



United States Government

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

September 20, 2016

Gino J. Agnello, Esquire
Clerk, United States Court of Appeals
for the Seventh Circuit
219 South Dearborn Street, 27th Floor
Chicago, IL 60604

Re: *FedEx Freight, Inc. v. NLRB*, Case Nos. 16-1360, 16-1395
Oral argument held September 16, 2016

Dear Mr. Agnello:

At oral argument, the Court asked Board counsel whether, apart from the five circuits that have spoken to the Board's *Specialty Healthcare* standard, the same issue was pending in any other circuit. At oral argument, Board counsel informed the Court that the same issue is under review in *Constellation Brands v. NLRB*, Case Nos. 15-2442, 15-4106, in the Second Circuit. Board counsel wishes to add that the issue is also before the D.C. Circuit in *Rhino Northwest, LLC v. NLRB*, Case Nos. 16-1089, 16-1115.

Very truly yours,

/s/ Milakshmi Rajapakse
Milakshmi Rajapakse
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cc: All counsel (via CM/ECF)



CERTIFICATE OF SERVICE

Certificate of Service When All Case Participants Are CM/ECF Participants

I hereby certify that on 09/20/2016, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Linda Dreeben



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I further certify that some of the participants in the case are not CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third-party commercial carrier for delivery within 3 calendar days, to the following non-CM/ECF participants:

counsel / party:

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s/ _____