

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

FERGUSON ENTERPRISES, INC.,

Respondent,

-and-

Case No. 7-CA-52306

JOSEPH LAPHAM, an Individual,

Charging Party.

EXCEPTIONS OF RESPONDENT, FERGUSON ENTERPRISES, INC.

NOW COMES the Respondent, Ferguson Enterprises, Inc., by and through its attorneys of record, Stanley C. Moore, III and Gary W. Francis, and hereby files these exceptions to the Administrative Law Judge's decision, and in doing so, states as follows:

1. The Respondent takes Exception to the Administrative Law Judge's credibility determination regarding the May 26, 2009 meeting as it relates to the Counsel for General Counsel's prima facie case. (Administrative Law Judge's Decision (hereinafter "ALJ Decision"), pgs. 10-13)).

2. The Respondent takes Exception to the Administrative Law Judge's use of inappropriate credibility determinations not supported by substantial evidence to support the Respondent's knowledge of protected concerted activity on the part of the Charging Party. (ALJ Decision, pg. 17, line 34 – pg. 18, line 4).

3. The Respondent takes Exception to the Administrative Law Judge's decision that the Respondent discharged discriminatees, Cook, Lewis, and Reynolds, to mask a discriminatory motive for the suspensions and layoffs of Charging Party and Hall, where there was no

examination of this issue and it was not supported by substantial evidence, as required by administrative rules and case precedent, including, but not limited to NLRB Rules and Regulations No. 102.45(a). (ALJ Decision, pg. 18, lines 37-47).

4. The Respondent takes Exception to the Administrative Law Judge's finding that no evidence was presented to support the Respondent's *Wright Line* defense. (ALJ Decision, pg. 21-22).

Respectfully submitted by:

PLUNKETT COONEY

By: /s/Stanley C. Moore, III
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Dated: June 28, 2010

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CERTIFICATION OF SERVICE

I hereby certify that on Thursday June 28, 2010, a copy of the foregoing *Exceptions of Respondent, Ferguson Enterprises, Inc.*, together with a copy of this *Certification of Service*, were served upon the following parties/attorney(s) of record by “E-Filing,” electronic mail (where applicable) and regular U.S. mail at their stated business address(es).

Darlene Haas Awada
National Labor Relations Board
477 Michigan Ave Rm 300
Detroit, MI 48226
darlene.haasawada@nrlb.gov

Mr. Joseph Lapham
(Charging Party)
914 Genessee
Royal Oak, MI 48073

Under penalty of perjury, I declare that the foregoing is true to the best of my information, knowledge and belief.

/s/Kathryn L. Johnston
Kathryn L. Johnston