



United States Government
NATIONAL LABOR RELATIONS BOARD
Region Four
615 Chestnut Street - Seventh Floor
Philadelphia, PA 19106-4404

June 14, 2011

VIA E-FILING

Lester A. Heltzer, Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, DC 20570

Re: Metropolitan Regional Council of
Carpenters, Southeastern Pennsylvania,
State of Delaware, and Eastern Shore of
Maryland, and its Affiliated Local,
Carpenters Local 2012
(Forcine Concrete & Construction Co.)
4-CB-10520

Dear Mr. Heltzer:

Enclosed please find Counsel for the Acting General Counsel's Exceptions to the Administrative Law Judge's Decision and Brief in Support of Exceptions in the above-captioned matter. Copies of the Exceptions and Brief have been served this day on the parties listed below by email.

Very truly yours,

EDWARD J. BONETT, JR.
Counsel for the Acting General Counsel
Edward.bonett@nlrb.gov
(215) 597-9619

cc: Stephen J. Holroyd, Esq., Jennings Sigmond, 510 Walnut Street, 16th Floor, Penn Mutual Towers, Philadelphia, PA 19106, sholroyd@jslex.com
Marc Furman, Esq., Melissa C. Angeline, Esq., Cohen Seglias Pallas Greenhall & Furman PC, United Plaza, 19th Floor, 30 S. 17th Street, Philadelphia, PA 19103, mfurman@cohenseglias.com, mangelina@cohenseglias.com

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION**

METROPOLITAN REGIONAL COUNCIL OF
CARPENTERS, SOUTHEASTERN
PENNSYLVANIA, STATE OF DELAWARE,
AND EASTERN SHORE OF MARYLAND,
AND ITS AFFILIATED LOCAL,
CARPENTERS UNION LOCAL 2012

and

Case 4-CB-10520

FORCINE CONCRETE & CONSTRUCTION
CO., INC.

**COUNSEL FOR THE ACTING GENERAL COUNSEL'S EXCEPTIONS
TO THE ADMINISTRATIVE LAW JUDGE'S DECISION**

Pursuant to Section 102.46 of the Board's Rules and Regulations, Series No. 8, as amended, the undersigned Counsel for the Acting General Counsel files the following Exceptions to the Decision issued by Administrative Law Judge Arthur J. Amchan on May 18, 2011:

- (1) **ALJD pages 2-3.** To the Administrative Law Judge's failure to find the following facts: how the Union agents bullied employees and individuals on the construction site and wrote down the names, addresses, and phone numbers of the interrogated employees on a notepad; badgered at least one employee to the point of tears; created a human barrier around employees to prevent them from escaping their interrogators; and intentionally concealed their identity.
- (2) **ALJD p. 4, lines 19-23.** To the Administrative Law Judge's unsupported holding that "in order to refrain from conduct, I conclude that employees must be presented with a choice as to whether to engage in activity or not. That is not the case in this matter. I conclude that Section 7 is not so broad as to protect simply working in situations in which the employee is not confronted with a choice between engaging in protected activity or not."
- (3) **ALJD p. 5, lines 16-17.** To the Administrative Law Judge's use of an unsupported legal standard for assessing a Section 8(b)(1)(A) violation: "The

Union's conduct in this case did not present Forcine's employees with a choice between engaging in protected activity or not."

- (4) **ALJD p. 5, lines 19-21.** To the Administrative Law Judge's conclusion that the Union did not violate Section 8(b)(1)(A) by posting the edited version of the DVD on YouTube and by Local 2012's linking the YouTube posting to its webpage [actually, to its Facebook page].
- (5) **ALJD p. 6, lines 5-6.** To the Administrative Law Judge's finding that the Union "did not engage in unfair labor practices affecting commerce within the meaning of Section 8(b)(1)(A) and Section 2(6) and (7) of the Act."
- (6) **ALJD p. 6, line 13.** To the Administrative Law Judge's dismissal of the Complaint.

Dated at Philadelphia, Pennsylvania this 14th day of June, 2011.

Respectfully submitted,



EDWARD J. BONETT, JR.¹
Counsel for the Acting General Counsel
National Labor Relations Board
Fourth Regional Director
615 Chestnut Street, 7th Floor
Philadelphia, PA 19106

¹ Counsel's name was misspelled in the ALJD.