

## Do you want a Company with this Much Baggage? – What you need to Know about Eulen America

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### Basic Company Information

American Sales and Management Organization, LLC d/b/a Eulen America is a limited liability company that provides outsourcing services in the aviation, janitorial, and security sectors.<sup>1</sup> Eulen America's parent company is Eulen Group, based in Spain and operating in 14 countries.<sup>2</sup> Eulen Group is a global provider of general services, specializing in cleaning activities, security, support services (logistics, general services and telemarketing), FSM (Facility Services & Management) health services, comprehensive maintenance, temporary employment and environmental services.<sup>3</sup>

### Eulen in Numbers

2015	Eulen America	Eulen Group
<b>Revenues</b>	\$99.68 million <sup>4</sup>	\$1.63 billion <sup>5</sup>
<b>Employees</b>	3,165 U.S. <sup>6</sup>	86,532 <sup>7</sup>

Eulen has stated that the U.S. is one of its priority countries. While Eulen operates in different areas of the U.S., its presence is concentrated in Florida where the vast majority of its employees are located. The following summarizes Eulen's biggest worksites in the U.S.:<sup>8</sup>

Airport	Estimated Employees
<b>Miami International Airport (MIA)</b>	2,242
<b>John F. Kennedy International Airport (JFK)</b>	419
<b>Ronald Reagan Washington National Airport (DCA)</b>	225
<b>Ft. Lauderdale-Hollywood International Airport (FLL)</b>	211
<b>Tampa International Airport (TPA)</b>	74

### Questionable Corporate Governance and Uncertain Future

#### *Bitter Family Dispute for Power*

In 1962 David Alvarez Diez founded the company that would later become Eulen Group,<sup>9</sup> which is still 100% owned by the Alvarez family.<sup>10</sup> In recent years the family has been the subject of frequent media stories regarding the internal battle between David Alvarez Diez and some of his children for control of the family companies. Some Spanish news outlets have referred to the family feud as a "soap opera" or the Spanish "Falcon Crest," pointing to the alleged start of the dispute to the patriarch's 2009 marriage to his secretary (his third marriage and the second to a secretary). According to one media outlet, around the same time of his father's wedding, one the sons – Juan Carlos – was running the company and dismissed one of his father's trusted advisors. Soon afterwards, David Alvarez forced Juan Carlos out of the company, and instead the patriarch entrusted two of his children – Maria Jose and Jesus David – to help him run the company. In return the other five children ousted the patriarch from

another family company – El Enebro.<sup>11</sup> Ever since, the family has been involved in multiple lawsuits in Spain related to the control of the family companies.

### *Company Lawsuit against Founder's Son and its Own Former Top Executives<sup>12</sup>*

The family and company drama was extended to the U.S. when in 2014 Eulen America filed a lawsuit in Circuit Court for Miami-Dade County against estranged son Juan Carlos Alvarez, along with former Eulen America CEO Luis Rodriguez, former Eulen America CFO Brent Blake, and Mariano Aguilo, a former Director for Eulen Group. Eulen's allegations include that Juan Carlos committed 80 million euros obtained from the sale of Eulen shares to help finance a scheme to set up another company to directly compete with Eulen in the U.S. According to the suit, the defendants relied on access to Eulen's confidential information and conspired to undermine Eulen's business performance and divert Eulen customers, money and crucial personnel to the new competing company for the defendants' own financial interest and to Eulen's detriment, causing Eulen to sustain millions of dollars in damages. In a motion to dismiss Eulen's allegations, Blake—the accused former Eulen CFO—argued that the lawsuit ultimately stemmed from the Alvarez family dispute.<sup>13</sup> The defendants have all denied the allegations and the case is currently ongoing.

### *Numerous Changes in Leadership at Eulen America*

Since the beginning of Eulen's operations in the U.S. in 2008,<sup>14</sup> Eulen America has undergone numerous changes in leadership. When Eulen America was first incorporated, Mariano Aguilo (who is a defendant in the aforementioned lawsuit) served as the company's President on record.<sup>15</sup> However, he was removed from that position by 2012 with Luis Rodriguez taking his place.<sup>16</sup> According to filings with the Florida Secretary of State, since the termination of Rodriguez and Blake in 2014, four different people have acted as the company's president in the last three years and there were other changes in key personnel.<sup>17</sup> One example is Livan Acosta, Eulen's Chief Operating Officer, who was removed from a Director position in November 2016 after the naming of Alejandro Fonseca as the new president.<sup>18</sup>

### *Uncertain Future for Eulen*

Even after David Alvarez's death in 2015, the family saga continues, and it also brings uncertainty regarding who will ultimately have control over Eulen Group. Currently Maria Jose Alvarez serves as President for Eulen Group, but her siblings have requested a change in the corporate governance structure that would remove her position as Joint and Several Director and instead put in place a Board of Directors.<sup>19</sup> The children are awaiting the execution of their father's will, and in the meantime, the family lawsuits continue. As recently as February 2017 the siblings have filed a new lawsuit to replace the executor of their father's will, claiming that he may not be impartial. Eulen's future is unknown, given that the distribution of the Eulen

shares at issue in the father's estate may determine whether Maria Jose Alvarez stays in power or whether her siblings will gain control of Eulen Group.<sup>20</sup>

### **Eulen's Mistreatment of U.S. Workers**

According to Eulen's 2015 corporate responsibility report, the Company takes pride in promoting social responsibility and paying wages above the legal minimum to its Spanish workforce.<sup>21</sup>

However, workers in the U.S. face a different reality. Workers at DCA earn poverty wages of as low as \$3.77 plus tips for sky caps and \$6.75 for wheelchair attendants plus tips. Additionally, it was only after Broward County extended the living wage to FLL airline-contractor workers that Eulen started paying its FLL employees a living wage. MIA also has a living wage ordinance but too many jobs at FLL and MIA are still part-time, workers are not provided with significant benefits, and workers still struggle to support their families.

Throughout many Eulen worksites at U.S. airports, workers are confronted with a lack of respect for their rights, which demonstrates the increasing need for U.S. Eulen workers to organize and form a union.

### ***Opposition to Workers' Organizing Efforts in the U.S.***

Eulen Group prides itself in its corporate responsibility including a commitment to being a signatory of the UN Global Compact which calls for companies to respect national laws and respect the rights of all workers to form a union of their choice without fear of intimidation or reprisal.<sup>22</sup> While Eulen Group reports that over 96% of its workers in Spain are covered by a collective bargaining agreement,<sup>23</sup> Eulen America has opposed organizing efforts by workers in the U.S. with questionable and heavy-handed tactics.

The National Labor Relations Board (NLRB) has investigated charges against Eulen for alleged violations of the National Labor Relations Act and at three different airports, NLRB Region Directors have found merit in charges that Eulen unlawfully fought workers' organizing to improve their conditions and filed formal complaints against the company. The allegations that Eulen has retaliated against workers by firing them are particularly troubling. The unfair labor practices charges filed against Eulen are summarized below.

### **Unfair Terminations at Ft. Lauderdale-Hollywood International Airport**

- In August 2016, the NLRB issued a complaint against Eulen finding probable cause that Eulen unlawfully fired a worker because of her union activities. The worker had previously gone on strike on two occasions to protest Eulen's unfair labor practices and poor working conditions. The NLRB complaint also states that Eulen fired the worker to discourage

employees from engaged in union activities. The case is currently awaiting trial before an administrative law judge.<sup>24</sup>

- In August 2013, Eulen fired an employee at FLL, after he appeared on television and at a rally protesting low wages. Following issuance of an unfair labor practice complaint by the NLRB, on June 25, 2015, Eulen agreed to settle the case without admitting any wrongdoing and pay the worker \$21,000 in back pay and interest. Additionally, as part of the settlement Eulen agreed to modify its employee handbook to repeal rules that interfered with employee rights to engage in concerted activity and union activity, as well as post a notice that Eulen will comply with all federal labor laws and respect the employees' right to organize and support labor unions.<sup>25</sup>

### **Miami International Airport**

- In November 2015, charges were filed against Eulen for requiring their MIA workers to sign mandatory arbitration agreements that require employees to give up their right to pursue collective legal actions against Eulen related to disputes regarding their employment relationship. The charge also alleges that Eulen fired one of its MIA employees in retaliation for his union activities and that Eulen coerced employees in the exercise of their rights by telling them they could not speak to union representatives. The NLRB is currently investigating these charges.<sup>26</sup> However, for several months Eulen refused to cooperate fully with the NLRB investigation of the charges, requiring the NLRB to file a subpoena enforcement action in court, which was only withdrawn when Eulen finally agreed to comply with the subpoena in December 2016. Eulen's conduct has delayed the NLRB's determination on the charges and thus delayed any resolution of the case for the workers impacted by the company's conduct.

### **Ronald Reagan Washington National Airport**

- In September, 2015, charges were filed against Eulen<sup>27</sup> alleging, among other things, that one or more company representatives illegally interrogated Ronald Reagan Washington National Airport workers about their union activities and that Eulen created the impression that their union activities were under surveillance and discriminatorily enforced rules to discourage union activity. The NLRB found enough evidence to issue an unfair labor practice Complaint against Eulen. In July 2016, Eulen agreed to settle the charges without admitting any wrongdoing and agreed to post a notice stating that it would not interfere with workers' rights to organize.

### **John F. Kennedy International Airport**

- In March 2016 Region 29 of the NLRB found merit in charges that Eulen was threatening workers with unspecified reprisals for engaging in union activity and told employees not to speak to the Union, and that Eulen maintained an unlawful rule in the handbooks it

provided to employees. The NLRB found enough evidence to issue an unfair labor practice Complaint against Eulen. Subsequently, in July 2016 along with the Ronald Reagan case mentioned above, Eulen agreed to settle the case without admitting any wrongdoing.<sup>28</sup>

- In October 2016 the NLRB issued a complaint against Eulen alleging that around February 2016 Eulen directed employees to refrain from engaging in union activities, and just a few months later in June 2016 Eulen fired a worker allegedly due to her involvement in union activities. The case settled in January 2017, with Eulen paying \$2,000 to the fired worker in lieu of reinstatement and without admission of wrongdoing.<sup>29</sup>

### **Contentions of Discrimination**

- In 2011 an employee at Tallahassee airport sued Eulen alleging she was subjected to hostility and poor treatment on the basis of national origin. Eulen denied the claims, but eventually the company and the plaintiff agreed to settlement with terms unknown.<sup>30</sup>

### **Wage and Hour Actions Filed**

Eulen has an alarming history of wage and hour claims filed by its employees for alleged failure to pay overtime and alleged wage theft. Though Eulen always denied the allegations, many of these claims have culminated in settlements. Some of the most recent cases are summarized below.

#### **Wage Complaints at Ft. Lauderdale Airport**

For more than one year Eulen workers at Ft. Lauderdale airport have raised questions about not being paid the full amount of hours that they work leading a group of workers to file wage recovery complaints with Broward County in 2016. In an attempt to dismiss the workers' allegations, Eulen submitted attendance and payroll records that appeared to show underpayment of hours worked by employees. When confronted with its own records, and without explaining the discrepancies, in October 2016 Eulen offered to pay workers the full amount they demanded, but without acknowledging any wrongdoing.<sup>31</sup> A few weeks later, Eulen fired one of the workers that presented a wage recovery claim. On November 15, 2016, Eulen workers at FLL went on their fourth strike in less than 2 years, this time to protest against Eulen's recent treatment of its FLL employees.

#### **Overtime Lawsuits**

- In June 2015, 13 employees brought a collective action lawsuit to the Miami Southern District Court of Florida against Eulen claiming unpaid overtime<sup>32</sup>. Eulen rejected these allegations, and also defended itself against the claims by asserting that plaintiffs "failed to mitigate their damages by acts including their failure to complain or report any alleged illegality of work requested of them."<sup>33</sup> Despite denying the allegations, Eulen finally agreed to settle the case on March 9, 2016. As part of the settlement Eulen agreed to pay

an estimated \$60,000 consisting of \$2,730.76 to each of the 13 plaintiffs<sup>34</sup> and \$24,500 in attorney fees and costs for the representation of the plaintiffs.

- In October 2014 another case was filed by two Miami airport employees alleging that their checks did not reflect the real number of hours worked and Eulen failed to pay them overtime. The suit alleged that every time Plaintiffs complained they were told there were failures in the computerized system, and both Plaintiffs claimed that they faced retaliation by being fired as a result of their complaints regarding overtime pay.<sup>35</sup> Although Eulen denied the allegations, the case was settled under unknown terms on April 14, 2015.<sup>36</sup>
- November 2014, another lawsuit was filed in the Miami Southern District Court of Florida on behalf of terminated Eulen employees which alleged that after Eulen settled a previous wage and hour case, Plaintiffs' counsel provided Eulen attorneys with the names of 36 additional current employees that were represented in another forthcoming overtime case and that shortly thereafter Eulen requested that the 36 employees sign an arbitration agreement requiring them to arbitrate all current and future claims. According to the complaint, after some of the employees refused to sign such agreements, the employees faced retaliation and were terminated. Eulen denied the allegations, but eventually agreed to settle the case under unknown terms on December 15, 2015.<sup>37</sup>

### *Health and Safety Problems on the Job*

**Miami International Airport (2016):** Up to 2016 Eulen had used Ultra Aviation, Inc. as a subcontractor to perform baggage handling work at the tug drive of terminal D of Miami International Airport. In the past Eulen referred to Ultra as a key subcontractor from which it derived hundreds of thousands of dollars in contracts.<sup>38</sup>

The Ultra workers subcontracted by Eulen reported many issues about their worksite, including poor ventilation with exposure to carbon monoxide fumes and high temperatures, lack of protective equipment, drinking water being sourced from a tap next to a toilet, and driving vehicles in dangerous conditions. It was only after the Ultra workers started organizing and provided public testimony to county officials and the press that Eulen agreed to bring additional fans to the worksite as well as switch the gas-powered tugs to electric tugs.

After these workers started organizing for better conditions, Eulen's subcontractor reacted with intimidation tactics – interrogation, impression of surveillance and threats of reprisals, prompting the workers to file unfair labor practices charges against Ultra, the NLRB found merit in the charges presented by the workers. Shortly after Ultra agreed to settlement with the NLRB,<sup>39</sup> the workers at tug drive of terminal D received layoff notices. The workers were later instructed to apply to Eulen because Eulen would perform this work itself rather than subcontract it to Ultra. Yet, Eulen did not hire a significant amount of the displaced workers, all of whom were union activists and several of whom have been leaders in the organizing efforts

at the airport. Eulen's failure to hire all of the Ultra displaced workers is a blow to those who exercise their rights to improve working conditions.

### OSHA Violations

Since 2012, the Occupational Safety and Health Administration has cited Eulen for multiple violations of federal workplace health and safety standards at Tampa International Airport.

*Tampa International Airport (2012):* In 2012 as part of two investigations that resulted from an inspection of Eulen America, Inc., as a Delta Airlines' service contractor at Tampa International Airport, Eulen was issued five different citations for violating federal standards.

- In one inspection Eulen was found to have violated standards related to bloodborne pathogens<sup>40</sup> OSHA found that even though Eulen's cabin cleaners were exposed to bloodborne pathogens, Eulen had failed to develop and implement a written exposure control plan. The Eulen Corporate Safety Director agreed that they would develop and implement a bloodborne pathogen exposure control plan and offer the Hepatitis B Vaccine to exposed employees
- In another inspection<sup>41</sup> Eulen was cited and fined for a total of \$4,050, of which \$3,240 were for a serious violation due to Eulen's ramp employees who opened the door of an airplane without the extension of guardrails. \$810 where due to Eulen's failure not to record an accident in its OSHA Log where an employee was climbing down stairs of high lift truck fell and sustained injuries. Eulen entered into an informal settlement with OSHA agreeing to pay \$3,038 for both of these violations.
- In the same inspection<sup>42</sup> Eulen was cited but not fined for two additional violations which included vehicle nameplates being illegible and not including the date of evaluation and identity of the person(s) performing the training and evaluation.

*Tampa International Airport (2014):*<sup>43</sup> In October 2014 an OSHA inspector found that employees were exposed to noise hazards and Eulen neglected to identify a document as a certification of damage assessment. Eulen was cited but not fined for this violation.

### Litigation Related to Injuries to Passengers

There are multiple lawsuits that have been filed by passengers of airlines that Eulen served who suffered injuries while using Eulen's wheelchair services and or passengers who claim have been injured as a result of negligent actions by Eulen.

- In a case filed in December 2016, a passenger traveling through Miami International Airport claims that she suffered injuries after being run into/over by a Eulen golf cart because of Eulen's negligent acts.<sup>44</sup> In another case filed in March, 2016 the plaintiff also claimed that she suffered injuries after being struck by a Eulen golf cart in Miami.<sup>45</sup>

Eulen denies the allegations in these lawsuits and both cases are currently pending in the 11<sup>th</sup> Judicial Circuit Court.

- A 2015 negligence case filed in federal court for the Southern District of Florida, involving an American Airlines passenger who alleges he was injured after falling at MIA due to American and/or Eulen's failure to properly assist him and/or supervise him.<sup>46</sup> Even though Eulen and American denied the allegations, the case was settled under unknown terms in May 2016.<sup>47</sup>
- A 2013 case where an American Airlines passenger traveling through John F. Kennedy Airport claimed that she was denied wheelchair services by a Eulen representative, and as she was left to walk to the bathroom without assistance she tripped and severely injured herself.<sup>48</sup> Eulen denied the allegations but agreed to settle the case under unknown terms in November 2013.<sup>49</sup>



## References

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<sup>1</sup> <http://www.eulen.com/us/>

<sup>2</sup> Eulen Group Corporate Responsibility Report 2015, p. 6

<sup>3</sup> Eulen Press Release: Alejandro Fonseca Jaubert, New CEO for Grupo Eulen in the United States, 11/02/16

<sup>4</sup> Eulen Group Corporate Responsibility Report 2015, p. 50, Eulen listed sales in 2015 for USA were 89,830,000 €, using 2015 average exchange rate of \$1.1096 (<https://fred.stlouisfed.org/series/AEXUSEU#0>), estimate U.S. dollar equivalent of \$1.63 Billion.

<sup>5</sup> Eulen Group Corporate Responsibility Report 2015, p. 29, Eulen Group's listed sales in 2015 were 1,465,695,000 €, using 2015 average exchange rate of \$1.1096 (<https://fred.stlouisfed.org/series/AEXUSEU#0>), estimate U.S. dollar equivalent of \$1.63 Billion.

<sup>6</sup> Eulen Group Corporate Responsibility Report 2015, p. 22

<sup>7</sup> Eulen Group Corporate Responsibility Report 2015, p. 28

<sup>8</sup> Based on badge counts provided to SEIU 32BJ, MIA February 2017, JFK September 2016, DCA February 2016, FLL November 2016, TPA November 2016.

<sup>9</sup> <http://www.eulen.com/es/en/corporation/history/>, Accessed 03/09/17

<sup>10</sup> Eulen Group Corporate Responsibility Report 2014, p. 6

<sup>11</sup> Mount, Ian, "A Family Feud, Uncorked in Spain." New York Times, 07/19/14

<sup>12</sup> American Sales and Management Organization dba Eulen America v. Luiz Rodriguez Lopez, Brent Blake, Juan Carlos Alvarez and Mariano Aguilo, Case No. 2014-017706-CA-01, Complaint, Third Amended Complaint and Fourth Amended Complaint

<sup>13</sup> American Sales and Management Organization dba Eulen America v. Luiz Rodriguez Lopez, Brent Blake, Juan Carlos Alvarez and Mariano Aguilo, Case No. 2014-017706-CA-01, Brent Blake's Motion to Dismiss Amended Complaint, p. 1

<sup>14</sup> <http://www.eulen.com/es/en/corporation/history/>, Accessed 03/09/17

<sup>15</sup> Eulen America Florida State Filing, 08/23/07

<sup>16</sup> Eulen America Florida State Filing, 06/11/12

<sup>17</sup> Eulen America Florida State Filings, 2014-2017

<sup>18</sup> Eulen America Florida State Filing, 11/17/16

<sup>19</sup> Eulen S.A., Junta Extraordinaria, May 3-4, 2016, #11

<sup>20</sup> Romera, Javier, "Cinco hijos del fundador de Eulen demandan al albacea de la herencia." *eEconomista.es*, 02/22/17

<sup>21</sup> Eulen Group Corporate Responsibility Report 2015, p. 64

<sup>22</sup> <https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-3>

<sup>23</sup> Eulen Group Corporate Responsibility Report 2015, p. 62

<sup>24</sup> NLRB Case No. 12-CA-176653

<sup>25</sup> NLRB Case No.12-CA-113350

<sup>26</sup> NLRB Case No. 12-CA-163435

<sup>27</sup> NLRB Case No. 05-CA-161072

<sup>28</sup> NLRB Case No. 29-CA-167314

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<sup>29</sup> NLRB Case No. 29-CA-178354

<sup>30</sup> Kwende v. American Sales and Management Organization, LCC, Case 4:11-cv-00024, U.S. District Court Northern District of FL (Tallahassee), Filed January 20, 2011.

<sup>31</sup> Eulen America Letter to Broward County Office of Intergovernmental Affairs and Professional Standards, 10/12/16

<sup>32</sup> Lantigua et al v. American Sales and Management Organization, LLC et al, Case No. 1:15-cv-22327-DPG, Southern District of Florida (Miami), Filed June 19, 2015, First Amended Complaint.

<sup>33</sup> Lantigua et al v. American Sales and Management Organization, LLC et al, Case No. 1:15-cv-22327-DPG, Southern District of Florida (Miami), Filed June 19, 2015, Answer and Affirmative Defenses to Plaintiff's First Amended Complaint, p. 5.

<sup>34</sup> Lantigua et al v. American Sales and Management Organization, LLC et al, Case No. 1:15-cv-22327-DPG, Southern District of Florida (Miami), Parties Joint Motion for Approval of Settlement and Stipulation of Dismissal, March 9, 2016

<sup>35</sup> Diaz v. American Sales and Management Organization, LLC et al., Case No. 1:14-cv-23711-WCT, U.S. District Court Southern District of Florida (Miami), Filed October 8, 2014, Complaint.

<sup>36</sup> Diaz v. American Sales and Management Organization, LLC et al., Case No. 1:14-cv-23711-WCT, U.S. District Court Southern District of Florida (Miami), Filed October 8, 2014,

<sup>37</sup> Ismael Rodriguez Diaz et al vs. American Sales and Management Organization, Eulen America, Inc., Case No. 1:14-cv-24245-RNS, U.S. District Court Southern District of Florida (Miami), Filed November 10, 2014

<sup>38</sup> American Sales and Management Organization dba Eulen America v. Luiz Rodriguez Lopez, Brent Blake, Juan Carlos Alvarez and Mariano Aguilo, Case No. 2014-017706-CA-01, Fourth Amended Complaint p. 20

<sup>39</sup> NLRB Cases 12-CA-176961, 12-CA-175848.

<sup>40</sup> OSHA Inspection 316388719

<sup>41</sup> OSHA Inspection 316388776

<sup>42</sup> OSHA Inspection 316388776

<sup>43</sup> OSHA Inspection 994224.015

<sup>44</sup> Rico Vs. Eulen America Inc., American Sales and Management Organization, LLC, Case No. 2016-032002-CA-01, U.S. District Court Southern District of Florida (Miami), Filed December 15, 2016, Amended Complaint

<sup>45</sup> Diagne Vs. Eulen America Inc., American Sales and Management Organization, LLC, Case No. 2016-005255-CA-01, U.S. District Court Southern District of Florida (Miami), Filed March 3, 2016, Complaint

<sup>46</sup> Booth, Philip and Booth, Jean v. American Airlines Group, Inc., American Sales Management Organization, LLC dba Eulen America, Case No. 2014-010364-CA-01, 11<sup>th</sup> Judicial Circuit, Miami-Dade County, Filed April 18, 2014, Third Amended Complaint.

<sup>47</sup> Booth, Philip and Booth, Jean v. American Airlines Group, Inc., American Sales Management Organization, LLC dba Eulen America, Case No. 2014-010364-CA-01, 11<sup>th</sup> Judicial Circuit, Miami-Dade County, Plaintiffs' Motion to Mediation Disposition Report, May 6, 2016

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<sup>48</sup> Hunter Vs. American Airlines, Inc. Eulen America Inc., Case No. C-13-0290-KAW, Filed January 2, 2013, Second Amended Complaint

<sup>49</sup> Hunter Vs. American Airlines, Inc. Eulen America Inc., Case No. C-13-0290-KAW, Filed January 2, 2013, Notice of Settlement of Entire Case