



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
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June 4, 2012

Lester A. Heltzer, Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

**RE: Local 307, National Postal Mail Handlers
Union, A Division of the Laborers'
International Union of North America,
AFL-CIO
(United States Postal Service)
Case 07-CB-074661**

Dear Sir:

Enclosed please find a copy of "Counsel For The Acting General Counsel's
Opposition To Respondent's Request For Summary Judgment in the above-captioned
matter.

As indicated on the last page of this document, the parties of record were
electronically served.

Very truly yours,


Donna M. Nixon
Counsel for the Acting General Counsel

DMN/smm

Attachments

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

**LOCAL 307, NATIONAL POSTAL
MAIL HANDLERS UNION, A DIVISION
OF THE LABORERS' INTERNATIONAL
UNION OF NORTH AMERICA, AFL-CIO
(United States Postal Service)**

Respondent

and

Case 07-CB-074661

GLENN BERRIEN, An Individual

Charging Party

**COUNSEL FOR THE ACTING GENERAL COUNSEL'S
OPPOSITION TO RESPONDENT'S
REQUEST FOR SUMMARY JUDGMENT**

On May 29, 2012, Respondent filed a Request for Summary Judgment in the above entitled matter. Pursuant to Section 102.24(b) and 102.50 of the Board's Rules and Regulations (Rules), Counsel for the Acting General Counsel opposes this Request for the following reasons:

1. The charge in this proceeding was filed by the Charging Party on February 15, 2012. The Complaint and Notice of Hearing issued on May 11, 2012. Hearing in this matter is scheduled for June 25, 2012.
2. Respondent objects to the charge and Complaint in this matter on the basis that it fails to state a valid cause of action. Respondent states that the "gravamaen (sic) of the Charging Party argument and relied upon by the Board rests exclusively on the union affiliation of the four original Complainants" in four

separate related NLRB charges. The Region submits that this description of the charge and the complaint in this instant matter is inaccurate and that the Complaint does state a valid claim. Specifically, Respondent violated the Act when it filed internal union charges seeking to discipline the Charging Party after he concertedly assisted other employees in the filing and presentation of unfair labor practice charges against Respondent before the NLRB. Respondent's recitation of facts dealing with classifications and voluntary transfers, the subject of the four related charges, is irrelevant to the Complaint at hand.

3. Respondent states that the NLRB lacks jurisdiction in this matter. Respondent again incorrectly focuses on its determination that the four Charging Parties from the four related cases may have voluntarily transferred to other classifications outside the jurisdiction of Respondent, and thus it owes no duty of fair representation to them. However, these facts are irrelevant to the pending case. In its argument against jurisdiction, the Respondent cites two cases, *Laborers Northern California Council*, 275 NLRB 278 (1985), and *Local 577, Freight Drivers & Helpers*, 218 NLRB 1117 (1975), both of which in actuality are in support of the Complaint. In *Laborers Northern California Council*, the Board concluded that the union violated 8(b)(1)(A) by "scheduling internal union trials, trying, judging and admonishing the Charging Parties for filing unfair labor practice charges." The Board held that having a trial over internal union charges and threatening to assault an employee physically because of participating in Board processes was a violation of 8(b)(1)(A). In *Local 577, Freight Drivers &*

Helpers, the Board did not decide whether noticing a hearing regarding internal union charges alleging perjury in testimony against a union in Board proceedings was a violation. However, the trial on those internal charges and the threats of those charges were violations. No penalty was imposed, but the process itself was found to be a violation. Similarly, in the instant case, internal union charges were filed against the Charging Party, and the process leading to trial is pending before the Union because he assisted employees in filing NLRB charges against Respondent. More importantly, the Board has jurisdiction over the Employer and the Union in this matter by virtue of Section 1209 of the Postal Reorganization Act (PRA), 39 U.S.C. 1201 et seq.

For all the foregoing reasons, the Acting General Counsel respectfully submits that Respondent's Request for Summary Judgment be denied in its entirety and that the hearing in this matter be permitted to proceed as scheduled for June 25.

Dated in Detroit, Michigan, this 4th day of June 2012.

A handwritten signature in cursive script, reading "Donna M. Nixon". The signature is written in black ink and is positioned above a horizontal line.

Donna M. Nixon
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CERTIFICATE OF SERVICE

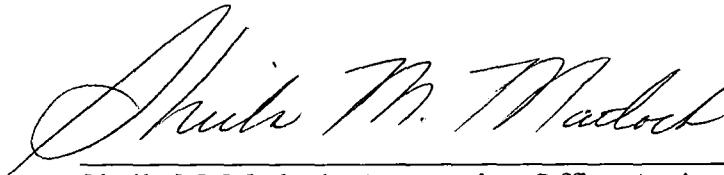
I certify that on the 4th day of June, 2012, I electronically served copies of
Counsel For The Acting General Counsel's Opposition to Respondent's Request
For Summary Judgment to the following parties of record:

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