

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 01

READYJET, INC.

and

32 BJ SEIU NEW ENGLAND 615

Cases 01-CA-132326
01-CA-140878
01-CA-155263
01-CA-159503
01-CA-159509

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

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INTRODUCTION

Counsel for the General Counsel's cross-exceptions take issue with a limited number of items in the Administrative Law Judge's Decision. Counsel for the General Counsel's specific Exceptions are set forth and discussed below.¹

EXCEPTIONS

Cross-Exception Number 1 – The Administrative Law Judge erred by failing to include in his Order a cease and desist statement regarding the first unlawful act articulated in Conclusions of Law, item 5, that Respondent violated Section 8(a)(1) of the Act by telling Claudio Batista, Francisco Luna, Gerfi Mendez and Julio Medina that their discipline was for their participation in the strike.

In his decision, the Judge articulated two unlawful acts in Conclusions of Law, item 5, as follows:

The Respondent violated Section 8(a)(1) of the Act by telling Claudio Batista, Francisco Luna, Gerfi Mendez, and Julio Medina that their discipline was for their participation in the strike and threatening them with further discipline for their activity in support of the Union. (ALJD 26:32-34).

Item 1(d) of the Order provides that Respondent shall cease and desist from,

Threatening employees with loss of employment and benefits in order to dissuade employees from supporting the 32 BJ SEIU New England 615 or any other union. (ALJD 28:26-27).

Item 1(d) contains no reference to the first unlawful act articulated in item 5 of the Conclusions of Law, that the Respondent violated Section 8(a)(1) of the Act by telling Claudio Batista, Francisco Luna, Gerfi Mendez and Julio Medina that their discipline was for their participation in the strike.

The Judge's apparently inadvertent failure to include in his Order that Respondent cease and desist from telling employees that any discipline is for their participation in union activities is error that the Board should correct.

¹ Counsel for the General Counsel originally attempted to address these matters in a Motion to Correct Aspects of the Administrative Law Judge's Decision. Upon Respondent's filing an opposition thereto, Cross-Exceptions appeared to be the better vehicle to present these matters to the Board.

Cross-Exception Number 2- The Administrative Law Judge failed to order a public reading of the notice, despite finding that a public reading of the remedial notice is appropriate

The Judge expressly found that “a public reading of the remedial notice is appropriate here,” noting that “Respondent’s violations of the Act are sufficiently serious and widespread such that a reading of the notice is necessary to dissipate as much as possible any lingering effects of the Respondent’s unfair labor practices.” He continued to specify that the notice “be read publicly by the Respondent’s representative or by a Board agent in English and Spanish, in the presence of the Respondent’s supervisors and agents, to include Sarah Colon, Rafael Felipe, Luis Oliva, Giovannie Martinez, Jency Dias and Jean Carlos Torres.” (ALJD 28: 4-10). The Judge’s failure to order a public reading in the manner described in his finding was clearly an oversight and should be corrected by the Board.

Cross-Exception Number 3- The Administrative Law Judge failed to include in his Order a date, time and location of the notice reading.

The Judge failed to include in his Order any directives regarding the date, time and location of the notice reading. In light of his finding that a public reading of the notice is warranted, this omission appears to be an oversight and should be corrected by the Board.

Cross-Exception Number 4- The Administrative Law Judge failed to list in the Decision the names of counsel for the General Counsel, Charging Party and Respondent.

The Judge inadvertently omitted the names of counsel for the General Counsel, Charging Party and Respondent in his decision. Attorney Laura H. Pawle appeared as Counsel for the General Counsel, Attorney Ingrid Nava appeared for the Charging Party, and Attorney John K. Baker appeared for the Respondent (T. 5). In order to preserve a complete record of the proceedings, the Board should correct this error.

CONCLUSION

Counsel for the General Counsel respectfully requests that the Judge's Decision be corrected as set forth above.

Dated: December 7, 2016

Respectfully submitted,

/s/ Laura H. Pawle

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CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2016, I served a copy of Counsel for the General Counsel's Cross Exceptions to the Administrative Law Judge, to be served by electronic mail on the following:

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