

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

AMERICAN DIRECTIONAL BORING,	)	
INC. d/b/a ADB UTILITY	)	
CONTRACTORS,	)	
	)	
Employer/Respondent,	)	
	)	
and	)	Cases 14-CA-27386
	)	14-CA-27570
LOCAL 2, INTERNATIONAL	)	14-CA-27677
BROTHERHOOD OF ELECTRICAL	)	
WORKERS, AFL-CIO,	)	
	)	
Petitioner/Charging Party.	)	

**PETITIONER/CHARGING PARTY’S OPPOSITION TO RESPONDENT’S  
REQUEST FOR EXTENSION OF TIME**

COMES NOW Local 2, International Brotherhood of Electrical Workers, AFL-CIO (the “Union” or “Local 2”) and hereby opposes Respondent American Directional Boring, Inc.’s (“ADB’s”) request for extension of time to file supplemental pleadings regarding changed circumstances relevant to the bargaining order. In support thereof, Local 2 states as follows:

1. This case is a classic nip in the bud case. During the course of an organizing campaign, ADB, among other things, terminated 13 union supporters, threatened at all-employee speeches to close the plant, solicited the resignation of union supporters, and vowed never to recognize the Union. By Decision dated May 10, 2005, ALJ Benjamin Schlesinger ordered the Employer to cease and desist and reinstate all discriminatees with full back pay. He also issued a *Gissel* bargaining order. A two person group of the Board subsequently affirmed the Decision in its entirety. In particular, it affirmed the *Gissel* bargaining order

despite Respondent's claim and evidence of changed circumstances and the passage of time.

2. On June 24, 2010, the Eighth Circuit denied the Board's application for enforcement citing *New Process Steel*. The Board informed the parties by letter dated July 22, 2010 that it was considering the case on the full record and invited the parties to file supplemental briefs on changed circumstances or alternative remedies within 14 days -- that is, by Thursday, August 5, 2010. ADB subsequently filed a petition for writ of prohibition in the Eighth Circuit arguing that the Board now lacks authority over this matter. To date, the Eighth Circuit has not ruled on the petition. ADB also moved the Board for a stay of proceedings. ADB asks the Board to first let the Eighth Circuit rule on this matter. Counsel for General Counsel and the Union both filed oppositions to ADB's request for a stay.

3. The Union opposes ADB's request for an extension of time for the same reasons it opposes ADB's request for a stay. This case involves a *Gissel* bargaining order and terminated employees. Any further delay prejudices the Union and the employees. In addition, ADB does not argue that it could not develop its supplemental pleadings in the time requested. The Eighth Circuit has not ruled on its petition for writ of prohibition yet, so ADB was on notice that it needed to gather any additional evidence in the allotted time.

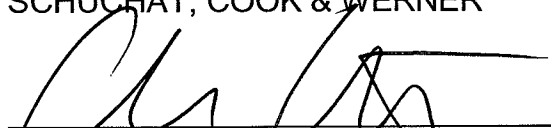
4. The Union also opposes ADB's request for extension of time to file a supplemental brief because counsel for ADB sent counsel for the Union a copy of ADB's request after the Union had filed its supplemental brief with the Board

and had served ADB with a copy. Attached hereto as Exhibit 1 are copies of e-mails showing (a) the date and time which the Union sent its brief to counsel for ADB (8/5/2010 at 5:16 p.m.) and (b) the date and time which ADB served its request for extension of time on the Union (8/5/2010 at 5:53 p.m.). ADB did not inform the Union in advance that it was requesting an extension. The Union prepared, filed, and served its brief on time. It is unfair to the Union, after having sent a copy of its brief to ADB, for the Board to now give ADB additional time to draft a supplemental brief and with it the opportunity to respond to the Union's arguments.

WHEREFORE Petitioner/Charging Party IBEW, Local 2 requests the Board to deny ADB's request for extension of time and issue a decision in this matter based upon the record.

Respectfully submitted,

SCHUCHAT, COOK & WERNER



Christopher N. Grant (M.B.E. #53507)  
1221 Locust Street, Second Floor  
St. Louis, MO 63103-2364  
(314) 621-2626  
FAX: 314-621-2378  
E-Mail: [cng@schuchatcw.com](mailto:cng@schuchatcw.com)

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed electronically with the National Labor Relations Board, Office of the Executive Secretary, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 20570 and a true copy of the foregoing was sent by electronic mail this 9th day of August 2010 to the following:

Paula Givens  
Mary Tobey  
National Labor Relations Board – Region 14  
1222 Spruce Street, Room 8.302  
St. Louis, Missouri 63103  
[paula.givens@nlrb.gov](mailto:paula.givens@nlrb.gov)  
[mary.tobey@nlrb.gov](mailto:mary.tobey@nlrb.gov)

Bryan M. Kaemmerer  
Mike Kaemmerer  
McCarthy, Leonard  
400 South Woods Mills Road, Suite 250  
Chesterfield, Missouri 63017  
[bkaemmerer@mlklaw.com](mailto:bkaemmerer@mlklaw.com)

---

Christopher N. Grant

413991.doc

**Christopher N. Grant**

---

**From:** Christopher N. Grant  
**Sent:** Thursday, August 05, 2010 5:16 PM  
**To:** 'Tobey, Mary J.'; 'Givens, Paula B.'; 'Kaemmerer, Mike'; 'Kaemmerer, Bryan'  
**Subject:** ADB

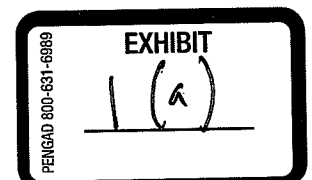
Mary, Paula, Mike, and Bryan,

Attached is Local 2's brief that I filed with the Board today on the bargaining order or alternative remedies in this case.

Chris Grant

-----Original Message-----

**From:** Canon Copier [mailto:copier@schuchatcw.com]  
**Sent:** Thursday, August 05, 2010 4:58 PM  
**To:** Christopher N. Grant  
**Subject:** Attached Image



## Christopher N. Grant

---

**From:** Kaemmerer, Bryan [bkaemmerer@mlklaw.com]  
**Sent:** Thursday, August 05, 2010 5:53 PM  
**To:** Christopher N. Grant; 'Lemerman, Paula'  
**Subject:** ADB/Local 2

Please find attached ADB's request for additional time to file its supplemental pleading.

*Bryan M. Kaemmerer  
McCarthy, Leonard & Kaemmerer, L.C.  
400 South Woods Mill Road, Suite 250  
Chesterfield (St. Louis), MO 63017-3481  
(314) 392-5200  
(314) 392-5221 (Fax)  
bkaemmerer@mlklaw.com*

CONFIDENTIALITY -- This e-mail and any attachments are confidential and are also privileged under the attorney-client privilege if sent to or from a client to an attorney and work-product doctrine if sent in anticipation of litigation. If you are not the named recipient, please notify the sender immediately, destroy the e-mail and its contents and do not disclose the contents to another person, use it for any purpose, or store or copy the information in any medium. It is unlawful (18 U.S.C. § 2510) for you to keep this e-mail if it is not intended for you. I am communicating to you via e-mail because you have consented to receive communications via this medium.

