



United States Government
NATIONAL LABOR RELATIONS BOARD

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July 6, 2010

VIA E-FILING

Henry S. Breiteneicher, Associate Executive Secretary
National Labor Relations Board
1099 14th Street NW
Washington DC 20570

Re: CNN America, Inc. and Team Video Services, LLC, Joint Employers, and the National Association of Broadcast Employees & Technicians, Communications Workers of America, Local 31, AFL-CIO, Case No. 5-CA-31828

and

CNN America, Inc. and Team Video Services, LLC, Joint Employers, and the National Association of Broadcast Employees & Technicians, Communications Workers of America, Local 11, AFL-CIO, Case No. 5-CA-33125 (formerly 2-CA-36129)

Dear Mr. Breiteneicher:

Counsel for the General Counsel writes in response to CNN America, Inc.'s ("CNN's") letter to you dated June 28, 2010.

Counsel for the General Counsel opposes CNN's requests for: (1) "permission to brief the impact" on the above-referenced matter of the Supreme Court's recent decision in *New Process Steel, L.P. v. National Labor Relations Board*, 560 U.S. ____ (June 17, 2010); and (2) "the right to brief specifically any . . . issues" in the interlocutory rulings in this matter which the Board may "revisit" in light of *New Process Steel*.

CNN's one thousand, six hundred and thirty-three exceptions are currently pending before the Board. The Board allowed for generous time and page-limit extensions in order that the parties be able to cover all conceivable issues arising in this case. CNN had the opportunity and did in fact raise its arguments regarding the enforceability of the interlocutory two-member

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Board decisions in this matter.¹ For example, CNN specifically excepted on the grounds that two of the decisions were both substantively flawed and null based on the lack of quorum. (CNN Exception III.G.120 at p. 327 (excepting to *CNN*, 342 NLRB 448); CNN Exception III.H.126 at p.328 (excepting to *CNN*, 352 NLRB 675); CNN Brief in Support of Excep. at p. 221 n.175.)

Furthermore, the Board brought an action in federal court to enforce the Board's two-member order in *CNN America, Inc.*, 353 NLRB No. 94, that CNN comply with General Counsel's administrative subpoena; and on July 1, 2010, the federal court action was dismissed without prejudice in light of *New Process Steel*. Because compliance with that two-member order has never been enforced upon CNN, it has had no "impact" for CNN to now brief. CNN may argue that the current Board, in ruling on CNN's exceptions, should not adopt the ALJ's inferences regarding non-compliance; however, this is a position to which CNN devoted a separate section in its exceptions brief, and the Board need not have CNN's arguments repeated in further briefing. (See CNN Brief in Support of Exceptions at pp. 221-222; CNN Exceptions I.261 at p. 67, I.699 at p. 161, I.1057 at p. 234, I.1103 at p. 242.) Thus, CNN has already fully argued its position as to what the "impact" on the outcome of this matter should be if the two-member interlocutory decisions be deemed invalid on any ground.

CNN should not now be afforded the opportunity to regurgitate its arguments, or be allowed to make further arguments that in hindsight it could have made but chose not to within the generous time and pages already allotted. The current Board has already a full record of facts and arguments to determine the impact of *New Process Steel* on this case.

Respectfully submitted,



Allen M. Rose
Counsel for the General Counsel

¹ *CNN America, Inc.*, 352 NLRB 265 (2008); *CNN America, Inc.*, 352 NLRB 448 (2008); *CNN America, Inc.*, 352 NLRB 675 (2008); *CNN America, Inc.*, 353 NLRB No. 94 (Feb. 13, 2009).

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**CNN America, Inc, and Team Video Services, LLC,
Joint Employers**

Respondents

Case No. 5-CA-31828

and

**National Association of Broadcast Employees &
Technicians, Communications Workers of America,
Local 31, AFL-CIO**

Charging Party

and

**CNN America, Inc. and Team Video Services, LLC,
Joint Employers**

Respondents

**Case No. 5-CA-33125 (formerly 2-
CA-36129)**

and

**National Association of Broadcast Employees &
Technicians, Communications Workers of America,
Local 11, AFL-CIO**

Charging Party

Date of Mailing: July 6, 2010

**AFFIDAVIT OF SERVICE OF: LETTER FROM COUNSEL FOR THE GENERAL COUNSEL TO HENRY S.
BREITENEICHER DATED JULY 6, 2010**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by electronic mail (email) and overnight delivery, as indicated below, upon the following persons, addressed to them at the following addresses:

By eFiling

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CNN America, Inc. and Team Video Services, LLC, and National Association of Broadcast Employees & Technicians, Communications Workers of America, Local 31, AFL-CIO; Case No. 5-CA-31828, and CNN America, Inc. and Team Video Service, LLC, and National Association of Broadcast Employees & Technicians, Communications Workers of America, Local 11, AFL-CIO; Case No. 5-CA-33125 (formerly 2-CA-36129)
SHOWING A DATE OF MAILING 07/06/2010
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July 6, 2010
Date

ALLEN M. ROSE FIELD ATTY.
Print Name Title

Signature