UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Washington, D.C.

RAYMOND INTERIOR SYSTEMS **and** **SOUTHERN CALIFORNIA PAINTERS AND ALLIED TRADES, DISTRICT COUNCIL NO. 36, INTERNATIONAL UNION OF PAINTERS AND ALLIED TRADES AFL-CIO**	**Case 21-CA-37649**
UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, LOCAL UNION 1506 **and** **SOUTHERN CALIFORNIA PAINTERS AND ALLIED TRADES DISTRICT COUNCIL NO. 36 , INTERNATIONAL UNION OF PAINTERS AND ALLIED TRADES, AFL-CIO** **and** **SOUTHWEST REGIONAL COUNCIL OF CARPENTERS, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA (Party in Interest)**	**Case 21-CB-14259**

NOTICE OF SUPPLEMENTAL AUTHORITY RE RESPONDENT RAYMOND INTERIOR SYSTEMS, INC.'S MOTION FOR RECONSIDERATION

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On October 28, 2010, Respondent Raymond Interior Systems, Inc. ("Raymond") filed a motion for reconsideration of the Board's Decision and Order dated September 30, 2010 in the above-captioned cases, that is reported at 355 NLRB No. 209, and which decision adopted the Decision and Order reported at 354 NLRB No. 85. Raymond respectfully brings to the Board's attention, the Board's recent decision in Garner/Morrison, LLC, 356 NLRB No. 162 (May 27, 2011), and its significance to the Board's Order in the instant case. For the reasons set forth herein, the Garner/Morrison decision requires modification of the remedy in the instant case.

In Garner/Morrison, the employer's painters and tapers were represented by a Painters union on a Section 8(f) basis. After expiration of the Painters 8(f) agreement, the Southwest Regional Council of Carpenters ("Carpenters") solicited and collected authorization cards from the employer's painters and tapers Board during a meeting at which Carpenters and employer representatives were present. On the basis of these cards, the employer recognized the Carpenters as the Section 9(a) representative of the painters and tapers. In addition, the parties applied a pre-existing 9(a) agreement covering the employer's carpenters to the painters and tapers, including the agreement's pension, medical and other benefits coverage.

Based on its finding of unlawful surveillance, the Board found that the authorization cards obtained by the Carpenters were "tainted." As a result, the Board found that the employer violated Sections 8(a)(2) and (1) by recognizing the Carpenters as the Section 9(a) representative of the employer's painters and tapers on the basis of such authorization cards, and by covering these employees by the parties' pre-existing 9(a) agreement. See Garner/Morrison, supra, 356 NLRB No. 162, slip op. at pp. 5-6.

As a result of the Board's findings of alleged unlawful assistance, the Board's Order (set forth in paragraph 1(c)) in Garner/Morrison prohibited the employer from,

> (c) Giving effect to the unlawful recognition of Southwest Regional Council of Carpenters; provided however that nothing in this Order shall require any changes in

> wages or other terms and conditions of employment that may have been established pursuant to the unlawful recognition.

Garner/Morrison, supra, 356 NLRB No. 162, slip op. at pp. 5-6, Order, ¶ 1(c) (emphasis added).

In the instant case, Raymond's drywall finishing employees were represented by a Painters union on a Section 8(f) basis. As in Garner/Morrison, the Board found Section 8(a)(2) and (1) violations based on the Board's finding that, after expiration of the Painters 8(f) agreement, Raymond unlawfully assisted the Carpenters in obtaining authorization cards from Raymond's drywall finishing employees during a meeting at which Carpenters and Raymond representatives were present. Likewise, as in Garner/Morrison, the Board found that Raymond's granting of 9(a) recognition and applying a pre-existing agreement covering Raymond's framing and drywall hanging employees to its previously represented drywall finishing employees violated Sections 8(a)(2) and (1). However, unlike the Board's Order in Garner/Morrison, the Board's Order in Paragraph 1(b) prohibits Raymond from:

> Maintaining, enforcing, or giving effect to the Carpenters Union 2006–2010 master collective-bargaining agreement, including the union-security clause, so as to cover its drywall finishing employees, or any extensions, renewal, or modifications thereof, unless or until Respondent Carpenters Local Union 1506 has been certified by the Board as the exclusive collective-bargaining representative of those employees; provided that nothing in this Order shall authorize, allow, or require the withdrawal or elimination of any wage increase or other benefits that may have been established pursuant to said agreement.

The Board's Order in Paragraph 2(c) further requires that Raymond:

> "To the extent that coverage was provided under Carpenters Union plans, provide alternate benefits coverage equivalent to the coverage that its drywall finishing employees possessed under the Carpenters Union 2006-2010 master agreement, including pension coverage and medical, hospitalization, prescription drug, dental, optical, life, and other insurance benefits, and insure that there be no lapse in coverage."

See 355 NLRB No. 209 (2010), adopting the two-member Board panel's decision in 354 NLRB No. 85 (2009), slip op. at p.2 (emphasis added).

The only apparent difference between Garner/Morrison and the instant case is that the Board's decision in Garner/Morrison was issued after the Board's decision in the instant case, and

was decided by a different Board panel. Other than the foregoing, the 8(a)(2) and (1) violations found by the Board in Garner/Morrison and in the instant case are strikingly similar and substantively no different. Yet, even though there are no substantive differences in the 8(a)(2) violations found by the Board in both cases, the Board's Order in the instant case as it impacts the pension, medical and other benefits coverage of the affected employees is markedly different from the Board's Order in Garner/Morrison. In the instant case, the Board orders Raymond to provide alternate pension, medical and other benefits coverage (to that contained in the union agreement) while not similarly requiring it of Garner/Morrison.

Given the foregoing, Raymond Interior Systems, Inc. brings the Board's decision in Garner/Morrison to its attention and requests that the Board consider its Order in Garner/Morrison in deciding Raymond's motion for reconsideration. While Raymond contends no remedy is warranted, at the very least, the Board should modify the remedy and order in the instant case, if any, to conform to the remedy ordered in Garner/Morrison.

Respectfully submitted,

DATED: June 24, 2011

HILL, FARRER & BURRILL LLP
James A. Bowles, Esq.
Richard S. Zuniga, Esq.

By: Richard S. Zuniga
Richard S. Zuniga
Attorneys for Respondent
RAYMOND INTERIOR SYSTEMS, INC.

CERTIFICATE OF SERVICE

I, Richard S. Zuniga, declare as follows:

1. I hereby certify that on June 24, 2011, I filed **NOTICE OF SUPPLEMENTAL AUTHORITY RE RESPONDENT RAYMOND INTERIOR SYSTEMS, INC.'S MOTION FOR RECONSIDERATION** in Cases 21-CA-37649 and 21-CB-14259, via E-Filing,

2. I hereby certify that on June 24, 2011, I caused to be served true copies of **NOTICE OF SUPPLEMENTAL AUTHORITY RE RESPONDENT RAYMOND INTERIOR SYSTEMS, INC.'S MOTION FOR RECONSIDERATION** in Cases 21-CA-37649 and 21-CB-14259, by first-class U.S. Mail and by E-Mail on the following parties:

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I hereby certify that the foregoing is true and correct. Executed this 24th day of June 2011, at Los Angeles, California.

Richard S. Zuniga

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