



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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August 15, 2016

VIA E-FILE

Gary Shinnars, Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington, D.C. 20570-0001

Re: Briad Wenco, L.L.C. d/b/a Wendy's
Restaurant, Case 29-CA-165942

Dear Executive Secretary Shinnars:

Please accept this letter in lieu of a formal brief in answer to Briad Wenco, LLC d/b/a Wendy's Restaurant's (Respondent) Exceptions to Administrative Law Judge Joel P. Biblowitz's July 6, 2016 Decision (Decision) and Respondent's Brief in Support of Exceptions. General Counsel has chosen to respond in this manner because a more formal reply to Respondent's Exceptions and supporting brief is not warranted.

Respondent's Brief in Support of its Exceptions revisits the arguments made in its Post-Hearing Brief, including that the arbitration agreements (the Agreements) at issue are lawful under the Federal Arbitration Act (FAA), that the Agreements are lawful under U.S. Circuit Court and Supreme Court precedent, and that the Agreements do not restrict employees from filing charges at the National Labor Relations Board (the Board).

For the reasons articulated by Judge Biblowitz in his Decision and the arguments General Counsel raised at the hearing and in its post-hearing brief, General Counsel respectfully submits that Respondent's exceptions be rejected and the Administrative Law Judge's Decision be affirmed. The Judge's Decision was correct in light of *D. R. Horton, Inc.*, 357 NLRB 2277 (2012), *Murphy Oil USA, Inc.*, 361 NLRB No. 72 (2014), and *Cellular Sales of Missouri, LLC*, 362 NLRB No. 27 (2015), which have rejected Respondent's arguments regarding the FAA and its arguments regarding various Circuit Court and Supreme Court decisions. Finally, the Judge's Decision regarding the Agreements restricting employees from filing charges at the Board was correct in light of *Lutheran-Heritage Village-Livonia*. 343 NLRB 646 (2004). Please see Judge

Biblowitz's Decision for a full analysis of these cases. Given the above, it is respectfully urged that the Board affirm Judge Biblowitz's Decision in the instant case.

Sincerely,

/s/ Annie L. Hsu

Counsel for the General Counsel