

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

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47 OLD COUNTRY, INC. d/b/a BABI I;	)	
JILLY SN; BABI NAIL USA II CORP.	)	
d/b/a BABI II,	)	
	)	
Respondent	)	
and	)	Case No. 29-CA-30247
	)	
	)	
CHINESE STAFF WORKERS' ASSOCIATION,	)	
	)	
Charging Party	)	
	)	

**COUNSEL FOR THE ACTING GENERAL COUNSEL'S  
MOTION TO STRIKE RESPONDENT'S POST-TRIAL EXHIBIT**

Counsel for the Acting General Counsel submits this motion in response to the Respondent's Exceptions to the Administrative Law Judge's Recommended Decision and Order.

Counsel for the Acting General Counsel respectfully submits that the Administrative Law Judge's Recommended Decision and Order are fully supported by the record and should be adopted. Respondent's exceptions raise no new issues or arguments for consideration.

Respondent has attached a number of exhibits to the memorandum submitted in support of its exceptions. Exhibit B, a letter, dated June 14, 2011, from Respondent's attorney to Charging Party's attorney, is not part of the underlying record in this case. Respondent attempts to circumvent the Board's rules by, in effect, seeking to reopen the record to include this letter without requesting permission to do so. Respondent makes

no showing, and indeed could not show, that this evidence, its attorney's own letter, was newly discovered or previously unavailable. As such, the record should not be reopened to allow Exhibit B into the record. See Farmers Grain Elevator, 226 NLRB 564, 564 ftnt. 2 (1976) (denying a motion to reopen the record absent evidence that was newly discovered and previously unavailable); Wisconsin Rubber Products Co., Inc., 160 NLRB 166, 167 ftnt. 1 (1966) (denying the addition of post-trial evidence that was not newly discovered and previously unavailable).

Accordingly, Counsel for Acting General Counsel hereby moves to strike Respondent's Exhibit B to its Memorandum in Support of Respondent's Exceptions to the Administrative Law Judge's Recommended Decision and Order.

Dated at Brooklyn, New York, on this 25th day of April, 2012.

Respectfully Submitted,

/s/ Rachel Mead Zweighaft

Rachel Mead Zweighaft  
National Labor Relations Board, Region 29  
2 Metrotech Center  
Brooklyn, NY 11201

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

**47 OLD COUNTRY, INC. d/b/a BABI I;  
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d/b/a BABI II,**

**Respondent**

**Case No. 29-CA-30247**

**and**

**CHINESE STAFF & WORKERS'  
ASSOCIATION,**

**Charging Party**

**AFFIDAVIT OF SERVICE OF COUNSEL FOR THE ACTING GENERAL COUNSEL'S  
MOTION TO STRIKE RESPONDENT'S POST-TRIAL EXHIBIT**

I, the undersigned employee of the National Labor Relations Board, state under oath that on April 25, 2012, I served the above-entitled document(s) by post-paid regular and certified mail upon the following persons, addressed to them at the following addresses:

**BY E-MAIL**

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April 25, 2012

\_\_\_\_\_  
Date

Rachel Mead Zweighaft  
Designated Agent of NLRB

\_\_\_\_\_  
Name  
/s/ Rachel Mead Zweighaft