



United States Government

NATIONAL LABOR RELATIONS BOARD

Office of the Executive Secretary

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March 24, 2011

Re: Stephens Media, LLC d/b/a
Hawaii Tribune-Herald
Cases 37-CA-7043, et al.

L. Michael Zinser, Esq.
The Zinser Law Firm
414 Union Street, Suite 1200
Bank of America Plaza
Nashville, TN 37219

[Via Facsimile and Regular Mail]

Dear Mr. Zinser:

This will acknowledge receipt by electronic filing and regular mail of your letter dated March 21, 2011. Your letter states that the NLRB website's announcement of the Board's March 2, 2011 Notice and Invitation to File Briefs in this case presents an issue for briefing that is not present in the Notice and Invitation itself. Accordingly, your letter requests a 14-day extension to April 15, 2011 to file briefs in response to the Notice and Invitation.

The announcement on the Agency's website to which you refer was inaccurate, and has been revised to precisely reflect the issues on which the Board seeks briefs, as set forth in the March 2, 2011 Notice and Invitation. Thus, any confusion that may have been caused by the announcement on the website has been eliminated. The Notice and Invitation, which is the operative document for the issues to be addressed, has not been changed and fully provides:

Board precedent establishes that the duty to furnish information "does not encompass the duty to furnish witness statements themselves." *Fleming Cos.*, 332 NLRB 1086, 1087 (2000), quoting *Anheuser-Busch, Inc.*, 237 NLRB 982, 985 (1978). Compare *Northern Indiana Public Service Co.*, 347 NLRB 210 (2006) (employer notes of investigatory interviews of employees held confidential). This case illustrates, however, that Board precedent does not clearly

define the scope of the category of "witness statements." This case also illustrates that the Board's existing jurisprudence may require the parties as well as judges and the Board to perform two levels of analysis to determine whether there is a duty to provide a statement: first asking if the statement is a witness statement under *Fleming* and *Anheuser-Busch* and then, if the statement is not so classified, asking if it is nevertheless attorney work product. We have therefore decided to sever this allegation from the case and to solicit briefs on the issues it raises.

Accordingly, the parties and interested amici are invited to file briefs on the aforementioned issues.

Accordingly, your request for an extension of time is denied. The due date for the receipt of briefs in Washington, D.C. remains April 1, 2011.

By direction of the Board:


Lester A. Heltzer
Executive Secretary

cc: Parties