

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28

IN THE MATTER OF:

FLAMINGO LAS VEGAS OPERATING  
COMPANY, LLC,

Employer,

and

INTERNATIONAL UNION, SECURITY,  
POLICE AND FIRE PROFESSIONALS OF  
AMERICA (SPFPA),

Case Nos. 28-CA-077145  
28-CA-079092  
28-CA-078866

Petitioner.

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ANSWERING BRIEF TO GENERAL COUNSEL'S  
EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S  
RECOMMENDED DECISION

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## I. INTRODUCTION

Counsel for the Acting General Counsel's (hereinafter CAGC) Exceptions to the extent that they challenge ALJ Gerald Wacknov's credibility findings should be dismissed on the basis of the Board's holding in *Standard Drywall Products*, 91 NLRB 544 (1950) enf'd 188 F.2d 362 (3<sup>rd</sup> Cir. 1951) which provides that the Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces the Board that they are incorrect. There is ample record evidence in support of the ALJ's findings.<sup>1</sup>

As to the CAGC's first exception, the ALJ correctly found that there was no unlawful rule which was promulgated by the Respondent. One essential aspect of a rule is that, to be effective, it must be known and it must be communicated in some fashion. There is no evidence of the claimed rule in the record beyond the forty five second April 14 interview of Security Officer Francis Bizzarro. While there is record evidence of a number of employer rules and policies, there is no evidence of any rule prohibiting employees from engaging in union activities. The ALJ properly concluded that there was no such rule as CAGC claims.

The ALJ also found that there was no discipline of Bizzarro. As far as the record evidence is concerned, CAGC is all alone on this exception in light of the ALJ's credibility determinations as well as the affidavit and trial testimony of Bizzarro that he had never been disciplined by the Respondent.

Security Officer Willequer's termination is supported, in addition to the ALJ's findings of extremely limited, carefully clandestine and temporally distant union support by Willequer's

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<sup>1</sup> Respondent contends that the present Board is required to have a quorum of three members in order to act validly pursuant to Section 3(b) of the Act. *New Process Steel L.P. v. NLRB*, 1305 S.Ct. 2635 (2010). Because the recess appointments of two current Board members have been found to be constitutionally invalid, the Board, as presently constituted, does not have the authority to rule on these matters. *Noel Canning v. NLRB*, DC 12-1115 (D.C. Cir. 2013).

admissions that he in fact did violate the rules he was charged with violating when he was at the termination stage of discipline under the Respondent's handbook policies.

Security Officer Rudy's standing on the casino steps looking at a situation he admitted he could make no sense of for more than one minute when he had just received a report of a fight at the exact location he was looking at did not meet the Respondent's requirements that security officers observe and report incidents and back up each other, a rule about which there was no disagreement with any witness in the hearing. His attempt to avoid discipline for his unacceptable actions by relying on his testimony at a prior NLRB hearing is convenient, but as the ALJ concluded, unavailing because the Respondent did have good reason to conclude his looking at the backs of fight observers 170 feet away was not a satisfactory response from an individual charged with maintaining security about the Respondent's premises.

## **II. ARGUMENT**

### **Exception 1 The ALJ Properly Found That Respondent Did Not Promulgate An Overly Broad Rule Prohibiting Employees From Engaging In Union And Concerted Activities**

CAGC claims that the ALJ did not make any finding with respect to the allegation that Respondent promulgated and enforced an overly-broad and discriminatory work rule prohibiting employees from engaging in Union activities in violation of the Act. This claim is not correct because the ALJ made a very specific credibility finding and concluded that there was no such rule promulgated by Respondent. This exception is at its core an attack on the ALJ's credibility findings while trying to sidestep the Board's *Standard Drywall Products* doctrine.

CAGC urges the Board to find that the Respondent promulgated this allegedly unlawful rule by the fact that 1) the Respondent called Bizzarro to Golebiewski's office, 2) told him he

could not “harass” security officers about how they voted and 3) indicated its intention of taking the matter to the NLRB if the conduct continued.

The ALJ resolved the allegations that the Respondent promulgated an unlawfully broad work rule prohibiting employees from engaging in Union activities in very direct terms. He found that Respondent’s witnesses were credible and that Bizzarro was not: “I credit the testimony of Golebiewski and Willis, and do not credit Bizzarro’s account of the conversation to the extent it differs from that of Golebiewski and Willis.” (ALJD 5: 14-15)

From this basis the ALJ’s analysis of the credible evidence found that Bizzarro was not disciplined or threatened with discipline and that the Respondent told Bizzarro that, if the behavior continued, the Respondent would file a complaint against him with the NLRB.

I find that Bizzarro was not, contrary to the complaint allegation, “disciplined” for engaging in union activity. Nor was Bizzarro told that he would be disciplined if he continued to engage in such conduct. Rather Bizzarro was told that if he continued to engage in the conduct the Respondent believed was impermissible and about which employees had complained, namely harassing employees about how they voted, then the respondent would seek a resolution of the matter before the NLRB.

(ALJD 5:15-21)

The ALJ found that Bizzarro was called to the office. (ALJD 5:8) The ALJ found that Bizzarro was not disciplined for engaging in union activity. (ALJD 5:15-16) Bizzarro was told that if he continued harassing employees about how they voted, then Respondent would seek a resolution of the matter before the NLRB. (ALJD 5:17-21).

Of course the conduct did not reoccur and the matter was never referred to the NLRB. However, it is difficult/impossible to understand how CAGC could construe an employer’s stated intention of bringing a matter regarding an employee’s harassment of other employees to the attention of the NLRB as a violation of any employee’s rights. The NLRB exists to protect employee rights. Is CAGC concerned that the Region might somehow conspire with the

employer to deny employees their Section 7 rights? This is not even a remotely likely scenario. If there is a dispute about what is permissible and what is impermissible with respect to the exercise of Section 7 rights, what governmental agency is better equipped to answer such questions than the NLRB who is charged with the responsibility of assuring that employees are able to exercise the full range of their Section 7 rights?

While the ALJ did not make a verbatim finding that the employer did not promulgate and enforce an overbroad and discriminatory work rule prohibiting union activities, his analysis and findings directly answer the question. There was no discipline and there was no rule.

CAGC makes the truly amazing statement that Respondent's intention to bring an NLRB complaint against Bizzarro if he continued harassing other security officers during work time was the implementation of a rule "explicitly limiting Bizzarro's Section 7 rights to discuss the Union with other employees." GC Brief 10:13-14) Surely this cannot be correct, that, if asked, the NLRB would impermissibly limit Bizzarro's rights to discuss the union with other employees. And yet that is exactly what the CAGC alleges in this Exception. The employer's intention of asking the NLRB to intervene in a situation should be the surest way to ensure that all employees' rights are protected and cannot logically be considered or characterized as a part of an unlawful effort to curtail employees' Section 7 rights.

Equally unavailing is CAGC's attempt to transform the discussion between Golebiewski and Bizzarro about security officer complaints as the promulgation of a "rule." There was no rule discussed during the forty five second conversation that gave rise to this allegation. While CAGC produced numerous Respondent rules and policies (GCX 3(b); GCX 9; GCX 12(a-d); GCX 13-19) there is no evidence of any written rule which he claims improperly limits

employees' Section 7 activities. Nor is there any other evidence suggesting that the Respondent promulgated this rule by any other means.

As the ALJ found, this was a specific discussion following up on verbal and written complaints from other employees about Bizzarro. Golebiewski told Bizzarro he couldn't harass security officers about how they voted on the casino floor and if it continued, he would be seeking an NLRB complaint against Bizzarro. (ALJD:8-13) Respondent was not announcing a rule but was rather responding to employee complaints in a completely legal manner which even involved the assistance of the NLRB as part of the anticipated future resolution. A private conversation between a supervisor and an employee could not logically be considered promulgation of a rule. *See, e.g., Hanson Material Serv. Corp.*, 353 NLRB 71, 76 (2008) (finding that confiscation of an employee's union hat "was a separate, isolated incident that does not support a finding that [the employer] orally promulgated an antiunion apparel rule.") Additional evidence of the absence of an overbroad rule which prohibited employees from engaging in union activities is found in the absolute lack of evidence of promulgation of that rule beyond the forty five second discussion in Golebiewski's office as well as the absence of any writing reflecting such a rule.

The ALJ's decision is supported both by the evidentiary record as well as by the absence of evidence to support CAGC's Exception.

**Exception 2: Respondent Did Not Discipline Bizzarro**

CAGC challenges the ALJ's findings that Bizzarro was not disciplined. In part he bases this contention on his claim that Bizzarro testified that he was warned by Golebiewski. CAGC's contention conveniently overlooks the fact that the ALJ specifically discredited

Bizzarro's testimony concerning the meeting in Golebiewski's office on April 14. (ALJD 5:14-15)

CAGC goes to significant lengths in his effort to prove that Bizzarro should not have been "disciplined" on the basis of other security officers' complaints that were filed both verbally and in writing (GCX 38(g) and 38(h)) against him. The strength or weakness of the justification for disciplining Bizzarro is beside the point in light of the ALJ's conclusion after viewing all of the evidence that Bizzarro was not disciplined: "I find that Bizzarro was not, contrary to the complaint allegation, "disciplined" for engaging in union activity. Nor was Bizzarro told that he would be disciplined if he continued to engage in such conduct." (ALJD 5:15-17)

There is ample record evidence to support the ALJ's conclusion: the meeting in Golebiewski's office lasted forty five seconds to one minute, (Golebiewski TR 211; Bizzarro TR 394; Willis TR 794-5). Bizzarro rather than management ended the meeting when he asked if he could leave. There was no written document relating to any form of discipline for him to sign. (TR 795).

The CAGC's attempt to make something out of nothing fails.

Quite aside from the fact that the ALJ made a specific finding based on his observation of witness demeanor and credibility that there was no discipline, that finding is amply supported by Bizzarro's own testimony that he had never been disciplined:

Q: And it's true that you stated that you have never received any disciplinary actions from the Employer, is that correct?

A: Yes.

Q: You stated that in your affidavit that you gave to the Board on April 26, 2012, correct?

A: That's correct.

(TR 394)

The CAGC cannot overcome the ALJ's credibility findings as well as his own witness's affidavit testimony given on April 26 just twelve days after the supposed April 14 discipline in question. (TR 394:17-19) Bizzarro's further confirmation that he had not been disciplined by the employer during this hearing on August 2 shows the CAGC's claim of discipline to be not only unsupported but rather to be completely contradicted by the record.

**Exception 3: Not One Shred of Evidence Establishes The Employer's Knowledge of Willequer's Alleged Union Activity**

The essential elements of a discharge that violates Section 8(a)(3) are "a knowledge on the part of the employer that the employee is engaged in union activity and the actual discharge of the employee because of this activity." *Wheeling-Pittsburgh Steel Corp. v. NLRB*, 618 F.2d 1009 (3<sup>rd</sup> Cir. 1980); *Sterling Aluminum Co. v. NLRB*, 391 F.2d 713 (8<sup>th</sup> Cir. 1968).

CAGC's Exceptions and Brief do not point to even one piece of evidence remotely establishing the employer was aware of Willequer's activities respecting the union.

The ALJ's decision cites to a number of unchallenged evidentiary facts which establish that management was not aware of Willequer's union involvement. Willequer was particularly careful to ensure that management did not learn of his union activities because he was on a final written warning. (ALJD 7:51-54; 9:41-3) Willequer's union involvement lasted only one month from late September to the end of October. (ALJD 7:46-47) Willequer refrained from any union activity from late October, 2011 until his discharge in February, 2012. (ALJD 10:1-3). Elma Padaguan, the labor relations advisor who investigated Willequer's violations, did not know whether Willequer supported the Union. (ALJD 9:39) Also of course, there is no evidence whatsoever that Eric Golebiewski, Director of Security, had any information or belief about Willequer's union activities.

While lack of employer knowledge of union involvement effectively dooms the 8(a)(3) allegations, there were additional findings and evidence which supported the employer's decision and the ALJ's conclusion, namely that the rule violations for which Willequer was terminated actually occurred. Willequer acknowledged that accurate chip fills are "very important to the casino." (ALJD 8:34-5) He admitted using his cell phone in violation of the employer's rules and also admitted to making an error in the chip fill. (ALJD 8:43) There was no reason for him to have used his cell phone in the circumstances. (ALJD 8:54-6)

Having made all of these findings, the ALJ concluded: "There is no evidence that the Respondent was aware of his union activity prior to his discharge." (ALJD 9-10:43-1)

There is no record evidence to support employer knowledge of Willequer's union activities and therefore, the employer could not have terminated him for his union activities. This exception has no merit and should be dismissed.

**Exception 4: Security Officer Rudy Was Not Suspended And Was Properly Disciplined For His Failure To Properly Respond To A Reported Fight On Las Vegas Boulevard**

CAGC's claim in his Brief In Support of Exceptions (13:14) that Rudy was suspended is inaccurate and we assume is an inadvertent oversight on his part.

There was unanimity among witnesses testifying during the hearing that it is essential that security officers back each other up. Rudy stated: "Backing up your fellow officer is one of the most important things you can do." TR 313 Rudy confirmed that Supervisor Burgess told him that not backing up a fellow officer was one of the worst things a security officer could do. (TR 280) If an officer were not to provide timely backup, that failure would be viewed as a serious offense. (Security Officer and General Counsel Witness Bash TR 338) It is a major requirement that security officers back each other up as needed. (Supervisor Burgess TR 618-9)

It is a major requirement that security officers back each other up if they need help. (Supervisor Charles Willis TR 798). When a report goes out on the radio that there is a fight, all security officers who are available respond as quickly as possible. (Security Officer Harold Kea TR 882) When a call goes out from dispatch that there is a fight or an officer needs backup, security officers are supposed to respond as quickly as possible. (Security Officer Shaqual Starks TR 897)

The ALJ correctly found that, consistent with management and security officer testimony, security officers have an obligation to observe and report what they see to dispatch in the event of a fight, even if they are by themselves. A number of witnesses testified to this expectation and only one – Rudy – stated that security officers were not to observe and report if they were by themselves. (TR 293) The hypothetical provided by CAGC’s witness Bash was instructive. He said the obligation to observe and report would apply even if four individuals were throwing rocks at the casino and he were the only one on the scene. “My job is to observe and report, get a good description, call over the radio and give that description, and say that these guys are throwing rocks at the west sidewalk windows, and – because there are four of them and one of me. That would be foolish for me to approach four men and try to apprehend them.” (TR 342) Bash also testified that it was not unusual for one security officer to observe and report a fight (TR 339) and that there was value from just observing and reporting because the officer’s presence could hopefully break up a fight. (TR 342)

There is ample record evidence which supports the ALJ’s finding at ALJD 7:10-13 that Rudy had an obligation to at least observe and report on the fight he had been notified about and which he was watching from afar such that he could see nothing more than fight observers’ backs. There is no question that Rudy was able to see any details of the fight he had called in to

dispatch. He said so himself by admitting that all he could see were the backs of individuals who were looking at something. “They were – they were looking at something. They had their backs to me, so they were looking at something over there. I couldn’t tell what they were looking at. (TR 269) He was 177 feet away (TR 748) from the fight and naturally he could not see anything.

A review of the video recording at GCX 39 shows that Rudy stood immobile looking at the backs of individuals for at least one minute from 6:50:54 to at least 6:52:00 when the camera swung away to focus on the fight. At 6:52:27 friends of one or both of the combatants arrived to attempt to intervene in the fight and officer Starks had to contend with them as well with crowd control of passers-by on the sidewalk and Rudy did not arrive for another nine seconds.

The delay is significant because Rudy testified he received a report of a fight from a woman who came in off the street which he radioed to dispatch. (TR 268) He obviously credited the report because went out on the casino steps as can be seen from GCX 39 to see what he could observe and he reported a fight to dispatch. However, he did not take the report seriously enough to do anything more than look at the backs of observers who were watching the fight 177 feet away from him. Had Rudy moved to a position where he actually could have observed and reported, he would have seen Security Officer Starks contending with the situation by herself. (Starks is 5’0” tall. TR 909; Golebiewski estimated that Rudy is approximately 5’10” to 6’0” and weighs 240 to 250 pounds. The ALJ estimates Rudy’s weight at approximately 200 pounds. TR 935.)

Rudy’s failure to respond by observing and reporting is put into perspective by the actions of a woman wearing a black sweater and grey slacks shown on GCX 39. This woman looks back in the direction of the fight at 6:50:33. At 6:50:40 she *runs* up the steps into the casino and at 6:50:50 she comes back out of the casino and is briefly on the casino steps with

Rudy. They appear to have a brief discussion while looking toward the fight. At 6:51:04 Rudy appears to make some comment to her while looking in the direction of the fight. The woman then walks back down the sidewalk in the direction of the fight. At 6:51:22 she stopped on the sidewalk looking in the direction of the fight and is approximately 50 to 75 feet closer to the fight than is Rudy who has not moved from his perch. She watched the fight from that position for approximately 15 seconds. This woman demonstrates a much greater sense of concern about the fight than does Rudy who just continues to stand in the same position where he readily admits he could not see nothing of what was happening on the sidewalk ahead of him.

This same video was observed by Supervisors Zeena Minor and Jack Burgess who concluded that Rudy's response was inadequate. Minor was not aware of any previous NLRB hearing and much less that Rudy had testified in a Board proceeding. (TR 748) The video was also observed by a Board of Review convened to hear Rudy's challenge to the written warning. No member of that Board which was made up of a Human Resources specialist, an operations supervisor from a separate department and a fellow security officer was aware that Rudy had testified in a Board hearing. (TR 674-5) After hearing the evidence submitted by Rudy and watching the video and listening to supervisors' testimony, the Board modified the discipline issued to Rudy to provide that the written warning would be removed if Rudy were not subject to additional discipline in the following six month period. (GCX 6(g))

Rudy also admitted that no supervisor or manager had commented in any way on the fact that he testified in the prior Board proceeding or had criticized him for testifying. (TR 310)

CAGC and Rudy improperly conflate two separate protocols for security officers. There is the obligation to observe and report events occurring on the casino's premises and adjoining areas. (See for example security officer Bash's testimony at TR 342 the requirements of

observing and reporting an event outside the casino confines. *See also* Supervisor Kevin Quaglio's description of the difference between observing and reporting and engaging (TR 592:19-593:23)) There is the separate and distinct obligation to engage. The record evidence is clear that the obligation to observe and report is separate and distinct from the obligation to engage which means to physically intervene in an altercation with the goal of separating the combatants which is only to happen when there is adequate support by way of numbers of security officers. This distinction between observing and reporting and engaging is clearly delineated in the video (GCX 39) where security officer Starks was observing and reporting and not until Rudy and the other officers arrived at the scene did security officers physically engage and break up the fight. There is no obligation for there to be more than one security officer to observe and report.

If Rudy had even walked down the sidewalk toward the fight as far as the woman in the black sweater and grey slacks did, he may well have seen security officer Starks near the melee and could have backed her up.

Further support for the lack of connection between Rudy's NLRB testimony and discipline can be seen in the timing of his discipline. The events occurred on March 31 and Minor addressed the situation with him the same morning of the offense, intending to issue him a written warning at that time. (TR 736-738) However, Minor did not issue the written warning because Rudy asked to first speak to Minor's supervisor, Jack Burgess. Rudy spoke with Burgess who asked Minor to delay any discipline until he could look into the situation. (TR 613) Burgess looked into the matter and agreed that the discipline was proper only after meeting with Rudy again at the conclusion of his investigation. (TR 616-17) The discipline was finally issued on

April 13, 2012. (GCX 6(e)) The Respondent was not quick on the trigger and carefully investigated Rudy's claims before issuing the written warning.

Rudy also contended that security officers have no obligation to respond to events occurring on Las Vegas Boulevard as they did in the incident in question. That contention was supported by no other witness during the hearing and was contradicted by all other witnesses who spoke to the issue including Security Director Golebiewski TR 105-6; Security Officer Keith Bash TR 338-9; Security Officer Harold Kea TR871-2; Supervisor Janice Miller TR369-70; Supervisor Kevin Quaglio TR 592-3; Supervisor Charles Willis TR 792-4.

In addition to the evidentiary testimony, GCX 39 demonstrates security officers' knowledge of expected responses to events occurring on Las Vegas Boulevard. When Rudy finally arrived at the fight with the other officers at 6:52:37 there was no head scratching or uncertainty about what needed to be done. The security officers promptly "engaged" as they were instructed to do without any discussion of who would do what. They just responded effectively, showing that this was not at all an unusual situation or suggesting that they had never before responded to fights on Las Vegas Boulevard.

The record evidence is clear that the need for security officers to respond to fights on Las Vegas Boulevard is not an unusual occurrence. Supervisor Janice Miller's security officers have responded to approximately 12 to 13 fights on Las Vegas Boulevard in the year prior to the hearing (TR560); Supervisor Charles Willis's security officers have responded to approximately 10 fights on Las Vegas Boulevard between October, 2011 and August, 2012 when he testified in this hearing (TR793-4); Supervisor Kevin Quaglio's security officers have responded to approximately 10 to 15 fights on Las Vegas Boulevard in the year prior to the hearing (TR592);

Supervisor Zeena Minor or her security officers responded to approximately 10 fights on Las Vegas Boulevard in the year prior to the hearing. (TR 747)

The ALJ's conclusion that the preponderance of the evidence failed to show that the written warning given to Rudy was in retaliation for his participation in a Board hearing (ALJD 7:16-18) is amply supported by record evidence and should not be disturbed. Rudy did not observe and report in any meaningful way because he never left the casino steps and was, by his own admission, in no position to observe and report or to back up Starks who obviously could have used backup until a sufficient number of security officers could arrive in order to engage and physically break up the fight.

In his effort to establish a violation of the Act, CAGC attempts to throw the security officer who responded correctly under the bus, suggesting that she should have been disciplined for her behavior and that the absence of discipline for Security Officer Starks shows the discriminatory nature of the discipline for Rudy. This is rubbish. The record reveals that Starks on her post at another related casino received a report of a fight from a female jogger on the sidewalk. (TR 893) Officer Starks went to see if the report was true; and, observing a fight approximately 30 yards from her regular post (TR 898), she radioed the information to dispatch. (TR 894) Her radio stopped working at that moment and she resent the information to dispatch by use of her cell phone. (TR895) We see this 5'0" security officer controlling the crowd in GCX 39 and we also see Rudy standing at the doors looking at a bystanders' backs from 177 feet away. Officer Starks is not the culprit here.

The ALJ correctly concluded that Respondent's conclusion that Rudy's simply observing back of bystanders was not a sufficiently proactive response to a situation which is not at all that

unusual. Rudy's non response was the reason for his discipline, not the fact that he had testified in a Board hearing.

### **III. CONCLUSION**

The Respondent promulgated no overly broad rule prohibiting employees from engaging in union activity and Respondent did not discipline Francis Bizzarro for violation of this non-existent rule.

Willequer was terminated for admitted contemporaneous violations of important employer rules when he was already at the final step of discipline because of his prior rule violations. The Respondent had no knowledge of his very limited union activities and without knowledge, the Respondent could not have terminated him because of his union activities. The ALJ's conclusion that "There is no evidence that the Respondent was aware of his union activity prior to his discharge" is supported by the record.

Rudy's previous NLRB testimony does not excuse his failure to observe and report which is a requirement for all security officers. As the ALJ found, Rudy was disciplined for his failure to observe the reported fight in any meaningful way and the Respondent's conclusion that his response was not sufficiently proactive was justified by the facts of the situation.

CAGC's Exceptions should be dismissed in their entirety as they advance no basis on which to overturn the ALJ's recommended decision which is amply supported by the record in this case.

Dated: January 29, 2013

Respectfully submitted,  
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### III. CONCLUSION

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Rudy's previous NLRB testimony does not excuse his failure to observe and report which is a requirement for all security officers. As the ALJ found, Rudy was disciplined for his failure to observe the reported fight in any meaningful way and the Respondent's conclusion that his response was not sufficiently proactive was justified by the facts of the situation.

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Dated: January 29, 2013

Respectfully submitted,  
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## CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of San Mateo County. I am over the age of 18 and not a party to the within action. My business address is One Embarcadero Center, Suite 2050, San Francisco, CA 94111-3712.

On this date the foregoing **ANSWERING BRIEF TO GENERAL COUNSEL'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION** was electronically filed via the E-Filing system on the NLRB's website and a copy was emailed to the following:

***Via E-Gov; E-Filing:***

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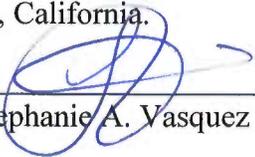
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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 29, 2013, at San Francisco, California.

  
Stephanie A. Vasquez