

**GREGORY D. WOLFLICK (SBN 108699)
WOLFLICK & SIMPSON
130 N. Brand Blvd.,
Suite 410
Glendale, CA 91206
Tel: 818-243-8300
Fax: 818-243-0122**

**Attorneys for Employer
DIRECTV U.S. DIRECTV HOLDINGS LLC**

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

**DIRECTV U.S. DIRECTV
HOLDINGS LLC**

and

Case 21-CA-071591

**INTERNATIONAL ASSOCIATION
OF MACHINISTS AND AEROSPACE
WORKERS, AFL-CIO, DISTRICT
LODGE 947**

**RESPONDENT'S OPPOSITION TO
MOTION FOR SUMMARY JUDGMENT**

RESPONDENT, DIRECTV U.S. DIRECTV HOLDINGS LLC, ("DIRECTV") hereby opposes, in part, the Acting General Counsel's Motion for Summary Judgment on the grounds set forth herein. DIRECTV has refused to recognize Charging Party, International Association

of Machinists and Aerospace Workers, AFL-CIO, District Lodge 947 (“Charging Party” or “Union”) because Respondent contends that the Board’s recent Decision in 21-RC-21191 and subsequent Order certifying the results of the elections in such matter is unsupported by substantial evidence and imposes and relies upon an incorrect legal standard for determining supervisory status.

Respondent’s Opposition to Acting General Counsel’s Motion for Summary Judgment focuses on Charging Party’s request for certain documentation and information which was included in its demand for recognition. To the extent that the Acting General Counsel seeks to adjudicate the document request issues by way of summary judgment, the Motion poses a triable issue of fact because the Union is seeking information which is not presumptively relevant.

In support of its opposition to this Motion, Respondent shows, as follows:

1. The Union made a demand for recognition on the eve of Christmas, December 24, 2011, and in the demand for recognition requested certain documents and information be produced. A copy of that demand for recognition is attached hereto as Exhibit 1.

2. In Paragraph 8(b) of the Board’s Complaint the Acting General Counsel alleges:

“(b) the information requested by the Union, as described above in Paragraph 8(a), is necessary for, and relevant to, the Union’s performance of its duties as the exclusive collective-bargaining representative of the Unit.”

(Copy attached as Exhibit 2, Complaint: p. 3).

3. Respondent, in answering Paragraph 8(b) of the Complaint asserted:

“Respondent denies each and every allegation in Paragraph 8(b) of the Complaint.” (Copy attached as Exhibit 3, Answer: p.3).

4. The Acting General Counsel, in his Motion for Summary Judgment, at Paragraph 14(h) contends:

“Respondent, in its Answer, denies that the information requested in the December 24, 2011 letter was necessary for the Union to perform its duties as the collective bargaining representative of the Unit in as much as the Union was not properly certified as such.”

Respondent respectfully requests that the Board take official notice of the documents described above and attached hereto and all other relevant documents in case 21-RC-21191.

I. ARGUMENT

The Acting General Counsel has misinterpreted and/or misrepresented Respondent’s position with regards to the documents requested by Charging Party by contending in its Complaint that Respondent’s sole basis for refusing to produce the documents/information sought is the Union has been improperly certified as a representative of the Unit employees. But that is not the only reason Respondent objected to the request for information. In its Answer, Respondent expressly denied that the documents sought by Charging Party were necessary for the Union to perform its duties as a collective bargaining representative of the Unit (Exhibit 3; p.3). Therefore, assuming that following appropriate appeals, the Union is eventually confirmed as the representative of the employees, Respondent still contends that some of the information sought by the Union is not necessary for the Union to perform its duties as the collective bargaining representative of the Unit employees and, as such, Respondent is not obligated to produce all such documents.

While certainly, Respondent recognizes an obligation to produce some information to the Union if it were to be certified as the representative of the Unit employees, much of the information sought falls outside the scope of what would traditionally be permitted or which is necessary for the Union to represent the interests of the employees at issue. In particular,

Respondent objects to the information sought in items 3, 7, 8, 9, 10, 12, 15, 16, 17, 18, and 19 (Exhibit 1;pp. 3-4).

While the Board has long held that data concerning the employees' wages, hours and terms and conditions of employment is presumptively relevant, information that does not directly concern wages, hours, and terms or conditions of employment does not enjoy a presumption of relevance and a specific need for it must be established, *United Furniture Workers of America AFL-CIO v. NLRB*, 388 F.2d 880 (4th Circ. 1967) affirming *White Furniture Company*, 161 NLRB 444 (1966).

Some types of information have come to be regarded as "presumptively relevant" i.e., the nature of the data sought such as wage information regarding Unit employees is so clearly relevant to the Union's general authority that it need make no special showing of pertinence, *Emery Ville Research Center v. NLEB* 441 F.2nd 880, 887 (9th Cir.1971). However, if the information is not presumptively relevant, then the Charging Party, in this case the Union, must demonstrate how the information is relevant and they must do so, by presenting evidence. In this regard, the U.S. Supreme Court in *NLRB v. Truitt Manufacturing Company*, 351 U.S. 149 (1956) in evaluating the duty to furnish information found: "Each case must turn on its particular facts. The inquiry must always be whether or not under the circumstance of the particular case the statutory obligation to bargain in good faith has been met" *supra*.pp.153-154. (See also *Florida Steel Corporation*, 235 NLRB 941, 942 (1978) holding the Union's request for information must be supported by "a showing of probable or potential relevance.")

Here, the Acting General Counsel is requesting summary judgment with regard to the information sought by the Union which is not presumptively relevant yet not a single bit of evidence has been adduced to establish how these items might be relevant. By way of example, item 3 requests "*statement and description of all company personnel policies, practices or*

procedures other than those mentioned in number 2 above". There is no limitation on this request to personnel policies, practices or procedures dealing with Unit employees. Hence, on its face, the request asks for policies and procedures that may apply exclusively to non-bargaining unit employees. Information regarding non-bargaining unit employees is presumed not relevant absent some specific showing by the Union. *Connecticut Yankee Atomic Power Company*, 317 NLRB 1266 (1995).

Similarly, items 15-19 seek information going back to April 2010 regarding individual Unit employees, including Unit employees who no longer work for Respondent. If the employees no longer work for Respondent, they are not a part of the Unit and, here again, the Union would have to make some showing why this information is relevant. *Connecticut Yankee Atomic Power Company, Supra*. Furthermore, information going back to April 2010 is almost 2 years old and certainly outside the six month statute of limitations for the Union to file an unfair labor practice charge or otherwise challenge any discipline issued that long ago. At a minimum, the Union would need to make some showing of how this information is relevant and there is no record evidence in the Motion for the Board to make such an evaluation.

For these reasons, Respondent respectfully submits that summary judgment is not appropriate with respect to the information request issues, and the Acting General Counsel's Motion for Summary Judgment with regards to the information sought by the Union is both premature and not supported by any undisputed, material supporting evidence. The absence of such evidence requires that the Motion be denied as to the documents and information sought by the Union in its demand for recognition. Rather, a hearing needs to be conducted in which the Acting General Counsel and Charging Party produced evidence by which the ALJ could evaluate whether in fact this information sought is necessary for Charging Party to adequately represent the interest of the Unit employees and/or is otherwise relevant

II. CONCLUSION

For the reasons set forth hereinabove, Respondent respectfully submits that the Acting General Counsel's Motion for Summary Judgment, to the extent it seeks an Order compelling Respondent to produce the information sought by the Union in its demand for recognition, be denied in its entirety as premature and because the Acting General Counsel has failed to make any evidentiary showing whatsoever that this information is relevant or necessary to the Charging Party's statutory obligations. In the interests of time and efficiency, Respondent is prepared to bifurcate this matter, and for the Board to adjudicate by way of summary judgment the failure to recognize the Union allegations in the Complaint.

Dated: February 10, 2012

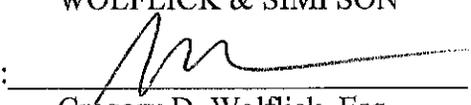
Respectfully submitted,
WOLFLICK & SIMPSON
By: 
Gregory D. Wolflick, Esq.
Counsel for
RESPONDENT, DIRECTV U.S.
DIRECTV HOLDINGS LLC

Exhibit 1

STEWART WEINBERG
DAVID A. ROSENFELD
WILLIAM A. SOKOL
VINCENT A. HARRINGTON, JR.
BLYTHE MICKELSON
BARRY E. HINKLE
JAMES RUTKOWSKI *
SANDRA RAE BENSON
CHRISTIAN L. RAISNER
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CAREN P. SENCER
ANNE I. YEN
KRISTINA M. ZINNEN
JANNAH V. MANANSALA
MANUEL A. BOIGUES ****

WEINBERG, ROGER & ROSENFELD

A PROFESSIONAL CORPORATION

1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-1091
TELEPHONE 510.337.1001
FAX 510.337.1023

LORI K. AQUINO **
KERIANNE R. STEELE ***
GARY P. PROVENCHER
LISL R. DUNCAN
JORDAN D. MAZUR
JACOB J. WHITE
SHARON A. SEIDENSTEIN
LESLIE V. FREEMAN *****
EZEKIEL D. CARTER *****
YURI Y. GOTTESMAN
ADAM J. LUETTO
MONICA T. GUIZAR
SARAH R. WRIGHT-SCHREIBER
RUSSELL NAYMARK
SEAN D. GRAHAM

PATRICIA M. GATES, Of Counsel
ROBERTA D. PERKINS, Of Counsel
RICHARD T. DRURY, Of Counsel
NINA FENDEL, Of Counsel
ANA M. GALLEGOS, Of Counsel

* Also admitted in Arizona
** Admitted in Hawaii
*** Also admitted in Nevada
**** Also admitted in Illinois
***** Also admitted in Missouri
***** Also admitted in New York

December 24, 2011

EMAIL

Gregory D. Wolflick
Wolflick & Simpson
130 North Brand Blvd., Suite 410
Glendale, CA 91203

Re: Bargaining With Machinists District Lodge 947

Dear Mr. Wolflick:

This letter is written on behalf of District Lodge 947. The Union has now been certified by the NLRB as the representative of the employees in the unit in case 21-RC-21191.

We recognize that DirectTV may attempt to delay bargaining with the Union by refusing to bargain.

Under current Board law your client may not make unilateral changes after the date of the election conducted on April 16, 2010. Now that the certification has issued that obligation continues.

Any such unilateral changes would become unfair labor practices now that the Board has issued its certification. We intend to impose the greatest risk upon your client if it chooses that unreasonable course.

We are, therefore, putting you on notice. We insist that, henceforth, you make no unilateral changes with respect to the terms and conditions of employment of any employee in the bargaining unit without affording an opportunity to District Lodge 947 to bargain over the decision and effects of such change. The following is a list of those changes which we insist not be made without bargaining over the decision and the effects. The list is not inclusive but is simply illustrative of all those changes.

1. No promotional position should be filled without bargaining;
2. No employee should have his/her hours changed without bargaining;

December 24, 2011

Gregory Wolflick

Page 2

3. No employee should be warned, counseled, disciplined or terminated without bargaining;
4. No one should be hired without bargaining over the person who should fill the position;
5. No employee should be laid off without bargaining;
6. No health and welfare, pension or other fringe benefits should be denied without bargaining;
7. No positions outside the bargaining unit should be filled without bargaining over the question of transfer or promotion;
8. No work location, assignment, classification or any other aspect of employment should be changed without bargaining;
9. No discipline should be imposed without affording the employee the Weingarten rights which we hereby demand;
10. No changes in the method and manner by which work is being performed may be made without bargaining;
11. No introduction of any new work techniques without bargaining;
12. No subcontracting, closures, relocation or any changes in the workplace should be made without bargaining.
13. No jobs should be bid or commenced without bargaining.
14. No routes should be changed without bargaining.

In considering this list you should consider the risk which your client bears if it chooses to make those changes without bargaining. If positions open in this unit or some other unit and your client does not bargain over the filling of those positions, we will argue that someone is entitled to back pay and your client may end up paying back pay for a lengthy period of time. If your client chooses to promote one individual and refuses to bargain over the person who should be promoted, we will take the position that someone else is entitled to the additional pay. If your client terminates or disciplines someone without bargaining over the decision and the effects of that termination (or other discipline), we will take the position that your client should reinstate the person and/or owe back pay. Please do not discipline anyone for any reason without first offering the union an opportunity to bargain over the decision and the effects of any such discipline. If your client lays off any individuals, we will take the position that your client should have bargained over the decision as well as the effects and you will owe back pay over those layoffs. It should be apparent that the economic penalty for refusing to bargain with the Union forthwith may be severe.

Although we are reluctant to begin our relationship with these kinds of threats, it is sometimes necessary to make employers understand that there is a substantial economic penalty for delaying

bargaining. We are hoping that your client will agree immediately to down and bargain with the chosen representative of the employees.

We, of course, demand that if there are any wage increases or benefit increases which would have normally occurred without the Union, those should be implemented in the normal course of business. We insist, however, being notified in advance of any such changes so that we can bargain over those changes. Included in the bargaining will most likely be a demand that the wage increases or other benefit changes be better than otherwise proposed. Nonetheless, Board law requires these changes be put into place and furthermore requires that you afford the Union a chance to bargain over those decisions as well as the effects of those decisions.

Please provide the following information for bargaining for the bargaining unit. The information is sought for the period April 1, 2010 unless otherwise indicated to the present:

1. A list of current employees including their names, dates of hire, rates of pay, job classification, last known address, phone number, date of completion of any probationary period, and employee identification number.
2. A copy of all current company personnel policies, practices or procedures.
3. A statement and description of all company personnel policies, practices or procedures other than those mentioned in Number 2 above.
4. A copy of all company fringe benefit plans including pension, profit sharing, severance, stock incentive, vacation, health and welfare, apprenticeship, training, legal services, child care or any other plans which relate to the employees.
5. Copies of all current job descriptions.
6. Copies of any company wage or salary plans.
7. Copies of all disciplinary notices, warnings or records of disciplinary personnel actions for the period April 1, 2010 to present.
8. A statement and description of all wage and salary plans which are not provided under number 6 above.

December 24, 2011

Gregory Wolflick

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9. A list of all employees who worked in the bargaining unit from April 1, 2010 to present who no longer work in the unit including their names, dates of hire, rates of pay, job classification, last known address, phone number, date of completion of any probationary period, and employee identification number and termination date and last date work.
10. A Copy of all customer complaints made about any employee in the unit and/or any work or jobs performed by any unit employee for the period April 1, 2010 to present. Please provide a copy of all reports and all records with respect to each such complaint including any company investigatory files, memo or documents referring to each complaint.
11. A copy of and personnel rules, practices which were in existence on April 16, 2010 and which have been changed or modified in any way since that date.
12. A list of all current routes serviced by each member of the unit.
13. All job requirements for unit employees including any goals or minimum standards.
14. Any manuals or documents describing the work to be performed including any documents describing the installation and repair work done by unit members or provide to them or made available to them.
15. Any documents showing the productivity of field technicians in the unit for the period April 1, 2010 to present.
16. All evaluations of unit employees for the period January 1, 2010 to present.
17. All employee consultation forms issued with respect to any employee in the unit for the period April 1, 2010 to present.
18. All manager notes for the period of April 1, 2010 to present showing or mentioning any discipline including but not limited to verbal warnings.
19. Please the union access to the company intranet to the same degree unit employees have such access so the Union can review what material is available to all employees.

Please consider this letter to be a continuing demand.

If DirectTV believes that there are any confidentiality concerns or other concerns over which it wishes to bargain about these information requests your client should make that demand now. If it fails to do so we will assert it has waived its right to do so.

Please provide dates when your client can bargaining immediately.

We expect at least 5 dates in January to commence bargaining.

December 24, 2011
Gregory Wolflick
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If DirectTV has not affirmatively agreed to bargain by December 28, we will assume the employer will continue in its violation of the National Labor Relations Act. We will file a charge on December 29.

The workers have waiting now 18 months and will wait no further.

Sincerely,

David A Rosenfeld

DAR/dr

124672/649653

Exhibit 2

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 21

DIRECTV U.S. DIRECTV HOLDINGS LLC

and

Case 21-CA-071591

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 947

COMPLAINT
AND
NOTICE OF HEARING

Machinists District Lodge 947, herein correctly designated as International Association of Machinists and Aerospace Workers, AFL-CIO, District Lodge 947, and called the Union, has charged that DIRECTV U.S. DIRECTV Holdings LLC, herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Sec. 151, et seq., herein called the Act. Based thereon, the Acting General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. The charge in this proceeding was filed by the Union on December 28, 2011, and a copy was served on Respondent by regular mail on December 29, 2011.

2. (a) At all material times, Respondent, a California corporation, with an office and place of business located at 19335 South Laurel Park Road, Rancho Dominguez, California, herein called the facility, has been engaged in the business of providing digital television entertainment services to residential and commercial customers.

(b) During the 12-month period ending January 4, 2012, a representative period, Respondent, in conducting its business operations described above in paragraph 2(a), derived gross revenues in excess of \$100,000, and purchased and received at its Rancho Dominguez, California facility goods valued in excess of \$50,000 directly from points outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5. The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective-bargaining within the meaning of Section 9(b) of the Act:

All full-time production installation technicians, field technicians, service technicians, piece work technicians, who service and install satellite dishes, warehouse employees, dispatchers, and quality control employees, employed by the Respondent at its facility located at 19335 South Laurel Park Road, Rancho Dominguez, CA; excluding all other employees, administrative clerical employees, confidential employees, managerial employees, guards and supervisors as defined in the Act.

6. (a) On December 22, 2011, the Union was certified as the exclusive collective-bargaining representative of the Unit.

(b) At all times since December 22, 2011, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

7. (a) On or about December 24, 2011, the Union, by letter, requested that Respondent bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

(b) On or about December 28, 2011, Respondent, by letter, rejected the Union's request to bargain collectively and since that date has failed and refused to bargain with the Union as the exclusive collective-bargaining representative of the Unit.

8. (a) On or about December 24, 2011, the Union, by letter, requested that Respondent furnish the Union with the information set forth in the letter attached hereto as Exhibit A.

(b) The information requested by the Union, as described above in paragraph 8(a), is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(c) On or about December 28, 2011, Respondent, by letter, rejected the Union's request for information described in the letter attached hereto as Exhibit A, and since that date has failed and refused to furnish the Union with the information requested by it as described in said letter.

9. By the conduct described above in paragraphs 7(b) and 8(c), Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

10. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be received by this office on or before January 25, 2012, or postmarked on or before January 24, 2012.

Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

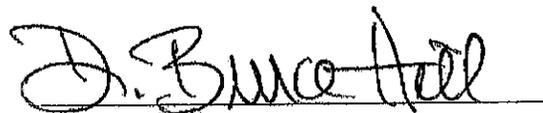
An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file

containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT if necessary, a hearing will be conducted at a time, date, and location to be determined later before an Administrative Law Judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED at Los Angeles, California, this 11th day of January, 2012.



D. Bruce Hill
Acting Regional Director, Region 21
National Labor Relations Board
888 South Figueroa Street, Ninth Floor
Los Angeles, CA 90017-5449

Attachments

Exhibit A

STEWART WEINBERG
 DAVID A. ROSENFIELD
 WILLIAM A. BIRKH
 VICTORIA HARRINGTON, JR.
 BLYTHE HIGGINS
 BARRY B. HINKLE
 JAMES RUTKOWSKI
 SANDRA HUB HINSON
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 DAREN P. GANDETT
 ANNE I. YEM
 MELITINA M. ZIMASH
 JAVAHIR V. MANABALA
 VANITA K. DOCKERTY

WEINBERG, ROGER & ROSENFELD
 A PROFESSIONAL CORPORATION
 1001 Marina Village Parkway, Suite 200
 Alameda, CA 94501-1001
 TELEPHONE 510.337.1001
 FAX 510.337.1023

LOUIE ADAMO
 KATHARINE A. STELLI
 DARYL P. PHIVONGHORN
 LISA M. PLANDAN
 JOHANN O. MULLER
 JACOB J. WHITE
 CHANTON A. GEDONNYGIN
 LESLIE V. FREEMAN
 DEBORAH A. DANIELA
 YVES V. GUYTTESSIAN
 ANITA J. LUTTO
 MONICA T. QUINCY
 SARAH R. WINOBY-GONZALEZ
 RUSSELL WYMER
 SEAN P. GORMAN
 PATRICIA M. BAYER, Of Counsel
 ROBERTA D. MERRINS, Of Counsel
 RICHARD T. DUFFY, Of Counsel
 ANNA THOMAS, Of Counsel
 ANA M. GALLEGOS, Of Counsel
 * Also admitted in Arizona
 ** admitted in Hawaii
 *** Also admitted in Nevada
 **** Also admitted in Illinois
 ***** Also admitted in New York

December 24, 2011

EMAIL

Gregory D. Wolflick
 Wolflick & Simpson
 130 North Brand Blvd., Suite 410
 Glendale, CA 91203

Re: Bargaining With Machinists District Lodge 947

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We are, therefore, putting you on notice. We insist that, henceforth, you make no unilateral changes with respect to the terms and conditions of employment of any employee in the bargaining unit without affording an opportunity to District Lodge 947 to bargain over the decision and effects of such change. The following is a list of those changes which we insist not be made without bargaining over the decision and the effects. The list is not inclusive but is simply illustrative of all those changes.

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2. No employee should have his/her hours changed without bargaining;

December 24, 2011
Gregory Wolflick
Page 2

3. No employee should be warned, counseled, disciplined or terminated without bargaining;
4. No one should be hired without bargaining over the person who should fill the position;
5. No employee should be laid off without bargaining;
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Although we are reluctant to begin our relationship with these kinds of threats, it is sometimes necessary to make employers understand that there is a substantial economic penalty for delaying

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Page 3

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2. A copy of all current company personnel policies, practices or procedures.
3. A statement and description of all company personnel policies, practices or procedures other than those mentioned in Number 2 above.
4. A copy of all company fringe benefit plans including pension, profit sharing, severance, stock incentive, vacation, health and welfare, apprenticeship, training, legal services, child care or any other plans which relate to the employees.
5. Copies of all current job descriptions.
6. Copies of any company wage or salary plans.
7. Copies of all disciplinary notices, warnings or records of disciplinary personnel actions for the period April 1, 2010 to present.
8. A statement and description of all wage and salary plans which are not provided under number 6 above.

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9. A list of all employees who worked in the bargaining unit from April 1, 2010 to present who no longer work in the unit including their names, dates of hire, rates of pay, job classification, last known address, phone number, date of completion of any probationary period, and employee identification number and termination date and last date work.
10. A Copy of all customer complaints made about any employee in the unit and/or any work or jobs performed by any unit employee for the period April 1, 2010 to present. Please provide a copy of all reports and all records with respect to each such complaint including any company investigatory files, memo or documents referring to each complaint.
11. A copy of and personnel rules, practices which were in existence on April 16, 2010 and which have been changed or modified in any way since that date.
12. A list of all current routes serviced by each member of the unit.
13. All job requirements for unit employees including any goals or minimum standards.
14. Any manuals or documents describing the work to be performed including any documents describing the installation and repair work done by unit members or provide to them or made available to them.
15. Any documents showing the productivity of field technicians in the unit for the period April 1, 2010 to present.
16. All evaluations of unit employees for the period January 1, 2010 to present.
17. All employee consultation forms issued with respect to any employee in the unit for the period April 1, 2010 to present.
18. All manager notes for the period of April 1, 2010 to present showing or mentioning any discipline including but not limited to verbal warnings.
19. Please the union access to the company intranet to the same degree unit employees have such access so the Union can review what material is available to all employees.

Please consider this letter to be a continuing demand.

If DirectTV believes that there are any confidentiality concerns or other concerns over which it wishes to bargain about these information requests your client should make that demand now. If it fails to do so we will assert it has waived its right to do so.

Please provide dates when your client can bargaining immediately.

We expect at least 5 dates in January to commence bargaining.

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If DirectTV has not affirmatively agreed to bargain by December 28, we will assume the employer will continue in its violation of the National Labor Relations Act. We will file a charge on December 29.

The workers have waiting now 18 months and will wait no further.

Sincerely,

David A Rosenfeld

DAR/dr

124072/649653

Exhibit 3

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 21**

**DIRECTV U.S. DIRECTV
HOLDINGS LLC**

and

Case 21-CA-071591

**INTERNATIONAL ASSOCIATION
OF MACHINISTS AND AEROSPACE
WORKERS, AFL-CIO, DISTRICT
LODGE 947**

RESPONDENT'S ANSWER

RESPONDENT, DIRECTV U.S. DIRECTV HOLDINGS LLC, within the time set forth by the Board's Rules and Regulations, hereby answers the Complaint filed by the Regional Director in the above-referenced matter as follows:

Answering the introductory paragraph preceding paragraph 1 of the Complaint, Respondent is without sufficient information or knowledge to form a belief with regards to the allegation of such and on that basis denies each and every allegation contained therein.

1. Respondent admits the allegations of paragraph 1 of the Complaint.
- 2(a). Respondent admits the allegations of paragraph 2(a) of the Complaint.
- 2(b). Respondent admits the allegations of paragraph 2(b) of the Complaint.
3. Respondent admits the allegations of paragraph 3 of the Complaint.
4. Respondent is without sufficient information or knowledge to form a belief with

regards to the allegation of paragraph 4 of the Complaint and on that basis denies each and every allegation contained therein.

5. Respondent is without sufficient information or knowledge to form a belief with regards to the allegations of paragraph 5 of the Complaint and on that basis denies each and every allegation contained therein.

6(a). In answering paragraph 6(a) of the Complaint, Respondent admits that on or about December 22, 2011 the NLRB issued a decision rejecting the recommendations of the Hearing Officer who had concluded that the Field Supervisors in question were in fact supervisors for the purposes of Section 2(11) of the Act and that such Field Supervisors had acted unlawfully by soliciting Union authorization cards from employees, inviting employees to union meetings, and attending union meetings with employees all of which constituted objectionable conduct warranting a new election in violation of *Harbor Side Health Care, Inc.* 343 NLRB 906 (2004). Respondent further avers that the NLRB's decision is unsupported by substantial evidence, imposes and relies upon an incorrect legal standard for determining supervisory status, and is both legally and factually inconsistent with the Board's previous treatment of Respondent's Field Supervisors in other NLRB proceedings. As a result, DTVHS contends that the NLRB improperly certified the results of the election and thereby, DTVHS has declined to recognize Local 947 as the representative of the unit employees. Except as expressly admitted or asserted herein, Respondent denies each and every allegation of paragraph 6(a) of the Complaint.

6(b). In answering paragraph 6(b) of the Complaint, Respondent admits that on or about December 22, 2011 the NLRB issued a decision rejecting the recommendations of the Hearing Officer who had concluded that the Field Supervisors in question were in fact supervisors for the purposes of Section 2(11) of the Act and that such Field Supervisors had

acted unlawfully by soliciting Union authorization cards from employees, inviting employees to union meetings, and attending union meetings with employees all of which constituted objectionable conduct warranting a new election in violation of *Harbor Side Health Care, Inc.*, 343 NLRB 906 (2004). Respondent further avers that the NLRB's decision is unsupported by substantial evidence, imposes and relies upon an incorrect legal standard for determining supervisory status, and is both legally and factually inconsistent with the Board's previous treatment of Respondent's Field Supervisors in other NLRB proceedings. As a result, DTVHS contends that the NLRB improperly certified the results of the election and thereby, DTVHS has declined to recognize Local 947 as the representative of the unit employees. Except as expressly admitted or asserted herein, Respondent denies each and every allegation of paragraph 6(b) of the Complaint.

7(a). Respondent admits the allegations of paragraph 7(a) of the Complaint.

7(b). In answering paragraph 7(b) of the Complaint, Respondent admits that on or about December 28, 2011, Respondent, by letter, rejected the Union's request to bargain collectively and has refused to bargain with the Union collectively because, the Respondent believes that the NLRB's decision certifying the Union as the representative of the employees is unsupported by substantial evidence, imposes and relies upon an incorrect legal standard for determining supervisory status, and is both legally and factually inconsistent with the Board's previous treatment of Respondent's Field Supervisors in other NLRB proceedings. On that basis, Respondent denies each and every allegation of paragraph 7 (b) of the Complaint.

8(a). Respondent admits the allegations of paragraph 8(a) of the Complaint.

8(b). Respondent denies each and every allegation in paragraph 8(b) of the Complaint.

8(c). In answering paragraph 8(c) of the Complaint, Respondent admits that on or about December 28, 2011, Respondent, by letter, rejected the Union's request to bargain

collectively and has refused to bargain with the Union collectively because, Respondent believes that the NLRB's decision certifying the Union as the representative of the employees is unsupported by substantial evidence, imposes and relies upon an incorrect legal standard for determining supervisory status, and is both legally and factually inconsistent with the Board's previous treatment of Respondent's Field Supervisors in other NLRB proceedings. On that basis, respondent denies each and every allegation of paragraph 8 (c) of the Complaint.

9. Respondent denies each and every allegation in paragraph 9 of the Complaint and further avers that the NLRB and its decision certifying the Union as the representative of the employees is unsupported by substantial evidence and imposes and relies upon an incorrect legal standard for determining supervisory status.

10. Respondent denies each and every allegation in paragraph 10 of the Complaint.

FIRST AFFIRMATIVE DEFENSE

11. The decision of the NLRB certifying the Union as the representative of the employees in question is unsupported by substantial evidence and imposes and relies upon an incorrect legal standard for determining supervisory status. As such, Respondent intends to appeal the Final Order of the Board to the appropriate Court of Appeals challenging the recent decision of the NLRB.

SECOND AFFIRMATIVE DEFENSE

12. The conduct of Respondent in refusing to recognize the Union and to commence negotiations is protected because the NLRB improperly certified the results of the election.

THIRD AFFIRMATIVE DEFENSE

13. The conduct of Respondent in refusing to provide information requested by the Union is protected because the decision of the NLRB certifying the Union as the representative of the employees in question is unsupported by substantial evidence and imposes and relies upon an incorrect legal standard for determining supervisory status.

FOURTH AFFIRMATIVE DEFENSE

14. The conduct of Respondent in refusing to recognize the Union as the representative of the employees is protected because the original election conducted in this matter was tainted by the misconduct of Field Supervisors under *Harbor Side Health Care, Inc.*, 343 NLRB 906 (2004).

FIFTH AFFIRMATIVE DEFENSE

15. The Field Supervisors at issue in 21-RC-21191 are in fact supervisors for the purposes of Section 2(11) of the Act and their conduct in soliciting Union Authorization Card from employees, inviting employees to Union meetings and attending Union meetings on behalf of employees was unlawful and tainted the results of the election pursuant to *Harbor Side Health Care, Inc.*, 343 NLRB 906 (2004).

SIXTH AFFIRMATIVE DEFENSE

16. The NLRB should be legally, factually and administratively estopped from finding that Respondent's Field Supervisors are not supervisors pursuant to section 2(11) of the Act because such a conclusion is inconsistent with the Board's previous treatment of Respondent's Field Supervisors in other NLRB proceedings.

Respondent, having fully answered all accounts and allegations in the Complaint, respectfully moves that the Complaint be dismissed on all counts.

DATED at Glendale, California this 24 day of January, 2012.

WOLFLICK & SIMPSON

By: _____


Gregory D. Wolflick, Esq.
Counsel for
RESPONDENT, DIRECTV U.S.
DIRECTV HOLDINGS LLC

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 130 N. Brand Boulevard, Suite 410, Glendale, California 91203.

On January 24, 2012, I served the foregoing document(s) described as:
RESPONDENT'S ANSWER on the interested parties in this action by placing a true copy thereon enclosed in sealed envelope(s) addressed as follows:

**D. Bruce Hill, Acting Regional Director
National Labor Relations Board, Region 21
888 South Figueroa Street, Ninth Floor
Los Angeles, California 90017-5449**

**International Union of Machinists and
Aerospace Workers, District Lodge 947,
AFL-CIO
535 West Willow Street
Long Beach, California 90806**

**David A. Rosenfeld, Esq.
WEINBER, ROGER & ROSENFELD
1001 Marina Village Parkway, Suite
200 Alameda, California 94501-1091**

XXX (BY U.S. MAIL) as follows: I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Glendale, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit of mailing in affidavit.

XXX (BY STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 24, 2012, at Glendale, California

MARGO KAZARYAN



PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 130 N. Brand Boulevard, Suite 410, Glendale, California 91203.

On February 10, 2012, I served the foregoing document(s) described as:
RESPONDENT'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT on the interested parties in this action by placing a true copy thereon enclosed in sealed envelope(s) addressed as follows:

**Jean C. Libby, Counsel for General Counsel
National Labor Relations Board, Region 21
888 South Figueroa Street, Ninth Floor
Los Angeles, California 90017-5449
Jean.libby@nrlrb.gov**

**David A. Rosenfeld, Esq.
WEINBER, ROGER & ROSENFELD
1001 Marina Village Parkway, Suite
200 Alameda, California 94501-1091
Drosenfeld@unioncounsel.net**

XXX (BY ELECTRONIC SERVICE) Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message, or other indication that the transmission was unsuccessful.

XXX (BY STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 10, 2012, at Glendale, California

MARGO KAZARYAN

