BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:			
PRATT INDUSTRIES, INC.,	:	Case Nos.	29-CA-30271
Respondent,	:		29-CA-20281
and	:		29-CA-30382
INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 30,	:		
Charging Party.	:		

EXCEPTIONS OF PRATT INDUSTRIES, INC. TO THE DECISION OF ADMINISTRATIVE LAW JUDGE LAUREN ESPOSITO

Respondent Pratt Industries, Inc. ("Pratt") hereby files Exceptions to the August 30, 2011, Decision of Administrative Law Judge Lauren Esposito ("ALJ" and "ALJD").

1. The ALJ erred by failing to find that when Pratt implemented portions of its most recent offer in June, 2010, the parties were at impasse. (ALJD p. 14, line 25 *et seq.*)
2. The ALJ erred by holding that impasse exists only when both parties agree that there is an impasse. (ALJD, p. 12, line 25, *et seq.*)
3. The ALJ erred in finding that a schedule change reduced hours or pay of bargaining unit employees or that maintaining hours and pay were irrelevant. (ALJD, p. 12, n. 12).
4. The ALJ erred in finding that Pratt lawfully could not continue its past practice of subcontracting bargaining unit work. (ALJD 21, lines 34-36).

5. The ALJ erred by declining to be bound by *Westinghouse Electric Corp.* 150 N.L.R.B. 1574 (1965). (ALJD at p. 19, line 14 – p. 20, line 10).
6. The ALJ erred by finding that even if *Westinghouse* was controlling, Pratt had not met the *Westinghouse* standard. (ALJD p. 20, line 8-10).
7. The ALJ erred by failing to consider separately use of subcontractors to "audition" new employees versus use of contractors as extra hands to perform bargaining unit work. (ALJD p. 20, line 3 – p. 21, line 36).
8. The ALJ erred by failing to find that any changes to the sick leave and call out policy were privileged and/or *de minimis*. (ALJD p. 17, lines 10-40).

Dated: New York, New York
October 27, 2011

RESPECTFULLY SUBMITTED,

KLEIN ZELMAN ROTHERMEL LLP

By: _____
Jane B. Jacobs
Jesse Grasty
Caroline Bishop
485 Madison Avenue
New York, New York 10022
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ATTORNEYS FOR RESPONDENT

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
: ss.
COUNTY OF NEW YORK)

Jane Jacobs, being duly sworn says: I am not a party to the action, am over 18 years of age and reside in New York.

On October 27, 2011, I caused to be served a true copy of the annexed Exceptions of Pratt Industries, Inc. to the Decision of Administrative Law Judge Lauren Esposito by emailing the same personally to the persons and at the email addresses indicated below:

Nancy Reibstein, Esq.
Counsel for the General Counsel
Email: Nancy.Reibstein@nlrb.gov

Paula Clarity, Esq.
Counsel for the International Union of
Operating Engineers, Local 30
Email: PClarity@abgllaw.com

Jane Jacobs

Sworn to before me this
27th day of October, 2011

Notary Public

TANYA R. DeROSE
Notary Public, State of New York
No. 03-4973858
Qualified in New York County
Commission Expires Nov. 19, 2014

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