

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 17¹

STAHL SPECIALTY COMPANY

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL #1464
affiliated with the INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS, AFL-CIO

Case No. 17-CA-088639

**RESPONDENT STAHL SPECIALTY COMPANY'S MOTION TO STAY THE
PROCEEDINGS OR, IN THE ALTERNATIVE, MOTION TO APPOINT A NEW
ADMINISTRATIVE LAW JUDGE**

Respondent Stahl Specialty Company ("Respondent") hereby moves to stay all proceedings in this matter in light of the Federal Circuit Court of Appeals for the District of Columbia's recent decision in *Noel Canning v. NLRB*, 705 F. 3d 490 (D.C. Cir. Jan. 25, 2013), or, in the alternative, moves for the appointment of a new Administrative Law Judge ("ALJ") for the following reasons:

In its Answer at paragraph 16, Respondent raised the issue/defense of the constitutionality of the Board's actions due to recess appointments and the lack of a quorum. After the hearing in this matter was adjourned on January 18, 2013, the D.C. Circuit issued the *Noel Canning* decision, holding that all actions taken by the Board during the time it lacked a constitutionally valid quorum were legally null and void. *New Process Steel v. NLRB*, 103 S. Ct. 2635 (2010); *Noel Canning v. NLRB*, 705 F. 3d 490 (D.C. Cir. Jan. 25, 2013). In July 2012, at a time when the Board lacked a quorum, the Board appointed Judge Christine Dibble as an ALJ. Per the *Noel Canning* and *New Process Steel* decisions, that appointment action was null


¹ The National Labor Relations Board consolidated offices in Regions 14 and 17 in May 2012.

and void. Therefore, any actions she has taken in this pending matter have been and are likewise null and void, including the decision to order Respondent to produce additional documents and the decision to re-open the hearing in this matter for the admission of further documents. The continuation of this case will result only in more actions and decisions by Judge Dibble that will ultimately have to be undone and redone. To avoid this waste of time and resources, Respondent requests a stay of all proceedings until the issue of Judge Dibble's authority to act is resolved.

However, if these proceedings are not to be stayed, Respondent hereby moves for the appointment of a new ALJ to hear this matter. There are several ALJs currently serving who were appointed at a time when the Board had a constitutionally valid quorum.

For the foregoing reasons, Respondent respectfully asks that these proceedings be stayed until resolution of the issues under consideration in *Noel Canning*, which the Board has stated that it plans to appeal to the United States Supreme Court. In the alternative, Respondent respectfully requests the appointment of a new ALJ to hear the matters at issue in this case.

DATED: March 21, 2013


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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served pursuant to the National Labor Relations Board's Rules and Regulations by electronically filing with the Division of Judges and the Office of the Executive Secretary/NLRB and via U.S. Mail and email on all parties listed below on this the 21st day of March 2013.


The Honorable Christine E. Dibble (via NLRB e-filing system and U.S. Mail)
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