

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15**

TRIPLE A FIRE PROTECTION, INC.	)	
	)	
Respondent	)	
	)	
and	)	Case 15-CA-11498
	)	
UNITED ASSOCIATION OF JOURNEYMEN	)	
AND APPRENTICES OF THE PLUMBING	)	
AND PIPEFITTING INDUSTRY OF THE	)	
UNITED STATES AND CANADA,	)	
ROAD SPRINKLER FITTERS LOCAL	)	
UNION NO. 669, AFL-CIO	)	
	)	
Charging Party	)	
	)	
	)	
	)	

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**COUNSEL FOR THE ACTING GENERAL COUNSEL'S MOTION FOR  
AFFIRMATION OF THE BOARD'S SUPPLEMENTAL DECISION AND ORDER, RENEWAL  
OF MOTION IN SUPPORT OF LOCAL 669'S MOTION TO STRIKE PORTION OF  
RESPONDENT'S ANSWER AND MOTION FOR PARTIAL SUMMARY JUDGMENT, AND  
RENEWAL OF OPPOSITION TO RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rules 102.24 and 102.50 of the Rules and Regulations of the National Labor Relations Board (Board), the undersigned Counsel for the Acting General Counsel, in concert with United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Road Sprinkler Fitters Local Union No. 669, AFL-CIO (herein Local 669), urges the Board, in light of the United States Supreme Court's decision in *New Process Steel, LP v. NLRB*, 130 S.Ct. 2635 (June 17, 2010), to again deny Triple A Fire Protection, Inc. (Respondent)'s Motion for Summary Judgment that the Board denied in its January 30, 2009, Supplemental Decision and Order (Triple A Fire Protections, Inc., 353 NLRB No. 88 (2009)) (referred to herein as Supplemental Decision), and to issue a decision and order consistent with its Supplemental Decision.

On July 1, 2008, Region Fifteen of the Board issued the Third Amended Compliance specification in this case. On August 18, 2008, Respondent filed its Answer to the Third

Amended Compliance Specification (Answer). On November 12, 2008, Local 669 filed its Motion for Partial Summary Judgment and Motion to Strike Portion's of Triple A's Answer (Local 669's Motions), and Counsel for the General Counsel joined in support of Local 669 Motions on November 21, 2008. On December 17, 2008, the Board issued a Notice to Show Cause why Local 669 Motions should not be granted. On December 19, 2008, Respondent filed a response to Local 669's Motions, which the Board treated as a response to the Notice to Show Cause. On January 5, 2009, Respondent filed a Motion for Summary Judgment.

On January 30, 2009, the Board issued its Supplemental Decision in this case. In the Supplemental Decision, the Board noted that pursuant to Section 102.56(b) and (c) of the Board's Rules and Regulations, "a general denial is insufficient to refute allegations pertaining to gross backpay calculations." Further, the Board noted that Respondent, in its Answer, "failed to provide alternative figures or calculations, or to specify the basis for its disagreement with the General Counsel's calculations" and "failed to deny that the data at issue is within its knowledge and control." The Board concluded Respondent's Answer failed to meet the specificity requirements of Section 102.56(b) and (c) of the Board's Rules and Regulations.

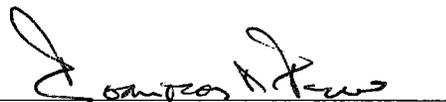
The Board reasoned, however, that "a respondent in a compliance proceeding may properly cure defects in its answer before a hearing by an amended answer or a response to a notice to Show Cause." Therefore, in addition to Respondent's Answer, the Board also considered the additional arguments Respondent raised in its response to the Notice to Show Cause. Further, the Board considered the assertions Respondent raised in its Motion for Summary Judgment. After duly considering Local 669's Motions, Respondent's response to the Notice to Show Cause and Respondent's Motion for Summary, the Board, in its Supplemental Decision, granted in part Local 669's Motions and denied Respondent's Motion for Summary Judgment in its entirety.

The Court's issuance of the *New Process Steel, LP* decision on June 17, 2010, does not alter the factual circumstances and legal precedent in this case that the Board duly considered in reaching the conclusions set forth in its Supplemental Decision. Indeed, Respondent, even in its request for the Board to reconsider its Motion for Summary Judgment in light of *New Process Steel, LP*, does not set forth any factual circumstances that would warrant deviating from the conclusions the Board reached in its Supplemental Decision. Accordingly, Counsel for the Acting General Counsel respectfully urges the Board to issue a decision and order consistent with its Supplemental Decision and thereby uphold its rulings on the Motions for Partial Summary Judgment and to Strike Portions of Respondent's Answer and its ruling denying Respondent's Motion for Summary Judgment in its entirety.

Moreover, Counsel for the Acting General Counsel respectfully requests the Board to affirm Administrative Law Judge Keltner W. Locke's Supplemental Decision (*Triple A Fire Protection, Inc.*, JD (ATL)-02-10 (February 10, 2010) in this case, with modifications to ALJ Locke's Calculations, Conclusions and ORDER to the extent necessary to require Respondent to pay liquidated damages and interest as part of its make whole obligations. As of March 23, 2009, such liquidated damages and interest, which are still accruing, includes \$1,054,084.20 in liquidated damages and \$10,705,953.06 in interest to the trust funds.

Dated at New Orleans, Louisiana this 12<sup>th</sup> day of August, 2010.

Respectfully submitted,



**BEAUFORD D. PINES**

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 12<sup>th</sup> day of August, 2010, I electronically filed a copy of the foregoing Counsel for the Acting General Counsel's Motion for Affirmation of the Board's Supplemental Decision and Order, Renewal of Motion in Support of Local 669's Motion to Strike Portions of Respondent's Answer and Motion for Partial Summary Judgment, and Renewal of Opposition to Respondent's Motion for Summary Judgment with the National Labor Relations Board and forwarded a copy by electronic mail to the following:

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