

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

**MATRIX EQUITIES, INC.**

**Respondent**

**and**

**Case 29-CA-168345**

**BRIAN BURNS, an Individual**

**Charging Party**

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

Pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board, Counsel for the General Counsel files the following exceptions to the Decision of Administrative Law Judge Raymond P. Green, which issued on July 12, 2016:

<u>Exception Number</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
1	1	45-46	The ALJ incorrectly finds that Respondent had a two-person human resources department.
2	3	40	The ALJ incorrectly stated that Burns sent his letter of employment concerns to his supervisor on August 24, 2016, and not on August 25 as indisputably established in the record.
3	3 4	49-50 1	The ALJ inappropriately speculates that the "only reason" Burns wrote a letter to his supervisor was "to see if he could retain his job by threatening legal actions against the company."
4	4	1-2	The ALJ inappropriately speculates that Burns was not interested in furthering the interests of other employees.

5	6	31-35	The ALJ inappropriately speculates with regard to Burns' motive.
6	6	38-39 44-47	The ALJ incorrectly finds, without basis in law or fact, that Respondent intended Burns to work in a managerial capacity, even though no such position was advanced by Respondent.
7	6	44	The ALJ incorrectly finds that the parties intended Burns would be responsible for formulating policy.
8	6 7	49-51 1	The ALJ finds, without basis in law or fact, that Burns' position was aligned with management and "[had] the job of advising his employer as to how to comply with the law."
9	6	22-27	The ALJ misstates the facts and holding of <i>Paraxel International LLC</i> , 356 NLRB 516 (2001) by claiming the employer in the case discharged an employee for both past and potential future protected activities, when, actually, the employer discharged the employee solely to prevent future protected activities.
10	7	1-4	The ALJ finds, without basis in law or fact, that it was Burns' function to "devise, in consultation with his superiors, remedies to redress situations where potential liabilities may arise."
11	7	4-6	The ALJ incorrectly opines that an employee in Burns' position was disqualified from initiating legal actions against his own company.
12	7	8-10	The ALJ incorrectly finds that Burns was a managerial employee and not protected under the Act.
13	7	10-13	The ALJ misapplies <i>Bell Aerospace Co.</i> , 416 U.S. 267 (1974) to make the incorrect determination that Burns was a managerial employee.
14	7	8-13	The ALJ incorrectly fails to consider or find that Burns was a confidential employee protected by the Act.
15	7	15-16	The ALJ inappropriately recommends dismissal of the complaint.

Counsel for the General Counsel respectfully submits these Exceptions and an accompanying Brief in Support of Exceptions.

Dated at Brooklyn, New York, this 9th day of August, 2016



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