

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

REDBURN TIRE COMPANY

and

**Cases 28-CA-023527
28-CA-061437**

**GENERAL TEAMSTERS (EXCLUDING
MAILERS), STATE OF ARIZONA, LOCAL
UNION NO. 104, AN AFFILIATE OF THE
INTERNATIONAL BROTHERHOOD
OF TEAMSTERS**

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

Pursuant to Section 102.46 of the Board's Rules and Regulations, Counsel for the Acting General Counsel (the General Counsel), files the following Exceptions to the Decision of Administrative Law Judge Gerald A. Wacknov (the ALJ) [JD(SF)-13-12], issued on April 23, 2012, in this matter:

1. The ALJ's failure to find and conclude that Redburn Tire Company (Respondent) violated Section 8(a)(1) of the National Labor Relations Act (the Act) on or about May 25, 2011 by threatening to implement its bargaining proposal (ALJD 12). In support of this exception, General Counsel relies upon the documentary evidence introduced at trial, the testimony of Jerry Ienuso, and other relevant record evidence. (GCX 54; GCX 55; Tr. 122, 124, 127-128)

2. The ALJ's failure to find and conclude that Respondent violated Section 8(a)(1) of the Act by threatening to permanently replace employees engaged in an unfair labor practice strike by posting a sign announcing the number of striker replacement applications received (ALJD 13). In support of this exception, General Counsel relies upon

the documentary evidence introduced at trial, the testimony of Donald Leffler, Ruben Martinez, Ruben Martinez, Jr., and other relevant record evidence. (GCX 10; GCX 11; GCX 60; GCX 61; Tr. 59-61, 276-277, 294)

3. The ALJ's failure to find and conclude that Respondent violated Section 8(a)(1) and (5) of the Act by declaring an impasse in negotiations, declaring its intent to implement its bargaining proposal, implementing its bargaining proposal, and increasing the amount charged to its Unit employees for health insurance premiums, without first bargaining with the Union to a good-faith impasse and at a time when no overall good faith impasse had been reached on bargaining for a successor agreement (ALJD 12). In support of this exception, General Counsel relies upon the documentary evidence introduced at trial, the testimony of Jerry Ienuso, Ruben Martinez, Donald Leffler, and other relevant record evidence. (GCX 54; GCX 55; GCX 56; GCX 57; GCX 58; GCX 75; GCX 76; Tr. 122, 124, 127-130, 256-257, 273)

4. The ALJ's failure to find and conclude that the strike by Respondent's Unit employees which began on or about June 21, 2011 was caused, and prolonged, by Respondent's unfair labor practices (ALJD 13). In support of this exception, General Counsel relies upon the documentary evidence introduced at trial, the testimony of Jerry Ienuso, Ruben Martinez, Ruben Martinez, Jr., and other relevant record evidence. (GCX 59; GCX 60; GCX 61; Tr. 133-134, 136-137, 147, 276-277, 284, 289-290, 294)

5. The ALJ's failure to find and conclude that Respondent violated Section 8(a)(1) and (3) of the Act by failing and refusing to reinstate its Unit employees engaged in an unfair labor practice strike upon their unconditional offer to return to work made on or about September 23, 2011. In support of this exception, General Counsel relies

upon the documentary evidence introduced at trial, the testimony of Donald Leffler, Jerry Ienuso, and other relevant record evidence. (GCX 12; GCX 14; GCX 15; GCX 16; GCX 17; GCX 72; Tr. 65-66, 145-147)

6. The ALJ's failure to find and conclude that a meeting between Respondent and the Union's President took place on May 9, 2011 (ALJD 12). In support of this exception, General Counsel relies upon the documentary evidence introduced at trial, the testimony of Jerry Ienuso and Donald Leffler, and other relevant record evidence. (GCX 52; Tr. 115, 313),

Dated at Phoenix, Arizona, this 21st day of May, 2012

Respectfully submitted

s/ Mary Gray Davidson
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CERTIFICATE OF SERVICE

I hereby certify that a copy of ACTING GENERAL COUNSEL'S EXCEPTIONS TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE, Cases 28-CA-023527, et. al., as served by E-Gov, E-Filing, E-Mail, and regular mail on this 21st day of May 2012, on the following:

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