

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

ELYSIAN BREWING CO. Employer and IUOE LOCAL 286 Petitioner	Case 19-RC-082934
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**EMPLOYER’S EXCEPTIONS TO HEARING OFFICER’S REPORT AND
RECOMMENDATION ON CHALLENGED BALLOT**

Exceptions are taken by the Employer to the following:

1. H/O Report p. 2: Hearing Officer’s finding that Bill Fairbanks is not a dual-function employee who regularly performs maintenance mechanic duties for a sufficient period time.
2. H/O Report p. 5: Hearing Officer’s finding that Bill Fairbanks spends 45 minutes operating a floor Zamboni cleaning in the production area and then assists two other production employees in cleaning up the keg washing area before clocking out at 10 p.m.
3. H/O Report p. 7 fn.11: Hearing Officer’s conclusion that Fairbanks engages in “end of the night cleaning” in addition to Zamboni operation.
4. H/O Report p. 7: Hearing Officer’s conclusion that Fairbanks performs only minimal “ad hoc” maintenance tasks amounting to 0.4 percent of his working time.

5. H/O Report p. 7: Hearing Officer's calculation that Bill Fairbanks spent at most 13 percent of his total time performing maintenance mechanic tasks.

6. H/O Report p. 7 fn.11: Hearing Officer's conclusion that the only additional maintenance tasks Fairbanks accomplished between May and August 6 were repair on the production chain, the Zamboni, and the forklift hydraulic cylinder.

7. H/O Report p. 7 (legal analysis): Hearing Officer's conclusions that the Burden of Proof was not on the challenger but on the Employer, and that the evidence failed to adequately establish that Fairbanks did sufficient maintenance work to warrant his inclusion.

8. H/O Report pp. 2 and 8: Hearing Officer's conclusion that Bill Fairbanks is not an eligible voter because he did not perform maintenance mechanic's duties for a sufficient period of time.

9. H/O Report p. 8: Hearing Officer's recommendation that the challenge to Mr. Fairbanks' ballot be sustained and a certification of representative issued.

RESPECTFULLY SUBMITTED this 23rd day of October, 2012.

s/Clemens H. Barnes
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CERTIFICATE OF SERVICE

The undersigned certifies that he filed the foregoing **Employer's Exceptions to Hearing Officer's Report and Recommendation on Challenged Ballot** electronically with the NLRB, and emailed a true and correct copy to:

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I declare under penalty of perjury under the laws of the United States of America and the state of Washington that the foregoing is true and correct.

Signed at Seattle, Washington this 24th day of October, 2012.

Respectfully submitted,

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