

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

LOOMIS ARMORED US, INC.

Case Nos. 32-CA-25316

And

32-CA-25708

TEAMSTERS LOCAL UNION NO. 439;  
TEAMSTERS LOCAL UNION NO. 315,  
TEAMSTERS LOCAL UNION NO. 853;  
TEAMSTERS LOCAL 150; TEAMSTERS,  
CHAUFFEURS, WAREHOUSEMEN AND  
HELPERS, LOCAL NO. 542; and PACKAGE  
AND GENERAL UTILITY DRIVERS, LOCAL  
396

32-CA-25709

32-CA-25727

**RESPONDENT LOOMIS ARMORED US, INC.'S ANSWERING BRIEF TO  
CHARGING PARTIES TEAMSTERS LOCALS 150, 315, 439, AND 853'S EXCEPTIONS  
TO THE PROPOSED DECISION OF THE ADMINISTRATIVE LAW JUDGE**

LITTLER MENDELSON  
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February 22, 2012

Attorneys for Respondent  
LOOMIS ARMORED US, INC.

Respondent Loomis Armored US, Inc. (“Loomis” or “the Company”) hereby submits its Answering Brief to Charging Parties Teamsters Locals 150, 315, 439 and 853’s (collectively, the “Charging Parties”) Brief In Support of Exceptions to the Proposed Decision of the Administrative Law Judge.<sup>1</sup> For the reasons more fully set forth in the Company’s Answering Brief to the Exceptions filed by the Acting General Counsel, the arguments presented in the Charging Parties’ brief in support of their Exceptions are unavailing and the Administrative Law Judge’s determination was correct. Loomis will not belabor the record before the Board by restating its arguments here. Out of an abundance of caution, Loomis submits this Answering Brief in order to preserve its position before this Board and in any related court proceedings, and to preclude any possible argument that the Company has waived any of its positions as previously stated by failing to file an answering brief.

Nevertheless, the Charging Parties’ brief simply repeats the same points raised in the dissenting opinion from Board Member Zimmerman in *Wells Fargo*, 270 NLRB 787, 791 (1984), that was rejected by the other three Board Members at the time; the dissenting opinion by a judge with the Second Circuit Court of Appeals regarding the appeal of *Wells Fargo (Truck Drivers, Local Union No. 807 v. NLRB*, 755 F.2d 5, 13 (2nd Cir. 1985)) and an anomalous decision from the Seventh Circuit Court of Appeals that is entirely at odds with Section 9(b)(3) and NLRB authority (*General Service Employees Union, Local No. 73 v. NLRB*, 230 F.3d 909 (7th Cir. 2000) (“*Temple Security*”). The Board should give no weight to the Charging Parties’ mischaracterization of the Company’s contentions as being unsound or “thoroughly rejected” arguments. In fact, the opposite is true. The Board has rejected the Charging Parties’ arguments

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<sup>1</sup> As explained in the Company’s Answering Brief to the Exceptions filed by the Acting General Counsel, Loomis respectfully contends that the Board lacks the necessary quorum to rule on this matter at this time because the three most recent “recess appointments” to the Board were not properly appointed.

on multiple occasions and has, instead, wisely upheld the same reasoning and conclusions adopted in *Wells Fargo*. See, e.g., *Wells Fargo*, 270 NLRB at 787-90; *Temple Security, Inc.*, 328 NLRB 663, 665 (1999), *reversed by Temple Security*, 230 F.3d 909 (7th Cir. 2000); *Northwest Protective Service, Inc.*, 342 NLRB 1201, 1203 (2004). As explained in the Company's answering brief to the Acting General Counsel's exceptions, nothing has changed since the Board first decided *Wells Fargo* to indicate that *Wells Fargo* and its progeny were wrongly decided or otherwise demand that the Board reverse its position after three decades.

The Board should reject the Charging Parties' efforts to have the Board adopt a position that it has repeatedly rejected, which would effectively re-write Section 9(b)(3). For the foregoing reasons and the reasons cited in the Company's answering brief to the Acting General Counsel's exceptions, Loomis respectfully requests that the Board overrule the Charging Parties' Exceptions and adopt Administrative Law Judge Jay R. Pollock's decision to dismiss cases 32-CA-25316, 32-CA-25708, 32-CA-25709, and 32-CA-25727 in their entirety.

Dated: February 22, 2012

LITTLER MENDELSON  
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**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 650 California Street, 20th Floor, San Francisco, California 94108.2693. On **February 22, 2012**, I served the within document(s):

- **RESPONDENT LOOMIS ARMORED US, INC.’S ANSWERING BRIEF TO CHARGING PARTIES TEAMSTERS LOCALS 150, 315, 439, AND 853’S EXCEPTIONS TO THE PROPOSED DECISION OF THE ADMINISTRATIVE LAW JUDGE**

<input type="checkbox"/>	<b>By United States mail.</b> I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses indicated below and ( <i>specify one</i> ):
	<input type="checkbox"/> deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
	<input type="checkbox"/> placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this firm’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
<input type="checkbox"/>	<b>By fax transmission.</b> As a courtesy, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
<input checked="" type="checkbox"/>	<b>By e-mail or electronic transmission to Andrew H. Baker, Esq.; Fern M. Steiner, Esq.;</b> I caused the documents to be sent to the person(s) at the e-mail address(es) at <u>lester.heltzer@nlrb.gov</u> , <u>gabriela.alvaro@nlrb.gov</u> , <u>abaker@beesontayer.com</u> ; <u>fsteiner@tosdalsmith.com</u> and <u>alively@wkpvc.com</u> . I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

**To the following:**

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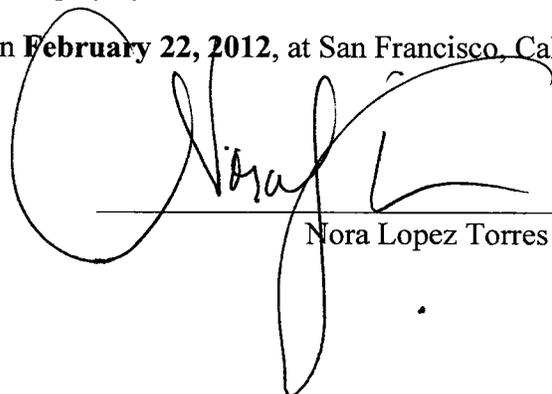
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **February 22, 2012**, at San Francisco, California.



Nora Lopez Torres