

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PACIFIC MARITIME ASSOCIATION

and

Case No. 21-CA-39434

INTERNATIONAL LONGSHORE AND  
WAREHOUSE UNION, LOCAL NO. 13, AFL-CIO

and

Case No. 21-CB-14966

ERIC ALDAPE, an individual

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

On September 26, 2011, Administrative Law Judge John J. McCarrick ("ALJ") issued his decision in the above-entitled matters. Pursuant to Board Rules and Regulations, Series 8, as amended, Section 102.46, the Acting General Counsel of the National Labor Relations Board hereby files the following exceptions:

To the ALJ's findings and conclusions that:

Exception No.

1. "At this time [September 8-10, 2009] Jurisic was not a Union officer." (ALJD 4:15); Tr. 181.<sup>1</sup>
2. *OPEIU Local 251 (Sandia Corp.)*, 331 NLRB 1417 (2000) applied to the facts of these matters. (ALJD 8-9); *passim*.
3. "It is undisputed that Aldape's insinuations and threats to Bebich on September 24 were based [solely] on rumor." (ALJD 6:1-2); Tr. 92-93.
4. "These topics [Aldape's conduct herein] are all matters that bear no relation to collective bargaining or other mutual aid or protection or to 'employees' interests as employees.'" (ALJD 9:51-52).

To the ALJ's failure to find and conclude that:

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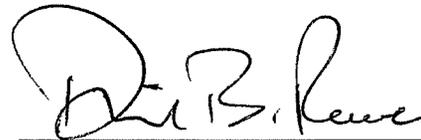
<sup>1</sup> Citations to the ALJ's Decision will be referred to as "ALJD," followed by the appropriate page and line number. References to the transcript of the hearing will be referred to as "Tr." followed by the appropriate page number. General Counsel's Exhibits will be referred to as "GCX" followed by the appropriate exhibit number.

5. The allegations surrounding the Droege grievance fell within the 10(b) statute of limitations. (ALJD 7:39-36); GCX 3.
6. Eric Aldape's conduct at issue in the Droege, Bebich, and Realini grievances was activity protected by Section 7 of the Act. (ALJD 8:5-10:3); *passim*.
7. Respondent Pacific Maritime Association's ("Employer") conduct violated Section 8(a)(1) of the Act. (ALJD 10:13); *passim*.
8. Respondent International Longshore and Warehouse Union, Local No. 13, AFL-CIO's ("Union") conduct violated Section 8(b)(1)(A) of the Act. (ALJD 10:13); *passim*.
9. An appropriate remedy for the violations of the Act committed by the Employer and the Union should issue. (ALJD 10:20); *passim*.
10. The discipline imposed on Eric Aldape was imposed jointly by the Employer and the Union. (ALJD 4-5); Tr. 312-313.
11. The Employer and the Union jointly operated the contractual dispatch hall. (ALJD 2-6); Tr. 57-58.
12. Steven Bebich was a candidate for union office (caucus delegate) when Aldape left a voicemail message on September 24, 2009. (ALJD 5:25); Tr. 115, 218.
13. The nature of Aldape's conduct did not cause him to lose the protection afforded him by Section 7 of the Act. (ALJD *passim*); *passim*.
14. The accusation against Bebich for stealing a computer was withdrawn only after Bebich resigned his employment. (ALJD 6:1-5); Tr. 229-30.
15. The balancing test set forth in *Local 245, SEIU, AFL-CIO (Brandeis Univ.)*, 332 NLRB 118 (2000), should be applied herein. (ALJD 8-9).
16. The internal union conduct of Aldape ultimately impacted terms and conditions of employment. (ALJD 9:37-38).

To the ALJ's order that:

17. The above-entitled matters be dismissed. (ALJD 10:20).

Dated at San Francisco, California this 24<sup>th</sup> day of October, 2011.

A handwritten signature in black ink, appearing to read "David B. Reeves". The signature is written in a cursive style with a large initial "D".

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David B. Reeves  
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**STATEMENT OF SERVICE**

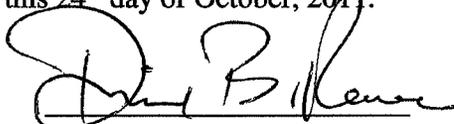
I HEREBY CERTIFY THAT A COPY OF the Acting General Counsel's Exceptions to the Decision of the Administrative Law Judge in Cases 21-CA-39434 and 21-CB-14966 has been submitted by E-filing to the Executive Secretary, National Labor Relations Board, Washington, D.C., on October 24, 2011. The following parties were served with a copy of the same document by electronic mail on October 24, 2011.

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Dated at Los Angeles, California, this 24<sup>th</sup> day of October, 2011.



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