



**UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
1099 14TH STREET NW
WASHINGTON DC 20570**

December 1, 2010

Re: Bloomfield Health Care Center v. NLRB
Second Circuit Case Nos. 08-3887-ag; 08-3888-ag
Board Cases 34-CA-11512 (34-RC-2172) (352 NLRB 252
(2008)) and 34-CA-12029 (352 NLRB No. 94 (2008))

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Dear Mr. Schneider and Mr. Zandy:

On July 23, 2010 and July 26, 2010, the Executive Secretary's Office inadvertently sent Mr. Zandy three letters stating that, in light of the Supreme Court's ruling in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635 (June 17, 2010), the Board had requested that the U.S. Court of Appeals for the Second Circuit remand the above cases for further consideration and action by the Board. In fact, the Board did not request a remand of these cases from the Second Circuit. That Court issued an Order granting the Board's applications for enforcement in these cases on April 14, 2010, and issued mandate on June 11, 2010. Thus, the Court's Order and mandate upholding those decisions became final prior to the Supreme Court's decision in *New Process Steel*. In addition, the time period for seeking Supreme Court review of the Second Circuit's decision expired on July 13, 2010, 10 days before the first letter sent by the Executive Secretary's Office.

Because the mandate issued before the *New Process* decision and Supreme Court review was not sought, the Court of Appeals' judgment and mandate are final and binding. See *Chicot County Drainage District v. Baxter State Bank*, 308 U.S. 371, 374-378 (1940); *Nemaizer v. Baker*, 793 F.2d 58, 65 (2nd Cir. 1986) (cited with approval in *United Student Aid Funds, Inc. v. Espinosa*, 130 S.Ct. 1367, 1377 [2010]); and *The Lorge School*, 355 NLRB No. 94, fn. 1 (August 19, 2010). Accordingly, the Board did not seek a remand of these cases and they are not pending before the Board.

Very truly yours,

Henry S. Breiteneicher
Associate Executive Secretary

cc: Parties