

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 11

Savannah River Nuclear Solutions, LLC

and

Case 11-CA-22903

Vernon Lee Gullede, An Individual

To the Honorable, the Members of the  
National Labor Relations Board  
Franklin Court Building  
1099 14th Street, NW  
Washington, DC 20570-0001

**MOTION IN OPPOSITION TO RESPONDENT'S**  
**MOTIONS FOR SUMMARY JUDGMENT**

Comes now Counsel for the Acting General Counsel, pursuant to Section 201.24 and 201.50 of the Board's Rules and Regulations, Series 8, as amended, and opposes Respondent's Motion for Summary Judgment.

1.

On February 28, 2011, the Regional Director for Region 11 issued a Complaint and Notice of Hearing in the above-captioned case. The Complaint alleges the suspension and discharge of four alleged discriminatees because they engaged in protected concerted activities by receiving and forwarding a document through Respondent's electronic mail system to other employees pertaining to the proposed layoff of 1400 employees, in violation of Section 8(a)(1) of the Act. The Complaint also alleges eight separate violations of independent Section 8(a)(1) conduct related to the suspension and discharge of the four alleged discriminatees. The Complaint scheduled a hearing in this matter on May 9, 2011, in Aiken, South Carolina. On

March 11, 2011, Respondent filed an Amended Answer to Complaint and Notice of Hearing in this matter. Respondent's Amended Answer, while admitting certain allegations, denied all substantive allegations in the Complaint.

2.

On April 8, 2011, Respondent filed a Motion for Summary Judgment in this matter. Respondent's Motion asserts that the evidence establishes that the four alleged discriminatees did not engage in protected concerted activities. Additionally, Respondent contends that alleged discriminatee Charles Weigle is a statutory supervisor within the meaning of Section 2(11) of the Act, and, therefore, is not entitled to protection under the Act. Finally, Respondent contends that there is no genuine dispute as to any material fact in this matter. In support of this Motion, Respondent submitted a copy of an affidavit by Vice President of Work Force Services, James Hanna, as well as other pertinent documents.

3.

The Federal Rules of Civil Procedure, 56(c), provide that a motion for summary judgment shall be rendered only if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Under this rule it is the burden of the moving party to establish by admissible evidence that there is no genuine issue for hearing. Southwest Louisiana Hospital d/b/a Lake Charles Memorial Hospital, 240 NLRB 1330 (1979). Moreover, the Board has held that a denial of the complaint by way of an answer raises material issues of fact which would defeat a motion for summary judgment. Southwest Louisiana Hospital d/b/a Lake Charles Memorial Hospital, supra. Respondent filed

an Amended Answer in this case on March 11, 2011, admitting and denying certain of the allegations in the outstanding Complaint.

4.

Respondent's Amended Answer specifically denies that Respondent suspended and discharged employees Vernon Gullledge, Charles Weigle, Carroll Lofty, and William Guyette because they engaged in protected concerted activities within the meaning of Section 8(a)(1) of the Act. Moreover, Respondent's Amended Answer specifically denies that Respondent interrogated employees about their protected concerted activities and promulgated, maintained, and enforced a rule restricting employees from discussing terms and conditions of employment in violation of Section 8(a)(1) of the Act. Further, Respondent's Amended Answer affirmatively asserts that alleged discriminatee Charles Weigle is a supervisor within the meaning of Section 2(11) of the Act, and that his allegation should be dismissed from the Complaint.

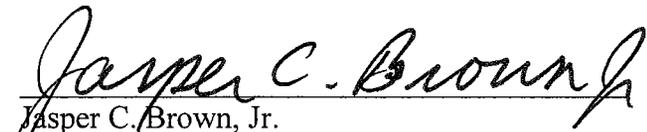
Counsel for Acting General Counsel submits that the evidence will show that the four alleged discriminatees received and forwarded an e-mail to other employees at the facility referred to as the Moody Briefing Book, which informed these employees of a proposed layoff of 1400 employees, as well as a loss of benefits at the Savannah River site. The evidence will also reflect that each of the four alleged discriminatees were interrogated about their protected concerted activities by Respondent's supervisors. Additionally, the Acting General Counsel's evidence reflects that alleged discriminatee Charles Weigle does not possess or exercise supervisory authority through the use of independent judgment. Respondent clearly disputes this contention and will shoulder the burden of proof in this matter.

Thus, Respondent's denial of the material allegations in the Complaint raises genuine issues as to material facts to be determined by an Administrative Law Judge. Wherefore,

Counsel for Acting General Counsel respectfully moves that Respondent's Motion for Summary Judgment be denied in all respects and the case be remanded to the Regional Director for further appropriate action.

Dated at Winston-Salem, North Carolina, on the 13th day of April 2011.

Respectfully submitted,



Jasper C. Brown, Jr.  
Counsel for Acting General Counsel  
National Labor Relations Board  
Region 11  
4035 University Parkway, Suite 200  
P. O. Box 11467  
Winston-Salem, North Carolina 27116-1467

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have this date been served electronically upon the following parties:

Mr. Vernon Lee Gulledge  
822 Stanton Drive  
North Augusta, SC 29841

E-Mail: v\_gulledge@yahoo.com

Michael D. Carrouth, Esq.  
P.O. Box 11612  
Columbia, SC 29211

E-Mail: mcarrouth@laborlawyers.com

Mr. Lovic A. Brooks, III, Attorney  
Brooks Law Firm, LLC  
1122 Lady Street, Suite 1025 (29201)  
P.O. Box 136  
Columbia, SC 29202

E-Mail: lbrooks@brooks-law-firm.com

Dated at Winston-Salem, North Carolina, on the 13th day of April 2011.

  
Jasper C. Brown, Jr.  
Counsel for Acting General Counsel