

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

THE AMERICAN NATIONAL RED CROSS,
GREAT LAKES BLOOD SERVICES REGION
and MID-MICHIGAN CHAPTER,

Respondents,

and

CASES 7-CA-52033
 7-CA-52288
 7-CA-52544
 7-CA-52811
 7-CA-53018

LOCAL 459, OFFICE AND PROFESSIONAL
EMPLOYEES INTERNATIONAL UNION, AFL-CIO

Charging Party OPEIU,

and

CASES 7-CA-52282
 7-CA-52308
 7-CA-52487

LOCAL 580, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

Charging Party IBT.

**LOCAL 459, OFFICE AND PROFESSIONAL EMPLOYEES’
MOTION TO STRIKE RESPONDENTS’ REPLY BRIEF**

Pursuant to Section 102.47 of the Board’s Rules and Regulations, as amended, Charging Party Office and Professional Employees Local 459 moves to strike Respondents’ Reply Brief filed in these matters on August 19, 2011, and in support of its Motion states as follows:

1. Answering Briefs in these matters were due and filed by the parties on August 4, 2011.
2. Section 102.46 (h) of the Board’s Rules and Regulations, as amended, provides *inter alia* as follows:

Within 14 days from the last date on which an answering brief may be filed pursuant to paragraph (d) or (f) of this section, any party may file a reply brief to such answering brief.

3. Reply Briefs in this matter were due on August 18, 2011.

4. The Board's rules for electronic filings provide that:

The Agency will accept electronic filings up to 11:59 p.m. *in the local time zone of the receiving office on the due date.*

A document will be considered timely filed if the E-Filing receipt reflects that the entire document was received by the Agency's E-Filing system *before midnight local time on the due date. (Midnight is considered the beginning of a new day.)*

5. The receiving office of the Board is in Washington D.C., which is the Eastern Time Zone.

6. Respondents' Reply Brief, although dated August 18, 2011, was not E-Filed with the Board until approximately 12:35 a.m. Eastern Daylight Time on August 19, 2011, and was therefore, untimely filed. (Exhibit A).

7. The Board's website posted no instance of technical failure on August 18, 2011 which would privilege Respondents' untimely filing on August 19.

8. The undersigned counsel for OPEIU Local 459 was likewise not served via email by Respondents' until 12:42 a.m. on August 19, 2011. (Exhibit B)

Accordingly, for all of the above stated reasons, Office and Professional Employees Local 459 requests the Board grant its Motion and strike Respondents' Reply Brief.

Respectfully submitted this 19th day of August 2011.

s/ Tinamarie Pappas .

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EXHIBIT A

From: e-service@nlrb.gov
Sent: Friday, August 19, 2011 12:35 AM
To: pappaslawoffice@comcast.net
Subject: FW:07-CA-052033

This is notification that a document has been E-Filed with the Office of Executive Secretary of the National Labor Relations Board in the above referenced case. This email is being sent to you as a courtesy because you have registered for the Agency's E-Issuance/E-Service Pilot Program.

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You can access the document(s) filed on 8/19/2011 in case 07-CA-052033 by clicking on the link(s) below:

Reply Brief to Answer to Exceptions
Service Documents

Thank you for participating in the E-Issuance/E-Service pilot program.

National Labor Relations Board

EXHIBIT B

From: Leslie A. Sammon [LSammon@axley.com]
Sent: Friday, August 19, 2011 12:42 AM
To: Dynn.Nick@nlrb.gov; Robert.Drzyzga@nlrb.gov; pappaslawoffice@comcast.net;
waynearudellplc@yahoo.com; Batten, Fred W.
Cc: Michael J. Westcott; Jean C. Karls
Subject: Case No. 7-CA-52033, et al.

Attachments: Certificate of Service Documents (Reply Brief) (00919793).PDF;
Respondents' Reply Brief (00919794).PDF

Attached is Respondents' Reply Brief and Certification of Service filed with the NLRB.

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CERTIFICATE OF SERVICE

TINAMARIE PAPPAS states that on August 19, 2011, she e-filed Local 459 Office and Professional Employees' Motion to Strike Respondents' Reply Brief , through the Board's e-filing system, and served all counsel of record via electronic transmission, at the email addresses set forth below:

Dynn Nick, Esq.
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Robert Drzyzga, Esq.
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Fred W. Batten, Esq.
fbatten@clarkhill.com

The above statements are true and correct to the best of my information, knowledge and belief.

s/ Tinamarie Pappas_____.