the OAG or Settlement Administrator for the following information to the extent the information is currently in Southerntier's records for current and former employees who may be eligible for a Settlement Payment: last known address, last known telephone number, last known email address, social security number, preferred language, last known bank routing number, and last known bank account number. The OAG's selected Settlement Administrator is responsible for maintaining the confidentiality of the foregoing information.

25. This AOD will expire one (1) year following the Effective Date.

No Retaliation

26. Southerntier agrees that it will not take adverse action against any employee or former employee on the basis that they have cooperated or are perceived to have cooperated with the OAG's investigation of this matter.

MISCELLANEOUS

Representations and Warranties

27. The OAG has agreed to the terms of this AOD based on, among other things, the representations made to the OAG by Southerntier and the OAG's own factual investigation as set

forth in Paragraphs 1 through 10 above. Southerntier represents and warrants that neither it nor its counsel have made any material representations to the OAG that are inaccurate or misleading. If any material representations by Southerntier or its counsel are later found to be inaccurate or misleading, this AOD is voidable by the OAG in its sole discretion.

28. No representation, inducement, promise, understanding, condition, or warranty not set forth in this AOD have been made or relied upon by Southerntier in agreeing to this AOD.

29. Southerntier represents and warrants, through the signatures below, that the terms and conditions of this AOD are duly approved and execution of this AOD is duly authorized.

Effects of AOD

30. Any failure by the OAG to insist upon the strict performance by Southerntier of any of the provisions of this AOD shall not be deemed a waiver of any of the provisions hereof, and the OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all provisions of this AOD to be performed by Southerntier.

Subsequent Proceedings

31. Southerntier expressly agrees and acknowledges that the OAG may initiate a subsequent investigation, civil action, or proceeding to enforce this AOD, for violations of the AOD, or if the AOD is voided pursuant to Paragraph 27 and agree and acknowledge that in such event:

- a. any statute of limitations or other time-related defenses are tolled from and after the Effective Date of this AOD;
- b. the OAG may use statements, documents, or other materials produced or provided by Southerntier prior to or after the Effective Date of this AOD except for settlement communications;

- c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and that Southerntier irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue;
- d. evidence of a violation of this AOD shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15).

If a court of competent jurisdiction determines that Southerntier has violated the AOD, Southerntier shall pay to the OAG the reasonable cost, if any, of obtaining such determination and of enforcing this AOD, including without limitation legal fees, expenses, and court costs.

General Principles

- 32. Nothing in this AOD shall relieve Southerntier of other obligations imposed by any applicable state or federal law or regulation or other applicable law.
- 33. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that Southerntier violates the AOD after the Effective Date.
- 34. This AOD may not be amended except by an instrument in writing signed on behalf of the parties to this AOD.
- 35. In the event that any one or more of the provisions contained in this AOD shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable

in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this AOD

36. Southerntier acknowledges that it entered this AOD freely and voluntarily and upon due deliberation with the advice of counsel.

37. This AOD shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

38. The AOD and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

39. All notices, reports, requests, and other communications to any party pursuant to this AOD shall be in writing and shall be directed as follows:

From Southerntier to the Attorney General:

New York State Office of the Attorney General
Abigail Ramos, Assistant Attorney General
Labor Bureau
28 Liberty Street, 15th Floor
New York, New York 10005
Or

Abigail.Ramos@ag.ny.gov

From the Attorney General to Southerntier:

Bond, Schoeneck & King
Laura Harshbarger, Esq.
One Lincoln Center
Syracuse, NY 13202
Or

harshbl@bsk.com

Any changes in the person to whom communications should be specifically directed shall be made in writing in advance of the change.

40. This AOD may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, this AOD is executed by the parties hereto on ~~June~~ ^{July} 1, 2025.

LETITIA JAMES

Attorney General of the State of New York

By: 
Abigail Ramos

Assistant Attorney General

Labor Bureau

28 Liberty Street

New York, New York 10005

Phone: (212) 416-6541

Dated: ~~June~~ ^{July} 1, 2025

**SOUTHERNTIER CUSTOM
FABRICATORS, INC.**

By: 
Name:


Title

Title


Date