

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

THE BOEING COMPANY,
Respondent,

and

SOCIETY OF PROFESSIONAL ENGINEERING EMPLOYEES
IN AEROSPACE, IFPTE LOCAL 2001,

Charging Party

Case No. 19-CA-128941

Respondent's Answering Brief to Charging Party's
Cross-Exceptions to the Administrative Law Judge's Decision

I. INTRODUCTION

Pursuant to § 102.46 of the Rules and Regulations of the National Labor Relations Board, The Boeing Company ("Boeing") submits this Answering Brief to the Society of Professional Engineering Employees in Aerospace's ("SPEEA") Cross-Exceptions to Administrative Law Judge Dickie Montemayor's (the "ALJ") Decision in the above-styled case (the "Decision").

SPEEA alleged that Boeing violated §§ 8(a)(1) and 8(a)(5) of the National Labor Relations Act by failing to provide information in response to an information request seeking information about possible movement of work. The ALJ issued his Decision on the merits in July of this year, finding for SPEEA and ordering Boeing to respond. Boeing filed exceptions to the ALJ's Decision asserting that the ALJ's factual findings and conclusions of law are erroneous and that Boeing did not violate the Act.

Despite the ALJ finding in its favor, SPEEA filed cross-exceptions. Because SPEEA's exceptions concern trivial matters having no bearing on the substance of the ALJ's findings, SPEEA's cross-exceptions to the ALJ's Decision should be denied in their entirety.

II. ARGUMENT

First and foremost, for the reasons set forth in Boeing's Exceptions to the Administrative Law Judge's Decision, which are incorporated herein, the ALJ's findings and conclusions that Boeing violated §§ 8(a)(1) and (5) of the Act are erroneous and should be overturned. As such, SPEEA's exceptions are moot and should be denied.

Second, even if the ALJ Decision was correct, which Boeing denies, the Board's Casehandling Manual makes clear that filing exceptions or cross-exceptions to favorable ALJ decisions is disfavored. *See* NLRB Casehandling Manual § 10438.3. Yet, SPEEA filed two cross-exceptions that have no impact on the substance of the ALJ Decision. Accordingly, they should be denied.

Finally, SPEEA's first cross-exception to the ALJ's Decision incorrectly contends that the ALJ should have ordered Boeing to post a notice at all locations covered by the collective bargaining agreements. Given that the Board has signaled a preference for electronic postings, *see J & R Flooring, Inc.*, 365 NLRB No. 9 (2010), the ALJ's recommended order, if upheld despite Boeing's exceptions, of requiring email distribution to the bargaining units is sufficient to effectuate the remedial goals of a notice posting.¹

III. CONCLUSION

For all of the above reasons, SPEEA's cross-exceptions to the ALJ's Decision should be denied.

Respectfully submitted this 8th day of September, 2015.

s/Richard B. Hankins

Richard B. Hankins

Brennan W. Bolt

McGUIREWOODS LLP

1230 Peachtree Street, NE

Suite 2100

Atlanta, GA 30309

(404) 443-5700

Attorneys for The Boeing Company

¹ In that regard, the Union's assertion in its second cross-exception that the electronic distribution is ambiguous is without merit and must be denied.

CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of the **RESPONDENT'S ANSWERING BRIEF TO CHARGING PARTY'S CROSS-EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION** was served via electronic mail upon the following individuals:

Patrick Berzai
Counsel for the General Counsel
NLRB Region 19
2948 Jackson Federal Building
Seattle, WA 98174-1078
patrick.berzai@nlrgb.gov

Thomas B. Buescher
M. Jeanette Fedele
BUESCHER, KELMAN & PERERA, PC
600 Grant St. STE 450
Denver, CO 80203-3525
tbuescher@laborlawdenver.com
jfedele@laborlawdenver.com

This 8th day of September, 2015.

McGUIREWOODS LLP
1230 Peachtree Street, NE
Suite 2100
Atlanta, GA 30309
(404) 443-5700

s/Richard B. Hankins
Richard B. Hankins

Attorney for The Boeing Company