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July 13, 2011

Lester A. Heltzer
Executive Secretary
National Labor Relations Board
1099 14th St. N.W.
Washington, D.C. 20570-0001

**Re: Rogan Brothers Sanitation, Inc. and Local 813, IBT
2-CA-40028**

Dear Executive Secretary:

This firm represents the Respondent in the above referenced matter. Region 2 moved for summary judgment against Respondent. Respondent opposed the application. On July 13, 2011, Region 2 requested leave to file a reply. The request must be denied.

Region 2 failed to cite any support for its request. In fact, the Board's Rules and Regulations do not permit a reply. Consequently, the submission of the reply is not authorized by the Board.

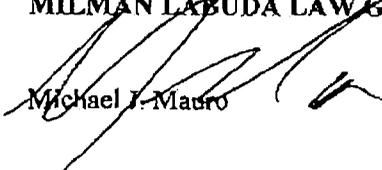
Moreover, the basis for the request appears to be that "new issues" were raised. The Board's Rules and Regulations make no provision for a reply when there are allegedly "new issues present". Region 2's invocation of "new issues" therefore is no basis to permit the reply. In any event, Region 2 has taken unjustified liberality with that phrase. Respondent did not raise new issues: Region 2 alleged a default of a settlement agreement and Respondent argued why there is no default and requested a hearing. In other words, explaining a defense does not equate to the presence of "new issues". If that were the standard and the Board would permit the reply, the Board would be creating precedent that all parties, both the General Counsel and respondents could avail themselves to flood the Board with briefs its rules do not authorize.

Finally, Region 2 has engaged in inherently unsavory behavior by asking for leave to submit a reply and attach the reply that it wants considered. It's simply an end run around the Board's rules that must be rebuked in the strongest terms. In fact, it will likely be the subject of a request by Respondent for an investigation into improper practices.

Thank you for your consideration.

Respectfully,

MILMAN LABUDA LAW GROUP PLLC


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