UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CAREY SALT COMPANY, a subsidiary of COMPASS MINERALS INTERNATIONAL, INC. Respondent		
and		
UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION, and LOCAL 14425 Charging Parties	Cases	15-CA-020035 15-CA-061694

COUNSEL FOR THE ACTING GENERAL COUNSEL'S CROSS-EXCEPTIONS TO DECISION BY ADMINISTRATIVE LAW JUDGE

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Subject Index

Counsel for the Acting General Counsel (counsel for the GC) respectfully submits these Cross-Exceptions to limited portions of the Administrative Law Judge's Decision[1] (decision or ALJD)[2] in conformance with the Board's Rules and Regulations Section 102.46:

Cross-Exception I

Counsel for the GC excepts to the extent that the Administrative Law Judge's decision does not find that the Respondent violated Section 8(a)(1) and (3) of the Act by withholding the March 2011 wage increase and to the extent a remedy is not ordered for the Section 8(a)(1) and (3) violation ALJD: 17 ln 23 – ln 29; ALJD: 18 ln 9; ALJD 27 ln 10 – ALJD: 27.

The Judge appropriately found Respondent violated Section 8(a)(1)(4) and (5) of the Act by withholding the March 2011 wage increase. ALJD: 30 ln 31 – ALJD: 18 ln 9; ALJD: 20 ln 42 – 45. As detailed by the Judge, the course of Respondent's statements and actions in 2010 through March 10, 2011, created among the Unit employees an expectation of an implemented, promised and planned March 2011 wage increase. ALJD: 9 ln 16 – ALJD: 14 ln 14.

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[1] The Honorable Administrative Law Judge Keltner W. Locke (Judge) issued a carefully analyzed decision (ALJD) on May 16, 2012[1] in which he diligently sorted through a number of legal issues in the factually and legally challenging circumstance of following the Honorable Administrative Law Judge Margaret G. Brakebusch's August 1, 2011 decision (***Carey Salt I ALJD --*** also before the Board on Respondent exceptions and limited cross-exceptions.)

[2] References to the May 16, 2012 decision or ALJD are designated "ALJD:" with an Arabic numeral(s) referencing to a specific page(s) of the decision; an Arabic numeral(s) following "ln" references a specific line(s) of the decision page(s) cited. Reference to the Exhibits of the General Counsel and Respondent will be designated as "GCX- #", and "RX- #," respectively, with the appropriate number(s) for those exhibits. References to the hearing transcript are designated as "Tr:" with an Arabic numeral(s) referencing to a specific page(s) of the transcript; an Arabic numeral(s) following "ln" references a specific line(s) of the transcript page(s) cited.

In fact, as reflected in Respondent's 2011 mine labor budget (GCX-26) and in Mine Manager Bull's testimony, about August 2010 Respondent began to work on the mine's 2011 labor budget, which included a 2011 2.5 wage increase for Unit employees. Tr. 66-67. Specifically, Bull admitted the mine planned to begin paying the 2011 2.5% Unit employee wage increase effective April 1, 2011. Tr. 68 ln 17-21. The April 1 effective date for the 2011 wage increase was selected by Respondent, because it was approximately the traditional annual March 25 wage increase date, and April 1 facilitated ease of budgeting/accounting. Tr. 69 ln 1-7. (In fact, April 1, 2011, was, as a practical matter, the one-year anniversary of the March 31, 2010, 10:11 p.m., Respondent email unilaterally implementing Respondent's March 2010 final offer. GCX – 9; GCX-10(H). Although the budgeted April 1, 2011 wage increase was not implemented by Respondent in March or April 2011 (Tr. 69, ln 23-25), Respondent continued to carry the budgeted wage increase cost – thus further evidencing that but for the Unit employees protected activity they would have received the historical annual wage increase about March 25, 2011. Tr. 69 ln 21-22. After the Board's Section 10(j) petition was dismissed, Respondent belatedly implemented the 2011 2.5% wage increase, but the wage increase was **not** retroactive.[3] Tr. 70 ln 6-7 and 12-12; Tr: 151 ln 11-13; GCX-7(D); GC-8(C); GC-(D) Thus, Respondent's unilateral discrimination permanently caused the Unit

[3] As the Judge astutely observed, Respondent could have righted its wrong by making the belated 2011 wage increase retroactive, but did not. ALJD: 15 ln 27 – 28. In other words, Respondent seized upon the belated granting of the 2011 wage increase to further undermine Unit employee support for the Union and underscore to Unit employees Respondent's message that they had no protections under the Act.

employees to lose the benefit of the budgeted 2011 2.5% wage increase until about May 22 - 23, 2011 (Tr: 70 ln 6 – 7; Tr: 150 ln 22 – Tr: 151 ln 151.[4]

Further, Respondent underscored and heightened the employee expectation of a March 25, 2011 wage increase through its March 10 notice to employee language, "Wage increases **historically have taken place in late March.** We were **planning** to make a 2.5% increase (**as we proposed in our final offer** during the contract negotiations a year ago [Respondent had "proposed" March 25, 2011]. . ." (Emphasis supplied; GCX-7(B)) What more could Respondent have said to have continued an employee expectation of a March 25, 2011 wage increase, before then unlawfully unilaterally telling Unit employees, "**but** that increase will **not be made** . . ." (Emphasis supplied; GCX-7(B).)

In regard to the 2011 wage increase for Unit employees, Respondent actually admitted in its at-hearing opening statement that it planned a 2011 wage increase, "And while the [Respondent] may have internally budgeted and planned to provide a 2.5 percent pay increase in 2011 under the new terms and conditions of employment it had implemented, it had certainly never planned for such an increase to be coupled with the return to the old, inefficient model that had preceded its March 31 implementation back in 2010."[5] Tr: 29 ln 6 – 11. What Respondent referred to as that "old, inefficient model"

[4] Of note, none of the Parties to this case except to the backpay period found by the Judge.

[5] Respondent appears to portend that it acknowledged a remedy for its unfair labor practices would cost money, and thus it sought to reduce any expense of a remedy by withholding a wage increase for Unit employees. If that is lawful, it provides the premise that anytime a Charging Party files what might be a merit charge, the Charged Party can reduce its expenses by exacting compensation from its employees or members, be it by wage cuts, reduced hours, fines, etc. As the Judge appropriately found, Respondent's explanation for withholding the March 2011 wage increase amounts to saying, "We won't implement the wage increase unless we are allowed to get away with committing an unfair labor practice." ALJD: 17 ln 10 – 12.

was the result of past successful collective-bargaining; for example, the last mutually agreed upon collective-bargaining agreements GCX-6(A)(B) and (C) (including numerous letters of understanding) – the fruit of the union activity of the Unit employees over an extended period of time.

As Respondent's Vice President of Human Resources Victoria Heider (Respondent's lead negotiator in labor contract negotiations) also admitted, in March 2011 Respondent sought to prevent the Unit employees from further exercising union activity to savor that fruit. At hearing, Heider explained that the Board's Section 10 remedial efforts (stemming from the Unit employees' Unions (herein Union) having filed ulp charges) and the Union's potential utilization of a Section 10(j) court order triggered Respondent's determination to withhold the 2011 wage increase for Unit employees. Tr: 135 ln 12 – 20 Specifically she explained, "[T]he [U]nion could be able to get us to cancel our productivity improvements that we had implemented but still retain a wage increase that we had intended to – you know, for those productivity improvements that we had implemented." In other words, Heider admitted that Respondent's retaliatory, pre-emptive action against its Unit employees in withholding the March 2011 wage increase was meant to prevent the Unit employees from utilizing their Union to achieve effective representation through their Section 9(a) representative. This is simply Respondent, admitting through Heider, that Respondent was retaliating against the Unit employees in order to prevent their Union from requesting Respondent to undue adverse terms and conditions of employment that Respondent had unlawfully implemented – an admission against interest of a Section 8(a)(1) and (3) violation.

Of note, unlike in March 2011 when Respondent by-passed the Union, including bypassing the International Union's Staff representative in order to directly threaten Unit employees that they would not receive their Respondent-planned 2011 2.5% wage increase until they, through their Union, withdrew through their support for the Board's Section 10(j) petition, on May 20, Respondent first emailed International Union Staff Representative Brent Petit[6] to seek the Union's agreement before belatedly implementing the 2011 2.5% wage increase:

> From: Gord Bull []
> Sent: Friday, May 20, 2011 6:26 AM
> To: Petit, Brent
> Cc: Fuslier, Gary; Tourne, Michael
> Subject: **10(j) Decision** and Wage Increase
> Mr. Petit -**In view of the Decision by Judge Doherty**, the Company now would like to give to all bargaining unit employees, effective Monday, May 23, 2011, **the 2.5% wage increase that was part of the Final Offer of March 31, 2010**. I assume the Union will have no objection to this action but if you would like to discuss any aspect of such, please let me know immediately **as we will not finalize the payroll change until we hear from you**.
> Gord Bull -- Mine Manager - Cote Blanche Mine

(Emphasis supplied; GCX-8(C).)

Thus, Respondent well understood that it had not only been retaliating against its Unit employees because they utilize their Union to seek access to the Board, but that it had been retaliating against its Unit employees because they were utilizing their Union to improve their terms and conditions of employment.

The collective fact patterns of the ***Carey Salt I ALJD*** and the instant fact pattern make it clear that Respondent withheld the March 2011 wage increase as part of its

[6] Respondent acknowledged it understood that Brent Petit was the International Union Staff Representative replacing Tourne, and as such was the Union's lead negotiator, the Union representative to contact regarding a change in wages for Unit employees, and the Union Representative with authority to agree to a change in wages. Tr: 86 ln 1 – 4; Tr: 87 ln 9 – 14; Tr: 88 ln 5 – 8.

ongoing effort to retaliate against its Unit employees because of their support of the Union and the Union's efforts to bargain on their behalf to retain favorable working conditions. In fact, in response to Respondent's earlier 2010 Section 8(a)(1) and (5) unfair labor practices, the Unit employees engaged in an unfair labor practice strike from April 7 through June 15, 2010. ***Carey Salt I ALJD***: 42 ln 1-12; GCX-2. In 2010, Respondent clearly revealed its animus to union and protected activities by threatening the Unit employees (***Carey Salt I*** ALJD: 41) and failing and refusing to reinstate the ulp strikers (***Carey Salt I*** ALJD: 42– 47), all in violation of Section 8(a)(1)(3) and (5) of the Act. ***Carey Salt I*** ALJD: 47–49. Additionally, the Unit employees, through their Union, an admitted labor organization and by definition an organization in which employees participate, filed ulp charges which resulted in the Board-authorized Section 10(j) petition. In response, Respondent, as a continuation of its earlier 2010 threats, retaliation and failure to bargain, again retaliated against all Unit employees by delaying their 2011 wage increase. Accordingly, as alleged in the first complaint, the Board is urged to find that Respondent delayed the March 2011 wage increase in violation of Section 8(a)(1)(3) of the Act. ***Liberty Telephone & Communications***, 204 NLRB 317, 318 (1973) (Employer withheld promised wage increase in response to employee support of labor organization in violation of Section 8(a)(1) and (3) of the Act.) To find otherwise would only encourage Respondent to continue its ongoing campaign to deny its Unit employees the opportunity to collectively bargain through their chosen Section 9 collective-bargaining representative.

Respondent's 2010 – 2011 promises to the Unit employees and the Union and its similar admissions at the November ulp hearing reveal that Respondent was both willing[7] and created the reasonable expectation among Unit employees and the Union that Unit employees would receive a March 2011 2.5% wage increase. ***Liberty Telephone***, 204 NLRB at 317-318 (In determining if a program is a term and condition of employment subject to bargaining, the Board has considered if the program is a "reasonable expectancy of the employment relationship.") As the Board explained in ***More Truck Line***, 336 NLRB 772, 772 (2001), an employer has a duty to not only to maintain what it has already given its employees, but also to "implement benefits which have become conditions of employment by virtue of prior commitment or practice:

> It is settled law that when employees are represented by a labor organization their employer may not make unilateral changes in their terms and conditions of employment, such as their wages. See *NLRB v. Katz*, 369 U.S. 736, 747 (1962). **This duty to maintain the status quo imposes an obligation upon the employer not only to maintain what he has already given his employees, but also to "implement benefits which have become conditions of employment by virtue of prior commitment or practice**." *Alpha Cellulose Corp.*, 265 NLRB 177, 178 fn. 1 (1982), enfd. mem. 718 F.2d 1088 (4th Cir. 1983). Accord: *Illiana Transit Warehouse Corp.*, 323 NLRB 111 (1997) (employer unlawfully told employees "wages and benefits would be frozen at current levels for the period of negotiation" and unlawfully withheld annual wage increases for this reason). **As the judge explained, once promised, future nondiscretionary wage increases are such existing terms and conditions of employment.** See *Liberty Telephone & Communications*, 204 NLRB 317, 318 (1973) (a promised wage raise that induces employees to accept or continue their employment is an "established" condition of employment); cf. *McDonnell Douglas Aerospace Services Co.*, 326 NLRB 1391 fn. 2 (1998).

(Emphasis supplied; ***More Truck***, 336 NLRB at 772.)

If Respondent was somehow convinced that it would have acted unlawfully to have timely placed into effect the implemented-promised-and-planned March 2011 2.5%

[7] ***Bryant & Stratton,*** 327 NLRB at 1136 (correspondence demonstrates employer's willingness to grant wage increase.)

wage increase, it need only have consulted the Board's sound guidance in ***Liberty Telephone***:

> The Administrative Law Judge's view that any other course than that taken by Respondents would have subjected them to unfair labor practices is in error. No violations of the Act can normally result **where an employer in good faith consults the bargaining representative before taking action** on such matters, even though a *bona fide* impasse in negotiations subsequently renders unilateral action essential [footnote omitted].

(Emphasis supplied. ***Liberty Telephone***, 204 NLRB at 318.)

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In our fact pattern, instead of consulting with the Union regarding the expected March 2011 wage increase, Respondent acted unilaterally for unlawful discriminatory reasons, threatened the Unit employees and denigrated the Unit employees, the Union and the Board, and then refused to bargain. In short, Respondent utilized the withholding of the wage increase to further undermine the union activities of its employees – it had no intention of consulting or bargaining.

Whether the Section 8(a)(1) and (3) violation is considered under a ***Wright Line***[8] analysis utilized by the Judge (ALJD: 14 ln 31 – ALJD: 17 ln 29) or his alternative analysis (ALJD: 17 ln 31 – ALJD: 18 ln 9), it is clear that Respondent's effort to thwart the union activities of its Unit employees was an unlawful driving Respondent motivation in denying the March 2011 wage increase. Accordingly, the Board is urged to find a violation of Section 8(a)(1) and (3) of the Act and include an appropriate remedial order and Notice to Employees in its decision.

Cross-Exception II

[8] ***Wright Line***, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), and approved in ***NLRB v. Transportation Management Corp.***, 462 U.S. 393 (1983).

Counsel for the GC excepts to the extent that the Administrative Law Judge in one section of the ALJD inadvertently places the March 14, 2011 Migues-Bull "2:45" meeting as March 10, 2011, when in fact the totality of the ALJD correctly reflects the Judge found the meeting was on March 14, 2011. AJJD: 19 ln 35 ln 16 - 19.

The Judge correctly found in his ***Wright Line*** analysis that the Migues-Bull conversation at a "2:45" meeting was on March 14, 2011. ALJD: 16 ln 1 – 15. Further, later in the ALJD in finding the same March 14 Migues-Bull conversation (meeting) an independent violation of Section 8(a)(1) of the Act for paragraph 7 of the complaint in Case 15-CA-061694, the Judge also correctly found the meeting and Respondent's threat by Gord Bull took place on March 14. ALJD: 23 ln 32 – ALJD 24 ln 30. Thus, it is clear that the Judge's inadvertent reference to the Bull-Migues meeting/conversation being on the "same day" as Respondent's March 10 notice to employees was just that, an inadvertent error. AJJD: 19 ln 35 ln 16 -19. Accordingly, the Board is respectfully requested to correct and clarify that March 14 (not March 10), 2011 is the correct date of the Migues – Bull "2:45" meeting at which Respondent, through Bull, orally threatened the Unit employees and refused to bargain regarding the Respondent's decision to withhold the March 2011 2.5% wage increase.

Aside from the fact that throughout the bulk of his decision the Judge correctly found the March 14 date as the date of the Migues-Bull conversation/meeting, the record also amply supports the finding of the March 14 date. See the at-hearing testimony of Migues (Tr. 145, 147 – 148), and also Robertson's affidavit received into evidence. GCX-17. Although at the hearing, Respondent's Gord Bull did **not** testify regarding this

March 14, 2011 meeting, and Respondent's Toyla Charles (also placed at the meeting) did not appear before the Judge at the November 2011 hearing.

Cross-Exception III

Counsel for the GC excepts to the extent that the Administrative Law Judge's finding that Respondent informed the Union of its decision to withhold the March 2011 wage increase may imply the Union had two-weeks "notice" for the purpose of collective-bargaining. AJJD: 20 ln 16 – 17.

The Judge correctly found that Respondent had no intent to bargain about its decision to withhold the March 2011 wage increase. ALJD: 20 ln 17. On March 10, 2011, Respondent posted its notice to all Unit employees regarding Respondent withholding the March 2011 wage increase. Thus, Respondent's March 10 notice to Unit employees did inform the Unit employees and Local Union officials (as they saw the Respondent notice) that Respondent was withholding the March 2011 wage increase. However, Respondent did not orally communicate with the Local Union officials about its *fait accompli* decision to withhold the March 2011 wage increase until approximately March 14, 2012, as correctly found by the Judge in regard to Case 15-CA-061694. ALJD: 24 ln 2 – 4. In that meeting, the Union, not Respondent, raised the issues of the March 10 notice to employees and Respondent withholding the wage increase. It was at this March 14 "2:45" meeting at which Bull threatened employees/Local Union officials Migues and Robertson and refused to bargain. Thus, although the Union may have learned of Respondent withholding the March 2011 wage increase through Respondent's March 10 notice to all Unit employees about two weeks before March 25, 2011, the

Union never had any meaningful notice (for the purpose of collective-bargaining) of Respondent's fait accompli decision to withhold the March 2011 wage increase.

Moreover, at hearing Respondent admitted that it well-understood in March 2011 that notice to the Union about a change in wages should have been to the Union's International Representatives, not to the Local Union officials. Tr: 108 ln 8 – Tr: 109 ln 2. Further, Respondent understood that bargaining about wages would be done at the bargaining table. Tr: 214. In other words, even Respondent admits that it never gave the Union meaningful notice of Respondent's decision to withhold the March 2011 wage increase or an opportunity to bargain.

Thus, although by the weekend following March 10, 2011, the Local Union officials may have learned that Respondent had already decided to withhold the March 2011 wage increase, the Board's decision should reflect that the Union did not have "notice" for the purpose of collective bargaining, as notice should have been to the Union's International Representative designated to lead negotiations for the Union at the bargaining table.

Cross-Exception IV

Counsel for the GC excepts to the extent that the Administrative Law Judge's decision fails to provide for the reading of the Board's remedial Notice to Employees to Unit employees at Respondent's Cote Blanche Mine by Respondent's Vice President of Human Resources Victoria Heider or Mine Manager Gord Bull or in the alternative by a high ranking Respondent agent. Counsel for the GC further excepts to the extent that the Judge's decision fails in the alternative to order the

Notice to Employees to be read to Unit employees at Respondent's Cote Blanche Mine in the presence of Vice President Heider, Mine Manager Bull or another high ranking Respondent agent. AJJD: 24 ln 45 – 25 ln 3.

Counsel for the GC urges the Board to require that the Board's remedial Notice to Employees be read aloud to the Respondent's Unit employees at Respondent's Cote Blanche Mine by Respondent's Vice President of Human Resources Victoria Heider or Mine Manager Gord Bull or in the alternative by a high ranking Respondent agent. In the alternative to the Notice to Employees being read by Vice President Heider, Mine Manager Bull or another high ranking Respondent agent, counsel for the GC urges the Board to order the notice be read to Unit employees at Respondent's Cote Blanche Mine in the presence of Vice President Heider, Mine Manager Bull or another high ranking Respondent agent.

The reading of the Board's Notice is especially appropriate when Respondent's 2011 unfair labor practices are viewed in the context of the extensive and sweeping Respondent unfair labor practices found in the ***Carey Salt I ALJD. GCX-2.*** Further, even standing alone, Respondent's 2011 unfair labor practices in this case warrant the reading of the Board's Notice, as Respondent sought to choke off not only the Union's effective representation of Unit employees, but also sought to prevent Unit employees from seeking access to the Board through their Union. In reality, Respondent sought to leverage the Unit employees and their Union to prevent the Board's effective administration of the Act through utilization of Section 10(j) of the Act. In March 2011, Respondent effectively communicated to Unit employees: 10(j) = no pay. Accordingly,

it is now vital that responsible Respondent management directly communicates to Unit employees in person that Respondent fully intends to comply with the Act.

The Board's recent decision in ***Whitesell Corp.***, 357 NLRB No. 97 (2011), where the Board ordered a reading of its notice to unit employees, is instructive:

> In addition to the foregoing bargaining expenses remedy, we shall order that the Board's notice be read aloud to the Respondent's employees by Chief Operations Officer Robert Wiese or Director of Human Resources John Tate, or by a Board agent in the presence of Wiese or Tate. We find that requiring the notice to be read aloud is warranted by the serious, persistent, and widespread nature of the Respondent's unfair labor practices, especially in view of the Respondent's repetition of the same type of misconduct previously found unlawful. **Reading the notice to the employees in the presence of a responsible management official serves as a minimal acknowledgement of the obligations that have been imposed by law and provides employees with some assurance that their rights under the Act will be respected in the future.** We find that such assurance is clearly warranted under the circumstances of this case. ***Homer D. Bronson Co***., 349 NLRB 512, 515-516 (2007), enfd. mem. 273 Fed. Appx. 32 (2d Cir. 2008); see also ***Vincent/Metro Trucking, LLC,*** 355 NLRB No. 50 slip op. at 2, fn. 4 (2010). **Although the General Counsel did not seek an order requiring the Board's notice to be read aloud,** his failure to do so does not preclude our imposing such a remedy. ***Allied General Services,*** 329 NLRB 568, 569 (1999). The Board has "broad discretionary" authority under Section 10(c) to fashion appropriate remedies that will best effectuate the policies of the Act. E.g., ***NLRB v. J.H. Rutter-Rex Mfg. Co.,*** 396 U.S. 258, 262-263 (1969). It is well established that remedial matters are traditionally within the Board's province and may be addressed by the Board even in the absence of exceptions. E.g., ***Schnadig Corp.,*** 265 NLRB 147 (1982); ***R.J.E. Leasing Corp.,*** 262 NLRB 373 fn. 1 (1982) (modified decision).

(Emphasis supplied; ***Whitesell***, 357 NLRB slip op 5 – 6.)

As the Board is aware this fact pattern is primarily about Respondent's unrelenting efforts to convince its Unit employees that it is futile for them to engage in concerted activity, union activity and/or to access the Board. Thus, as the Board stated above in ***Whitesell***, "Reading the notice to the employees in the presence of a responsible management official serves as a minimal acknowledgement of the obligations that have been imposed by law and provides employees with some assurance that their rights under

the Act will be respected in the future." ***Id.*** Vice President Heider and Mine Manager Bull are the two Respondent agents most conspicuous to Unit employees in Respondent's ongoing unfair labor practices since March 2010, and thus their public reading of the Board's notice to Unit employees would help to restore employee confidence in the Board's administration of the Act. As the Board is aware, the Board has broad discretion to fashion special remedies that fit the circumstances of each case it confronts. ***In re Charlotte Amphitheater Corp.***, 331 NLRB No. 1274, 1274 (2000). The Board has previously explained that "[t]he public reading of a notice is an 'effective but moderate way to let in a warming wind of information and, more important, reassurance."' ***Id.*** at 1276; ***See also United States Service Industries,*** 319 NLRB 231, 232 (1995), enfd.107 F.3d 923 (D.C. Cir. 1997) (quoting in part ***J. P. Stevens & Co. v. NLRB***, 417 F.2d at 540.; and ***Avondale Industries, Inc***., 329 NLRB 1064 (1999).

Chinese Daily News, 346 NLRB 906, 909 (2006) cited by the Judge is appropriately distinguished. In ***Chinese Daily,*** the Board majority noted that four-years had passed since the employer's unfair labor practices and that accordingly the extent of any "lingering" effect of the employer's unfair labor practices was not clear. In this case Respondent's pervasive unfair labor practices (2010 and again in 2011) are much more recent in time. Thus, Respondent's sweeping unfair labor practices are much more present in the minds of the Unit employees victimized by Respondent. Further, Counsel for the GC respectfully calls to the Board's attention the cogent rationales expressed in the dissent as to why a reading of a Notice to Employees can be appropriate. ***Chinese Daily News***, 346 NLRB at 911 – 912.

Thus, counsel for the GC respectfully urges the Board to carefully consider and grant each of the above Cross-Exceptions.

Thank you for considering the above.

Respectfully submitted,

July 13, 201

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CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2012, I caused to be E-filed the foregoing Counsel for the Acting General Counsel's Cross-Exceptions to Decision by Administrative Law Judge and caused to be served by electronic mail (email) copies to the following counsel of Respondent and the Charging Parties:

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