

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

THE ARDIT COMPANY	:	
	:	
Respondent	:	Case No.: 9-CA-106395
	:	
and	:	
	:	
INTERNATIONAL UNION OF BRICKLAYERS	:	
AND ALLIED CRAFT WORKERS, OHIO	:	
KENTUCKY ADMINISTRATIVE COUNCIL,	:	
LOCAL NO. 18	:	
	:	
Charging Party	:	
	:	

**RESPONDENT, THE ARDIT COMPANY’S ANSWER
TO COUNSEL FOR THE GENERAL COUNSEL’S COMPLAINT**

Now comes the Respondent, The Ardit Company (“Ardit” or “Respondent”) and hereby files its Answer to the General Counsel’s Complaint and asserts as follows:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Complaint in whole or in part is barred by the statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The Complaint is *ultra vires* because the Acting General Counsel of the NLRB did not lawfully hold the office of Acting General Counsel at the time he directed that the Complaint be filed.

FOURTH AFFIRMATIVE DEFENSE

The National Labor Relations Board (“Board”) cannot lawfully act in this matter as the new members have not been validly appointed and, as such, the Board lacks a quorum to act.

FIFTH AFFIRMATIVE DEFENSE

Ardit reserves the right to assert additional affirmative defenses which may become known at a later date or due to a change in the law.

ANSWER

In response to the numbered paragraphs set forth in the Complaint, Ardit hereby answers as follows:

1. Ardit is without sufficient knowledge, information and belief as to the allegations set forth in paragraph 1. Accordingly, Ardit neither admits nor denies the allegations set forth in paragraph 1. To the extent an answer is required, the allegations set forth in paragraph 1 are denied.
2. Ardit admits the allegations set forth on paragraph 2, and all of its subparts, of the Complaint.
3. Ardit admits the allegations set forth in paragraph 3 of the Complaint.
4. Ardit admits the allegations set forth in paragraph 4 of the Complaint.
5. Ardit admits only that beginning May 13, 2013, the date of certification, the unit described in paragraph 5 of the Complaint constitutes a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(a) of the Act.
6. Ardit admits the allegations set forth in paragraph 6 of the Complaint.
7. Ardit admits the allegations set forth in paragraph 7 of the Complaint.
8. Ardit admits the allegations set forth in paragraph 8 of the Complaint.

9. Ardit admits the allegations set forth in paragraph 9 of the Complaint.
10. Ardit denies the allegations set forth in paragraph 10 of the Complaint.
11. Ardit denies the allegations set forth in paragraph 11 of the Complaint.

WHEREFORE, Ardit, having fully answered the Complaint, prays for the following relief:

- (1) the Complaint be dismissed with prejudice;
- (2) the Board grant Ardit such other relief, legal or equitable, as the Board may deem just and proper.

Dated at Dublin, Ohio this 3rd day of July 2013.

Respectfully submitted,

/s/ Ronald L. Mason
Ronald L. Mason
Aaron T. Tulencik
MASON LAW FIRM CO., LPA
425 Metro Place North, Suite 620
Dublin, Ohio 43017
p: 614.734.9450
f: 614.734.9451

Counsel for The Ardit Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 3, 2013, an electronic original of The Ardit Company's Answer was transmitted the National Labor Relations Board, Region 9, via the Department Of Labor, National Labor Relations Board electronic filing system and, further, that copies of the foregoing Answer were transmitted to the following individuals by electronic mail and/or e-mail:

Ryan K. Hymore, Esq.
Mangano Law Offices Co., LPA
10901 Reed Hartman Highway, Suite 207
Cincinnati, Ohio 45242
rkhymore@bmanganolaw.com (via e-mail only)

Counsel for Charging Party

Administrative Law Judges
1099 14th Street, NW
Room 5400 East
Washington, D.C. 20570
(via first class U.S. Mail only)

/s/ Aaron Tulencik
Aaron T. Tulencik