

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

MID-WEST TELEPHONE SERVICE, INC.

and

CASE 8-CA-38901

WILFREDO PLACERES, AN INDIVIDUAL

MID-WEST TELEPHONE SERVICE, INC.

and

CASE 8-CA-39168

DUSTIN PORTER, AN INDIVIDUAL

MID-WEST TELEPHONE SERVICE, INC.

and

**CASES 8-CA-39297
8-CA-39388**

BEN FANNIN, AN INDIVIDUAL

MID-WEST TELEPHONE SERVICE, INC.

and

CASE 8-CA-39334

MIKE WILLIAMS, AN INDIVIDUAL

RESPONDENT'S EXCEPTIONS TO ADMINISTRATIVE LAW JUDGE'S DECISION

MORROW & MEYER, LLC.

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Pursuant to § 102.46 of the National Labor Relations Board Rules and Regulations, Respondent Mid-West Telephone Service, Inc. (“MWTS” or “Respondent”) files exceptions to the Decision of the Administrative Law Judge Mark Carissimi (“ALJ”).

1. The ALJ erred in applying the small plant doctrine to infer that George Vaughn, Jr. and MWTS knew that Mike Williams provided an affidavit and received a subpoena to testify at an NLRB hearing where the Acting General Counsel failed to establish the threshold requirements of the small plant doctrine. (ALJ Opinion, pg. 33, lines 12-14).

2. The ALJ erred in finding that the Acting General Counsel established a prima facie case under *Wright Line* by finding that MWTS failed to assign work to Mike Williams because of an NLRB affidavit and subpoena where, absent the small plant doctrine, there is no evidence that George Vaughn, Jr. or MWTS knew about the subpoena. (ALJ Opinion, pg.34, lines 2-5).

3. The ALJ erred in applying the small plant doctrine to *presume* that George Vaughn, Jr. and MWTS knew on the evening of March 9, 2011 that Ben Fannin scheduled a meeting with the IBEW on March 11, 2011 where the Acting General Counsel failed to establish the threshold requirements of the small plant doctrine. (ALJ Opinion, pg. 28, lines 22-25).

4. The ALJ erred in finding that the Acting General Counsel established a prima facie case under *Wright Line* that MWTS terminated Ben Fannin because of his role in scheduling the March 11, 2011 IBEW meeting where, absent the small plant doctrine, there is no evidence that MWTS knew on the evening of March 9, 2011 about the March 11, 2011 IBEW meeting or about Ben Fannin’s role in scheduling it. (ALJ Opinion, pg. 29, lines 4-5).

5. The ALJ erred by finding that George Vaughn, Jr. violated the Act by expressing his opinion that MWTS employees would be better off forming their own union and by offering to provide a list of attorneys if that was their choice. (ALJ Opinion, pg. 26, lines 34-42).

MWTS submits herewith a Brief in Support of its Exceptions this 25th day of January, 2012.

Respectfully Submitted,

MORROW & MEYER, LLC.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Respondent's Exceptions to Administrative Law Judge's Decision was sent this 25th day of January, 2012 to the following via electronic mail:

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