UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16

MASTEC SERVICES COMPANY, INC. **Respondent,** **and** **NOBLE HOBBS, an Individual,** **Charging Party.**	**Case No. 16-CA-086102**

RESPONDENT MASTEC SERVICES COMPANY, INC.'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION AND ORDER

Respectfully submitted,

LITTLER MENDELSON, P.C.

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Date: June 28, 2013

Counsel for Mastec Services Company, Inc.

Pursuant to the National Labor Relations Board's Rules and Regulations, including Section 102.46 thereof, Respondent MasTec Services Company, Inc. (hereinafter "the Employer") respectfully files the following exceptions to the Administrative Law Judge's Decision and Order issued by Administrative Law Judge Joel P. Biblowitz on June 3, 2013.

No.	Page	Line	Exception
1	5 6	51-52, 28-29, 38-39	The Employer excepts to the ALJ's conclusion that the Dispute Resolution Policy, even with the opt out provision, violates Section 8(a)(1) of the Act.
2	5	1-4	The Employer excepts to the ALJ's conclusion that the Dispute Resolution Policy violated the Act because "an employer may not lawfully require its employees to affirmatively act (opt out, in writing, within thirty days of receipt of the Employee Handbook) in order to obtain or maintain" rights under the Act.
3	6	4-6	The Employer excepts to the ALJ's finding that the Dispute Resolution Policy bars an employee from cooperating and engaging in concerted activities with those employees who do not opt out.
4	6	6-9	The Employer excepts to the ALJ's finding that the provision in the Dispute Resolution Policy stating, "except as may be permitted or required by law, neither a party nor an Arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of all parties" places employees at a "disadvantage" or bars concerted employee activity.
5	6	11-12	The Employer excepts to the ALJ's finding that "some employees might be reluctant to exercise the opt out option for fear of angering their employer."
6	6	20-22	The Employer excepts to the ALJ's finding that "employees choosing to exercise their right to opt-out, might have reason to fear the effects of doing so, even if the forms do not come from or go to their supervisor or manager."
7	6	23-23	The Employer excepts to the ALJ's finding that "those who opt out must affirmatively do so and may fear standing out for asserting their rights."
8	6	24-29	Given the ALJ's correct factual finding that MasTec's Dispute Resolution Policy is "clearly distinguishable" from the arbitration policy at-issue in *D.R. Horton*, 357 NLRB No. 184 (2012)., the Employer excepts to the ALJ's conclusion that he could not address whether the "class action waiver" is permissible under the Act.

No.	Page	Line	Exception
9	7	9-11	The Employer excepts to the ALJ's order that it "cease and desist from maintaining and enforcing its Dispute Resolution Policy."
10	7	9, 13-14	The Employer excepts to the ALJ's order that it "cease and desist from in any like or related manner, interfering with, restraining or coercing employees in the exercise of their rights guaranteed them by Section 7 of the Act."
11	7	16-22	The Employer excepts to the ALJ's order that it must "notify all employees . . . that it will no longer maintain or enforce the provisions contained in the Dispute Resolution Policy referred to in the employee handbook that prohibits employees from bringing or participating in class or collective actions...."
12	7	24-27	The Employer excepts to the ALJ's order that the Employer "notify arbitral or judicial panels, if any, where the Respondent has attempted to enjoin or otherwise prohibit employees from brining or participating in class or collective actions, [and that] it is withdrawing those objections and that it no longer objects to such employee actions."
13	7	29-39	The Employer excepts to the ALJ's order that it post copies of the order for 60 consecutive days
14	8	1-3	The Employer excepts to the ALJ's order certifying that it has complied with the ALJ's order.
15	6-8		The Employer excepts to the ALJ's remedy and order to the extent that it exceeds the statute of limitations period set forth in Section 10(b) of the Act.
16			The Employer excepts to the ALJ's failure to find and conclude that its settlement with Charging Party did not satisfy the *Independent Stave* standard.
17			The Employer excepts to the ALJ's failure to find and conclude that the Dispute Resolution Policy is a voluntarily, bilateral agreement.
18			The Employer excepts to the ALJ's failure to find and conclude that the Dispute Resolution Policy is lawful under the Act.
19			The Employer excepts to the ALJ's failure to find and conclude that the Dispute Resolution Policy is lawful under the Federal Arbitration Act.
20			The Employer excepts to the ALJ's failure to find and conclude that the Dispute Resolution Policy is lawful under the Rules Enabling Act.
21			The Employer excepts to the ALJ's failure to find and conclude that the Dispute Resolution Policy preserves an avenue for employees to join in a concerted judicial action by reference to the state's forum procedure

No.	Page	Line	Exception
			rules and, by reference, permissive joinder of claims.
22			The Employer excepts to the ALJ's failure to find and conclude that the National Labor Relations Board lacked a quorum when it issued its decision in *D.R. Horton*.
23			The Employer excepts to the ALJ's failure to find and conclude that the National Labor Relations Board currently lacks a quorum to act under *Noel Canning*, 2013 U.S. App. LEXIS 1659 (D.C. Cir. Jan. 25, 2013).
24			The Employer excepts to all rationales, findings, conclusions, and recommendations of the ALJ that are inconsistent with the Exceptions set forth above.

Respectfully submitted,

LITTLER MENDELSON, P.C.

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Date: June 28, 2013

Counsel for Mastec Services Company, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2013, a copy of Respondent Mastec Services Company, Inc.'s Exceptions to the Administrative Law Judge's Decision and Order was served on the following:

Via E-Filing	Executive Secretary National Labor Relations Board 1099 14th Street, N.W, Washington, D.C. 20570
Via E-Filing:	Division of Judges National Labor Relations Board Division of Judges 410 West Peachtree Street, N.W. Suite 1708 Atlanta, GA 30308-3510
Via E-Filing:	Martha Kinard Regional Director, Region 16 National Labor Relations Board Room 8A24, Federal Office Bldg. 819 Taylor Street Fort Worth, TX 76102
Via E-Mail: (and Certified Mail)	Trans Tran 3050 Post Oak Blvd. Suite 1720 Houston, TX 77056-6548 *Charging Party's Counsel*
Via Certified Mail:	Noble Hobbs 4204 Golden Horn Lane Fort Worth, TX 76123-2568 *Charging Party*

/s/ Steven Kaplan
Steven E. Kaplan

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