

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

In the Matter of

ARAMARK EDUCATIONAL SERVICES, INC.

and

UNITE HERE LOCAL 26

Case 1-CA-43486

In the Matter of

ARAMARK d/b/a HARRY M. STEVENS, INC.

and

UNITE HERE LOCAL 26

Case 1-CA-43657

In the Matter of

ARAMARK SPORTS, INC.

and

UNITE HERE LOCAL 26

Case 1-CA-43658

**EXCEPTIONS OF RESPONDENTS TO
SUPPLEMENTAL DECISION ON REMAND**

Respondents ARAMARK Educational Services, Inc. (“ARAMARK Educational”), ARAMARK d/b/a Harry M. Stevens, Inc. (“ARAMARK Stevens”), and ARAMARK Sports, Inc. (“ARAMARK Sports”) (collectively, “ARAMARK”) hereby except to the May 13, 2008 Decision and October 7, 2009 Supplemental Decision on

Remand of the Administrative Law Judge in the above-referenced consolidated matters,¹
as follows:

1. Respondents object to the finding that Respondents began implementing their new policy at MIT, Hynes, and Fenway “even before the finalization of the protocol.” (ALJD, Part II.B.3, page 8, lines 33-34.)

2. Respondents object to the finding that Leigh Thumith “refused to bargain about the no match issue.” (ALJD, Part II.B.5, page 10, line 52 through page 11, line 1.)

3. Respondents object to the finding that, in a telephone conversation with Brian Lang, Rob Gould “took the position that it was perfectly legitimate for the Company to implement the new no match policy despite the Union’s opposition.” (ALJD, Part II.B.5, page 11, lines 10-12.)

4. Respondents object to the finding that the conversations between ARAMARK Vice President of Labor Relations Richard Ellis and UNITE HERE International representatives began in late September 2006, rather than on September 12, 2006. (ALJD, Part II.B.7, page 12, lines 9-10.)

5. Respondents object to the finding that “[a]t Fenway, about October 1, Dario Roldan and Jose Luissy were suspended.” (ALJD, Part II.B.8, page 12, lines 30-31; ALJSDR, p. 7, fn. 4, lines 43-44.)

¹ The Administrative Law Judge’s October 7, 2009 Supplemental Decision on Remand, to which these Exceptions are filed, expressly adopts and incorporates his original May 13, 2008 Decision in this case, except to the extent the original Decision is contravened by the Supplemental Decision. Portions of the original Decision to which Respondents except are identified with the abbreviation “ALJD”. Portions of the Supplemental Decision on Remand to which Respondents except are identified with the abbreviation “ALJSDR”.

6. Respondents object to the finding that the Union requested bargaining, “impliedly” or otherwise, over the changes to ARAMARK’s policy or enforcement of that policy. (ALJD, Part II.D, page 15, lines 6-17; ALJSDR, p. 4, lines 1-12.)

7. To the extent the Decision reaches the conclusion of law that the Union did not waive its right to bargaining over Respondents’ policy or enforcement of that policy by failing to request such bargaining (ALJD, Part II.D, page 15, lines 6-17; ALJSDR, p. 4, lines 1-12), Respondents object to that conclusion of law.

8. Respondents object to the finding that the collective bargaining agreements at Hynes and MIT did not already address the no match policy changes. (ALJD, Part II.D, page 15, lines 19-28; ALJSDR, p. 4, lines 14-23.)

9. To the extent the original Decision reaches the conclusion of law that the Union did not waive its right to bargaining over Respondents’ policy or enforcement of that policy by virtue of the collective bargaining language in the Hynes and MIT collective bargaining agreements (ALJD, Part II.D, page 15, lines 19-28), Respondents object to that conclusion of law.

10. Respondents object to the failure of the Administrative Law Judge to adopt the contract coverage standard for contract waiver cases adopted in Bath Marine Draftsmen’s Ass’n v. NLRB, 475 F.3d 14 (1st Cir. 2007) and NLRB v. United States Postal Service, 8 F.3d 832 (D.C. Cir. 1993), among other cases. (ALJD, Part II.D, page 14, lines 38-42; page 15, lines 19-28.)

11. Respondents object to the finding that their national bargaining with the International Union did not cure any unilateral implementation of ARAMARK’s Social Security Number Verification Policy. (ALJSDR, Part A, p. 5, lines 11-19.)

12. To the extent that the Administrative Law Judge's determination that Respondents' national bargaining with the International Union did not cure any unilateral implementation of ARAMARK's Social Security Number Verification Policy (ALJSDR, Part A, p. 5, lines 11-19) was a conclusion of law, Respondents object to that conclusion of law.

13. Respondents object to the legal conclusion that "the best solution to the issues presented by the Board's Remand Order is to remedy the violations and to allow the impasse to stand." (ALJSDR, Part B, p. 6, lines 24-25.)

14. Respondents object to the finding that "the November freeze in the implementation and enforcement of the policy did not remedy the unlawfulness of the implementation in September and the unlawful suspensions in October and November." (ALJSDR, Part B, p. 6, lines 25-28.)

15. To the extent that the Administrative Law Judge's determination that "the November freeze in the implementation and enforcement of the policy did not remedy the unlawfulness of the implementation in September and the unlawful suspensions in October and November" (ALJSDR, Part B, p. 6, lines 25-28) was a conclusion of law, Respondents object to that conclusion of law.

16. Respondents object to the entirety of the Remedy proposed by the Administrative Law Judge. (ALJSDR, Remedy, p. 6, line 45 – p. 7, line 9.)

17. Respondents object to the entirety of the Order proposed by the Administrative Law Judge. (ALJSDR, Order, p. 7, line 14 – p. 8, line 33.)

18. Respondents object in particular to the portions of the Order that order reinstatement to employees who would have been suspended following the lawful

impasse reached in national bargaining in January 2007, even if they had not been suspended in Fall 2006. (ALJSDR, Order, p. 7, lines 29-36.)

19. Respondents object in particular to the portions of the Order that order on-going back pay to employees who would have been suspended following the lawful impasse reached in national bargaining in January 2007, even if they had not been suspended in Fall 2006. (ALJSDR, Order, p. 8, lines 1-17.)

WHEREFORE, ARAMARK respectfully requests that the foregoing exceptions be granted and the case dismissed with prejudice.

Respectfully Submitted,

/s/ Michael D. Keffer

Michael D. Keffer

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Dated: November 6, 2009

CERTIFICATE OF SERVICE

I hereby certify that, on this date, I caused a copy of the foregoing Exceptions to be served by e-mail upon the following persons:

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/s/ Michael D. Keffer
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Date: November 6, 2009