UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PAPA'S PENN INC. D/B/A PAPA JOHN'S

and **Case 29-CA-169864**

FAST FOOD WORKERS COMMITTEE

EXCEPTIONS TO 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 August 18, 2016:

Exception Number	Page	Line	Exception
1	2	6-15	The ALJ mischaracterized the evidence concerning the Fast Food Workers Committee (FFWC).
2	2 3	17-19 38-41	The ALJ erred in using an incorrect standard for determining a labor organization under the Act and finding the FFWC was not a labor organization.
3	2	21-24	The ALJ mischaracterized the evidence concerning the FFWC's engagement with employees.
4	2 3	42-43 46-48	The ALJ incorrectly found that Scott was not more involved in the dispute concerning pay checks on January 8, 2016.
5	3	42	The ALJ incorrectly concluded that Scott was not involved in union activity.
6	3	45	The ALJ erred in opining that the only plausible concerted activity in the case was concerning the minimum wage law.
7	4	1-2	The ALJ erred in finding that the incident involving the soda was not union activity and failing to analyze whether it was protected concerted activity.
8	4	10-11	The ALJ erred in finding that the sole reason for Scott's discharge was the argument with Otero, and failing to address whether the argument itself was protected.
9	4	21 n.2	The ALJ erred by failing to address the Complaint allegation that Respondent refused to re-hire Scott because of anti-union animus, even though footnote 2 of the ALJ's Decision sets forth an unlawful motivation for the refusal to rehire Scott based on the protected demonstration led by Delancey.

10	4	21	The ALJ erred in making an inadequate and contradictory credibility determination.
11	4	10-11	The ALJ erred by failing to analyze the events of February 12, 2016 according to the Board's standard in *Atlantic Steel Co.*, 245 NLRB 814 (1979).
12	4	21-24	The ALJ erred by failing to apply the *Wright Line* analysis to the Employer's motivation for terminating Scott.
13	4	26	The ALJ inappropriately recommends dismissal of the complaint.
14			The ALJ erred in failing to grant the remedy sought by the Counsel for the General Counsel, including consequential damages.

Counsel for the General Counsel respectfully submits herewith a Brief in Support of these Exceptions.

DATED AT Brooklyn, New York, this 13th day of October, 2016.

/s/ Kimberly Walters

Kimberly Walters
Counsel for the General Counsel
National Labor Relations Board, Region 29
Two MetroTech Center, Suite 5100
Brooklyn, New York 11201
Kimberly.walters@nlrb.gov