UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

IN THE MATTER OF:

IRONTIGER LOGISTICS, INC.,

Respondent

and **Case 16-CA-27543**

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, AFL-CIO,

Charging Party

RESPONDENT'S EXCEPTIONS TO THE JUDGE'S FAILURE TO FIND THAT CHARGING PARTY'S REQUEST FOR INFORMATION WAS HARASSMENT AND THAT CHARGING PARTY'S REQUEST FOR INFORMATION WAS MADE IN BAD FAITH

Submitted this 2nd day of June, 2011

Submitted by:

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ATTORNEY FOR THE RESPONDENT
IRONTIGER LOGISTICS, INC.

The Respondent, IronTiger Logistics, Inc. (IronTiger or Employer), by its attorneys Krukowski & Costello, S.C., by Thomas P. Krukowski, excepts to portions of the Decision and Order of Administrative Law Judge George Carson, II as follows:

PAGE	**LINES**	**EXCEPTION**
1	8-9 of Statement of the Case	The ALJ's finding of a "per se" violation; "I find that the Respondent was obligated to timely respond to the request made by the Union and that it failed to do so."
5	38	The ALJ's statement that "IronTiger did not respond to the foregoing request."
7	17-18	The ALJ's finding that, "It is unnecessary to address the foregoing conflicting contentions insofar as there is no allegation relating to the grievance, only the information request" and the ALJ's failure to consider "all of the facts and circumstances in concluding bad faith bargaining of Respondent.
7	23-25	The ALJ's finding that the "drivers assigned to each IronTiger load was presumptively relevant. . ." in the context of this case.
7	38-43	The ALJ's finding that, "Although Duvall considered the May 11 information request to be harassment, as the brief of counsel for the General Counsel points out, the exchange of emails on March 16 relative to placing all loads on the board was before the March 24 meeting. The position of the Union had been stated prior to Anderson's March 24 comments. The Respondent fulfilled the Union's April 12 information request and made no claim of harassment with regard to that request" does not consider "all of the facts and circumstances" in this case.
7	33-44	The ALJ's failure to consider "all of the facts and circumstances" and to find that the Union's May 11, 2010 request for information was done by the Union both in bad faith and to harass and that not responding to the May 11, 2010 request until September 27, 2010 did not harm or prejudice the Union in part because of the bad faith and harassment and that the Union's requested information was irrelevant.

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8	3-21	The ALJ's reliance on cases that are distinguishable and support the opposite conclusion and the ALJ's finding regarding his agreement with the General Counsel that an employer may not ignore a union's request for information.. . . The Respondent herein was obligated to inform the Union in a timely manner of the reasons that it did not believe that the information sought was relevant. . . The September 27 response, more than 4 months after the May 11 request, was not made in a timely manner and was made without considering "all of the facts and circumstances" or the Union's request for irrelevant information.
8	24-26	The ALJ's finding that, "by not providing a timely response to the Union's May 11 information request, the Respondent failed and refused to bargain in good faith with the Union in violation of Section 8(a)(5) of the Act was made without considering the Union's bad faith request, the Union's harassment and the fact there was no harm or prejudice because the requested information was irrelevant and that the Union blocked bargaining from its inception and Respondent did not have any legal obligation to respond or respond earlier.
8	29-32	The ALJ made an improper "per se" finding of a violation and his conclusion that "the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act" was without considering and analyzing "all of the facts and circumstances" of this case.
8	35-46	The ALJ's remedy that Respondent "must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act."
9	1-30	The ALJ's entire Order that Respondent "Cease and desist from failing and refusing to respond to information requests made by International Association of Machinists and Aerospace Workers, AFL-CIO, in a timely manner. . . In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act. . . Within 14 days after service by the Region, post at its facilities in Garland, Texas; Springfield, Ohio;

PAGE	LINES	EXCEPTION
		Macungie, Pennsylvania; and Dublin, Virginia, copies of the notice marked Appendix and maintain the posting for 60 consecutive days. . . distribute the notices electronically and within 21 days after service by the Region, file with the Regional Director a sworn certification attesting to the steps Respondent has taken to comply."
Appendix	All lines	Exception to the ALJ's Appendix or Notice to Employees.

Dated at Milwaukee, Wisconsin, this 2nd day of June, 2011.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 2, 2011, a copy of Respondent IronTiger Logistics, Inc.,'s Exceptions To The Judge's Failure To Find That Charging Party's Request For Information Was Harassment And That Charging Party's Request For Information Was Made In Bad Faith was electronically filed using the E-Filing system of the National Labor Relations Board's website, and served in the same manner as that utilized in filing with the Board, on the following individuals listed below:

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