



United States Government

**NATIONAL LABOR RELATIONS BOARD**

**OFFICE OF THE GENERAL COUNSEL**

Washington, D.C. 20570

VIA CM/ECF

September 20, 2016

Mark J. Langer, Clerk  
United States Court of Appeals  
for the District of Columbia Circuit  
E. Barrett Prettyman U.S. Courthouse  
333 Constitution Avenue, NW, Room 5423  
Washington, DC 20001

Re: *NCR Corporation v. NLRB*,  
Case Nos. 15-1230, 15-1248  
(Oral arg. Sept. 19, 2016, before  
Judge Rogers, Judge Tatel, and  
Senior Judge Edwards)

Dear Mr. Langer:

At the September 19, 2016 oral argument in this case (before Judge Rogers, Judge Tatel, and Senior Judge Edwards), Board counsel was asked whether the Board had allowed sufficient time between its mailing of the ballots and the date by which employees were told to return them. The Company raised no objection before the Board as to the sufficiency of this amount of time. (A 28, 38-51, 330-33, 339-50.) With no objection being raised before the Board on this issue, the Court is without jurisdiction to consider it in the first instance. 29 U.S.C. § 160(e) (“No objection that has not been urged before the Board . . . shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.”); see *Exxel/Atmos, Inc. v. NLRB*, 147 F.3d 972, 978 (D.C. Cir. 1998).

Sincerely,

s/Kyle deCant  
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Kyle deCant  
Deputy Associate General Counsel  
National Labor Relations Board  
1015 Half Street SE  
Washington, DC 20570

cc: all counsel (via CM/ECF)