

# PAUL HASTINGS

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January 30, 2013

29247.00009

## VIA HAND DELIVERY AND E-FILE

Gary Shinnors  
Acting Executive Secretary  
National Labor Relations Board  
1099 14th St. N.W.  
Washington, D.C. 20570

Re: *CNN America, Inc. and Team Video Services*,  
Case Nos. 5-CA-31828 & 5-CA-33125 (formerly 2-CA-36129)

Dear Mr. Shinnors:

We are counsel for CNN America in the above-referenced cases. We write with regards to the recent United States D.C. Circuit Court of Appeals decision, *Noel Canning v. National Labor Relations Board*, \_\_\_ F.3d \_\_\_ (January 25, 2013). The D.C. Circuit held last week in *Noel Canning* that President Obama's recess appointments of Members Block, Griffin and Flynn to the National Labor Relations Board ("the Board") were unconstitutional, thus depriving the Board of a quorum under *New Process Steel, L.P. v. National Labor Relations Board*, 130 S. Ct. 2635 (2010).

Given the holdings in *Noel Canning* and *New Process Steel*, CNN hereby requests permission to brief the impact of *Noel Canning* and *New Process Steel* on the CNN matter currently pending at the Board. Moreover, CNN hereby renews its request to brief the impact of any of the issues decided by the two-member Liebman and Schaumber Board in the CNN matter before the Board renders a decision. Our prior letter requesting such an opportunity is attached for your convenience.

Thank you for your consideration of our request.

Very truly yours,

*Zachary D. Fasman / by E. Zaruffa with permission*

Zachary D. Fasman  
of PAUL HASTINGS LLP

cc: See Attached Affidavit of Service

LEGAL\_US\_E# 102354838.1

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

CNN AMERICA, INC. AND TEAM VIDEO SERVICES, LLC,  
JOINT EMPLOYERS

and

Case 5-CA-31828

NATIONAL ASSOCIATION OF BROADCAST  
EMPLOYEES & TECHNICIANS, COMMUNICATIONS  
WORKERS OF AMERICA, LOCAL 31, AFL-CIO

and

CNN AMERICA, INC. AND TEAM VIDEO SERVICES, LLC,  
JOINT EMPLOYERS

and

Case 5-CA-33125  
(formerly 2-CA-  
36129)

NATIONAL ASSOCIATION OF BROADCAST  
EMPLOYEES & TECHNICIANS, COMMUNICATIONS  
WORKERS OF AMERICA, LOCAL 11, AFL-CIO

**AFFIDAVIT OF SERVICE**

Brenda S. Freed, being duly sworn, deposes and says as follows:

1. I am over 18 years of age, am not a party to this proceeding, and am employed by the law firm of Paul Hastings LLP, 875 15th Street, N.W., Washington, D.C. 20005.

2. On the 30th day of January, 2013, I filed, by hand-delivery and electronic means, an original and eight copies of CNN America, Inc.'s Letter requesting additional briefing in light of the D.C. Circuit Court of Appeals decision, *Noel Canning v. National Labor Relations Board*, with Gary Shinnars, Acting Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570.

3. On the 30th day of January, 2013, I served one true and correct copy of CNN America, Inc.'s Letter requesting additional briefing in light of the D.C. Circuit Court of Appeals decision in *Noel Canning* by overnight delivery on the following and notified the same by telephone at the numbers below:

Gregory Beatty, Esq.  
National Labor Relations Board  
103 S. Gay Street, 8th Floor  
Baltimore, MD 21202-4061  
(410) 962-0179

Dorothy C. Foley, Esq.  
Allen Rose, Esq.  
National Labor Relations Board  
Region 2 – New York Resident Office  
26 Federal Plaza – Room 3614  
New York, NY 10278  
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Peter Chatilovicz, Esq.  
Seyfarth Shaw  
975 F Street, NW  
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Brian Powers, Esq.  
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David Biggar, Esq.  
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330 Second Avenue South, Suite 790  
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Robert Marinovic, Esq.  
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1350 Broadway, Suite 501  
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(212) 239-4999

Steve Sturm, Esq.  
Sturm and Pearl  
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National Association of Broadcast Employees  
and Technicians Local 11  
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Communications Workers of America, District 2  
c/o Jimmy Tarleu, Esq.  
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Mr. Larry D'Anna  
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4455 Connecticut Avenue, N.W., Suite 300  
Washington, DC 20008  
(202) 363-1000

Matt Harris, Esq.  
Communications Workers of America,  
AFL-CIO  
501 3rd Street, N.W., Suite 800  
Washington, DC 20001  
(202) 434-1100

Brenda S. Freed  
Brenda S. Freed

Sworn to before me this  
30th day of January, 2013

Constance L. Stallings  
Notary Public



CONSTANCE L. STALLINGS  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires September 14, 2016

ATTACHMENT

PaulHastings

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Hong Kong  
London  
Los Angeles  
Milan  
New York  
Orange County  
Palo Alto  
Paris  
San Diego  
San Francisco  
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Tokyo  
Washington, DC

(212) 318-6315  
zacharyfasman@paulhastings.com

June 28, 2010

29247.00009

VIA HAND DELIVERY AND E-FILE

Henry S. Breiteneicher  
Associate Executive Secretary  
National Labor Relations Board  
1099 14th St. N.W.  
Washington, D.C. 20570

Re: *CNN America, Inc. and Team Video Services*,  
Case Nos. 5-CA-31828 & 5-CA-33125 (formerly 2-CA-36129)

Dear Mr. Breiteneicher:

We are counsel for CNN America in the above-referenced cases. We write with regards to the recent United States Supreme Court decision, *New Process Steel, L.P. v. National Labor Relations Board*, 560 U.S. \_\_\_\_ (June 17, 2010). As the National Labor Relations Board ("the Board") is aware, the Supreme Court in *New Process Steel* held that any decision issued by Members Liebman and Shaumber as a two-member Board, during the period of January 1, 2008 through March 27, 2010, was invalid and without authority.

Given the holding in *New Process Steel*, CNN hereby requests permission to brief the impact of this decision on the CNN matter currently pending at the Board. Moreover, to the extent the Board intends to revisit any of the issues decided by the two-member Board in the CNN matter, CNN requests the right to brief specifically any of those issues before the Board renders a decision.

Please be advised that CNN has informed the Court in a related enforcement action, *National Labor Relations Board v. CNN America, Inc.*, 08 CV M18-304 (S.D.N.Y., filed June 26, 2008), that the Board decision the General Counsel seeks to enforce (352 NLRB No. 64) in that matter is null and void and that the enforcement action should be dismissed.

Thank you for your consideration of our request.

Mr. Breiteneicher  
June 28, 2010  
Page 2

Very truly yours,

*Zachary D. Fasman (by K. Walker with permission)*

Zachary D. Fasman  
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

cc: See Attached Affidavit of Service

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

CNN AMERICA, INC. AND TEAM VIDEO SERVICES, LLC,  
JOINT EMPLOYERS

and

Case 5-CA-31828

NATIONAL ASSOCIATION OF BROADCAST  
EMPLOYEES & TECHNICIANS, COMMUNICATIONS  
WORKERS OF AMERICA, LOCAL 31, AFL-CIO

and

CNN AMERICA, INC. AND TEAM VIDEO SERVICES, LLC,  
JOINT EMPLOYERS

and

Case 5-CA-33125  
(formerly 2-CA-  
36129)

NATIONAL ASSOCIATION OF BROADCAST  
EMPLOYEES & TECHNICIANS, COMMUNICATIONS  
WORKERS OF AMERICA, LOCAL 11, AFL-CIO

**AFFIDAVIT OF SERVICE**

Eric Engberg, being duly sworn, deposes and says as follows:

1. I am over 18 years of age, am not a party to this proceeding, and am employed by the law firm of Paul, Hastings, Janofsky & Walker LLP, 875 15th Street, N.W., Washington, D.C. 20005.

2. On the 28th day of June, 2010, I filed, by hand-delivery and electronic means, an original and eight copies of CNN America, Inc.'s Letter requesting additional briefing in light of the United States Supreme Court's decision in *New Process Steel*, with Henry S. Breitenicher, Associate Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570.

3. On the 28th day of June, 2010, I served one true and correct copy of CNN America, Inc.'s Letter requesting additional briefing in light of the United States Supreme Court's decision in *New Process Steel*, by overnight delivery on the following and notified the same by telephone at the numbers below:

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Peter Chatilovicz, Esq.  
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Washington, DC 20008  
(202) 363-1000

Matt Harris, Esq.  
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501 3rd Street, N.W., Suite 800  
Washington, DC 20001  
(202) 434-1100

Eric Engberg  
Eric Engberg

Sworn to before me this  
28th day of June, 2010

Carole L. Stephens  
Notary Public

**Carole L. Stephens**  
**Notary Public, District of Columbia**  
**My Commission Expires 2/14/2015**