

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX**

USIC LOCATING SERVICES, INC.

and

Case 06-CA-037328

COMMUNICATION WORKERS OF AMERICA,
LOCAL 13000, AFL-CIO, CLC

**COUNSEL FOR THE ACTING GENERAL COUNSEL'S MOTION TO STRIKE
RESPONDENT'S CONDITIONAL CROSS-EXCEPTIONS TO DECISION OF
ADMINISTRATIVE LAW JUDGE**

Counsel for the Acting General Counsel hereby files and respectfully requests that the Board grant this Motion to Strike Respondent's Conditional Cross-Exceptions to Decision of Administrative Law Judge, filed on March 21, 2012.

This case was submitted to Administrative Law Judge David Goldman by stipulated record. Judge Goldman issued his Decision on January 10, 2012, finding that Respondent did not violate the Act and recommending that the Complaint be dismissed. The instant case is currently before the Board on Exceptions filed by both the Acting General Counsel and the Charging Party.

Respondent has filed Conditional Cross-Exceptions to Decision of Administrative Law Judge, asking that the Board consider these Conditional Cross-Exceptions should the Board reverse Judge Goldman's Decision. Counsel for the Acting General Counsel submits that such a filing is improper and should be stricken. There is no provision in the Board's rules for "conditional" cross-exceptions. Section 102.46(d)(1) provides only for the filing of an answering brief by the party opposing the exceptions to the administrative law judge's decision.

Following the Board's ruling in this case, Respondent will have the opportunity to participate in further proceedings before the Administrative Law Judge if the case is remanded by the Board, or to appeal the Board's order to the appropriate Circuit Court of Appeals if the Administrative Law Judge's Decision is reversed by the Board. Regardless of the Board's future actions in this case, clearly the filing of Conditional Cross-Exceptions at this time is inappropriate and should be stricken.

For the reasons set forth above, Counsel for the Acting General Counsel hereby requests that the Board grant this Motion and strike Respondent's Conditional Cross-Exceptions to the Decision of Administrative Law Judge.

Dated at Pittsburgh, Pennsylvania, this 4th day of April, 2012.

Respectfully submitted,



Julie R. Stern
Counsel for the Acting General Counsel

NATIONAL LABOR RELATIONS BOARD
Region Six
William S. Moorhead Federal Building
1000 Liberty Avenue, Room 904
Pittsburgh, Pennsylvania 15222-4111

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX

USIC LOCATING SERVICES, INC.

and

Case 06-CA-037328

COMMUNICATION WORKERS OF AMERICA,
LOCAL 13000, AFL-CIO, CLC

**COUNSEL FOR THE ACTING GENERAL COUNSEL'S MOTION TO STRIKE
RESPONDENT'S BRIEF SUPPORTING THE ADMINISTRATIVE LAW JUDGE'S DECISION
TO DISMISS THE COMPLAINT AND RESPONDENT'S CROSS-EXCEPTIONS TO DECISION
OF ADMINISTRATIVE LAW JUDGE AND OPPOSING COUNSEL FOR THE ACTING
GENERAL COUNSEL'S AND CHARGING PARTY'S EXCEPTIONS TO DECISION OF
ADMINISTRATIVE LAW JUDGE**

Counsel for the Acting General Counsel hereby files and respectfully requests that the Board grant this motion to strike Respondent's Brief Supporting The Administrative Law Judge's Decision To Dismiss The Complaint And Respondent's Cross-Exceptions To Decision Of Administrative Law Judge And Opposing Counsel For The Acting General Counsel's And Charging Party's Exceptions To Decision Of Administrative Law Judge, filed on March 21, 2012.

This case was submitted to Administrative Law Judge David Goldman by stipulated record. Judge Goldman issued his Decision on January 10, 2012, finding that Respondent did not violate the Act and recommending that the Complaint be dismissed. The instant case is currently before the Board on Exceptions filed by both the Acting General Counsel and the Charging Party.

The Board's Rules, at Section 102.46, allow for the filing of, *inter alia*, exceptions to the record and proceedings before an administrative law judge. At Section 102.46(j), the Board's Rules state that "[a]ny brief filed pursuant to this section shall not be combined with any other

brief.” The Brief filed by Respondent on March 12, 2012 combines several issues, and therefore fails to comply with Section 102.46(j) of the Board’s Rules.

In its Brief, Respondent provides its arguments in support of Judge Goldman’s Decision, in opposition to Exceptions filed by the Acting General Counsel and the Charging Party, and in support of its Conditional Cross-Exceptions to Judge Goldman’s Decision.¹ According to the Board’s rules, each of these arguments should have been addressed in a separate brief.

For the reasons set forth above, Counsel for the Acting General Counsel hereby requests that the Board grant this Motion and strike Respondent’s Brief Supporting The Administrative Law Judge’s Decision To Dismiss The Complaint And Respondent’s Cross-Exceptions To Decision Of Administrative Law Judge And Opposing Counsel For The Acting General Counsel’s And Charging Party’s Exceptions To Decision Of Administrative Law Judge.

Dated at Pittsburgh, Pennsylvania, this 4th day of April, 2012.

Respectfully submitted,


Julie R. Stern
Counsel for the Acting General Counsel

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Region Six
William S. Moorhead Federal Building
1000 Liberty Avenue, Room 904
Pittsburgh, Pennsylvania 15222-4111

¹ It should be noted that, by separate motion, Counsel for the Acting General Counsel has moved to strike Respondent’s Conditional Cross-Exceptions to Administrative Law Judge’s Decision.