

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

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**In the Matter of:**

**MILUM TEXTILE SERVICES COMPANY,**

**Respondent,**

**And**

**UNITE HERE!**

**Charging Party.**

**Case Numbers:**

**28-CA-20898**

**28-CA-20896**

**28-CA-20973**

**28-CA-21050**

**28-CA-21203**

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**RESPONDENT'S RESPONSE TO THE GENERAL COUNSEL'S  
MOTION TO STRIKE**

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Milum Textile Services Company**

In response to the Motion to Strike filed by the General Counsel, the Respondent states that the material set forth in Exhibit A to its Reply Brief is an accurate recap of the testimony in the transcript that was referred to by the General Counsel in its footnote 11 of his Cross Exceptions Brief – not a legal argument. The argument is set forth on page 10 of the Respondent’s Reply Brief and no new arguments are set forth in Exhibit A. The General Counsel objects to the inclusion of this material not the accuracy of the recaps. The General Counsel cites three examples to which he objects. First, the General Counsel cites a reference on page 1 of Exhibit A:

In response to GC questioning on page 32 regarding what documents Mr. Milum reviewed prior to the hearing to prepare for his testimony, Mr. Milum responded besides affidavits given to the board, he had looked at correspondence between himself and the company attorney, himself and customers, union leaflets, and articles appearing in the media. Then when questioned as to whether there was anything else, Mr. Milum responded, “Not that I recall.”

This is an accurate recap of the testimony.

Second, the General Counsel cites a reference on page 24 of Exhibit A:

Ultimately, on page 2209 the General Counsel discovers that he has made a mistake, that the document is an OSHA document – not a ADEQ document -- and the General Counsel withdraws the exhibit, and moves on to the next question.

This is an accurate recap of the testimony.

Third, the General Counsel cites the references made on pages 22 through 24 of Exhibit A:

There is nothing on page 2181 of the transcript that seems to be in anyway related to lack of a full response by Mr. Milum to the General Counsel's questioning.

This is a general statement that merely notes the fact that there is not any testimony in the pages referenced by the General Counsel that relates to the General Counsel’s allegation that Mr.

Milum's responses were lacking or more specifically where the "record is replete with instances in which Milum contradicted his testimony, equivocated in response to the General Counsel's questions, and generally refused to provide testimony for which he could be held accountable." Thus, no testimony from the transcript is included.

Further, the General Counsel cites the case of *Baker Electric*, 351 NLRB No.35, slip op. 1, fn. 2 (2007) for the proposition that the Board "disregards exhibits containing legal argument which exceeds the Board's page limitation." The Board in *Baker Electric*, however, did not state that the Board disregards exhibits containing legal argument which exceeds the Board's page limitation, nor did it in fact rule on the Motion to Strike that had been filed by the General Counsel. *Baker Electric* dealt with the inclusion of charts showing backpay adjustments – not references to the transcript. And, in *Baker Electric* the Board stated that it had "disregarded" the backpay adjustments chart as the Board was disregarding the argument in the decision to which the chart related. Further, the Board neither discussed the possibility of striking the Exceptions Brief to which the backpay adjustments charts was attached, nor did it strike the Exceptions Brief.

Exhibit A is merely a recap of the testimony in the transcript not an additional argument. Thus, neither the Respondent's Reply Brief nor the Exhibit thereto should be stricken.

Respectfully submitted this 24<sup>th</sup> day of January 2008.

s/ Laurie A. Laws  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **RESPONDENT'S REPLY TO THE GENERAL COUNSEL'S MOTION TO STRIKE** was E-filed and served on this 24<sup>th</sup> day of January 2008 as follows:

One copy via U.S. Mail to:

Cornele A. Overstreet  
Regional Director  
National Labor Relations Board, Region 28  
2600 North Central Avenue, Suite 1800  
Phoenix, Arizona 85004-3099

One copy to the following via e-mail pursuant to agreement:

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s/ Laurie A. Laws  
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