

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

C.W. WRIGHT CONSTRUCTION COMPANY,
LLC

Case No. 05-CA-180732

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION 70

**MOTION TO TRANSFER CASE TO THE BOARD
AND FOR DEFAULT JUDGMENT**

Pursuant to Section 102.24 and 102.50 of the National Labor Relations Board Rules and Regulations and Statement of Standard Procedures, Series 8, as amended, herein called the Rules, Barbara E. Duvall, counsel for the General Counsel, respectfully moves that the National Labor Relations Board, herein called the Board: (1) transfer this case and continue the proceedings before the Board; (2) deem the allegations set forth in the Complaint and Notice of Hearing (herein referred to as the Complaint) issued November 30, 2016, as Amended on March 9, 2017 through an Order Partially Withdrawing the Complaint (herein referred to as the Amendment), as admitted to be true without taking evidence supporting the allegations in the Complaint and Amendment; and (3) grant Default Judgment and issue a Decision and Order herein on the basis of the following:

1. On July 21, 2016, the International Brotherhood of Electrical Workers, Local Union 70, herein referred to as the Charging Party, filed with Region 5 a charge in Case 5-CA-180732 against C.W. Wright Construction Company, LLC, herein referred to as Respondent, alleging violations of Section 8(a)(1) and (3) of the National Labor Relations Act, herein referred to as

the Act. The charge was duly served on Respondent by mail on July 26, 2016. Copies of the charge and the Regional Director's letter of the transmittal of the charge, are attached as **Exhibits 1 and 2**, respectively.

2. On November 3, 2016, the Charging Party filed a first amended charge in Case 5-CA-180732 against Respondent, alleging violations of Section 8(a)(1) and (3) of the Act. The charge was duly served on Respondent by mail on November 7, 2016. Copies of the charge and the Regional Director's letter of transmittal of the charge, are attached as **Exhibits 3 and 4**, respectively.

3. On November 30, 2016, the Regional Director issued, by certified United States mail, return receipt requested, a Complaint alleging that Respondent violated Section 8(a)(1) and (3) of the Act by:

- 1) Soliciting employee grievances and implying a promise to remedy those grievances in order to discourage employees from joining or supporting a union;
- 2) Engaging in surveillance of employees' union activities;
- 3) Creating the impression of surveillance of employees' union activities;
- 4) Promising and granting benefits to employees in order to discourage them from joining or supporting a union, including pay raises, improved retirement benefits, and per diem;
- 5) Threatening employees with unspecified reprisal for talking to each other about union and about their terms and conditions of employment; and
- 6) Telling employees that selecting a union would be futile.

Copies of the Complaint and affidavit of service, are attached as **Exhibits 5 and 6**, respectively.

4. On December 14, 2016, Respondent filed its Answer to the Complaint.

5. On March 9, 2017, the Acting Regional Director issued, by certified United States mail, return receipt requested, an Order, withdrawing paragraphs 8(b) and 12 of the Complaint.¹

Copies of the Order and the affidavit of service are attached as **Exhibits 7 and 8**, respectively.

¹ The Order also approves the Charging Party's request to partially withdraw corresponding allegations in paragraph 4 of the first amended charge.

6. The Complaint states, in pertinent part, that, pursuant to Sections 102.20 and 102.21 of the Board's Rules, Respondent shall file an Answer to said Complaint in the Baltimore Regional Office by close of business on December 14, 2016, and that, absent such action, all of the allegations in the Complaint shall be deemed to be true and shall be so found by the Board.

7. On March 9, 2017, Respondent filed a Notice of Withdrawal of its Answer to the Complaint. A copy of the Notice of Withdrawal of the Answer to Complaint is attached as **Exhibit 9**. To date, Respondent has not filed an Answer to the Complaint within the time period required in accordance with Section 102.20 of the Board's Rules and Regulations.

WHEREFORE, counsel for the General Counsel respectfully requests, in accordance with Sections 102.24 and 102.50 of the Board's Rules and Regulations, that the Board deem all matters alleged in the Complaint, as amended,² to be true, and that they be so found, and that a Decision and Order be issued containing findings of fact, conclusions of law, and an appropriate remedy for the violations herein.

Respectfully submitted,

March 10, 2017
Date

/s/ Barbara E. Duvall
Barbara E. Duvall, Esq.
NLRB – Region 5
100 S. Charles Street, Tower II
Suite 600
Baltimore, Maryland 21201
Counsel for the General Counsel

² Counsel for the General Counsel does not seek a Decision and Order as to paragraphs 8(b) and 12 of the Complaint and Notice of Hearing.

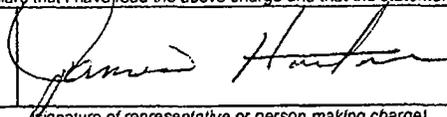
INDEX OF ATTACHMENTS

- Exhibit 1 Charge in Case 5-CA-180732, filed July 21, 2016
- Exhibit 2 Regional Director's letter of transmittal of the Charge in Case 5-CA-180732, dated July 26, 2016
- Exhibit 3 Amended Charge in Case 5-CA-180732, filed November 3, 2016
- Exhibit 4 Regional Director's letter of transmittal of the Amended Charge in Case 5-CA-180732, dated November 7, 2016
- Exhibit 5 Complaint and Notice of Hearing, dated November 30, 2016
- Exhibit 6 Affidavit of Service of Complaint and Notice of Hearing, dated November 30, 2016
- Exhibit 7 Order Partially Withdrawing the Complaint, dated March 9, 2017
- Exhibit 8 Affidavit of Service of Order Partially Withdrawing the Complaint, dated March 9, 2017
- Exhibit 9 Notice of Withdrawal of Answer and Defenses to Complaint and Notice of Hearing, dated March 9, 2017

EXHIBIT 1

FORM NLRB-501

FORM EXEMPT UNDER 44 U.S.C. 3512

(11-10) UNITED STATES OF AMERICA		DO NOT WRITE IN THIS SPACE	
NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER		Case 5-CA-180732	Date Filed 7/21/16
INSTRUCTIONS:			
File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.			
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer C. W. Wright Construction Company		b. Tel. No. (804) 768-1054	
		c. Cell No.	
d. Address (street, city, state, ZIP code) 11500 Ironbridge Road P.O. Box 3810 Chester, VA 23831		e. Employer Representative Lee Robbins, President	
		f. Fax No.	
		g. e-Mail info@cwwright.com	
		h. Number of workers employed 40	
i. Type of Establishment (factory, mine, wholesaler, etc.) Utilities		j. Identify principal product or service electrical linework	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1), and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)			
<p>Within the previous six months, the Employer has interfered with, restrained and coerced its employees in the exercise of rights protected by Section 7 of the Act by the following conduct:</p> <ol style="list-style-type: none"> 1) promising employees that their working conditions would improve if they refrained from joining or supporting a union; 2) soliciting employee grievances and implying a promise to remedy those grievances in order to discourage employees from joining or supporting a union; 3) engaging in surveillance and/or creating the impression of surveillance of employees' union activities; 4) interrogating employees about their union activities; 5) promising and granting pay raises, improved retirement benefits, increased per diem rates, and other benefits to employees in order to discourage them from joining or supporting a union; 6) transferring employees to new worksites because of their union activity and other protected concerted activities, including bringing concerns to management about employees' terms and conditions of employment, and to discourage such activity; 7) threatening employees with unspecified reprisal for talking to each other about the union and about their terms and conditions of employment; 8) disciplining employees in retaliation for their union activity and to discourage such activity; and 9) administering drug tests to employees on a discriminatory basis, in retaliation for their union activity, and to discourage such activity. 			
3. Full name of party filing charge (if labor organization, give full name, including local name and number) International Brotherhood of Electrical Workers, Local Union 70			
4a. Address (street and number, city, state, and ZIP code) 3606 Stewart Road Forestville, MD 21061		4b. Tel No. (301) 516-7730	
		4c. Cell No. (301) 787-7461	
		4d. Fax No. (301) 516-7461	
		4e. e-Mail Lu70ibew@verizon.net	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Brotherhood of Electrical Workers			
6. DECLARATION		Tel No. (301) 516-7730	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Cell No. (301) 787-7461	
By 	James Micheal Horton, Representative/ Organizer	Fax No. (301) 516-7461	
(signature of representative or person making charge)	(Print/type name and title or office, if any)		
3606 Stewart Road Forestville, MD 21061	7-20-2016	e-Mail Lu70ibew@verizon.net	
(Address)	(date)		

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. §151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

2016 JUL 21 PM 12:14

EXHIBIT 2



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, STE 600
BALTIMORE, MD 21201

Agency Website: www.nlr.gov
Telephone: (410)962-2822
Fax: (410)962-2198



Download
NLRB
Mobile App

July 26, 2016

John S. Bolesta, Esq.
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
1909 K Street, N.W., Suite 1000
Washington, DC 20006-1134

Greg Guidry, Esq.
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
603 Silverstone Road, Suite 102A
Lafayette, LA 70508-6069

Re: C.W. Wright Construction Company
Case 05-CA-180732

Dear Mr. Bolesta and Mr. Guidry:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Andrew Andela whose telephone number is (410) 962-5615. If this Board agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as

soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly. **Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate.** Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Charles L. Posner". The signature is written in a cursive style with a large, looped initial "C".

Charles L. Posner
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc: Mr. Lee Robbins, President
C.W. Wright Construction Company
11500 Ironbridge Road
Chester, VA 23831

Revised 3/21/2011

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

05-CA-180732

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

 CORPORATION LLC LLP PARTNERSHIP SOLE PROPRIETORSHIP OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7. A. PRINCIPAL LOCATION:

B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): CALENDAR YR 12 MONTHS or FISCAL YR (FY dates)

YES NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$ _____C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$ _____F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____H. **Gross Revenues** from all sales or performance of services (Check the largest amount):
 \$100,000 \$250,000 \$500,000 \$1,000,000 or more If less than \$100,000, indicate amount.I. **Did you begin operations within the last 12 months?** If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

 YES NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

C.W. WRIGHT CONSTRUCTION COMPANY

Charged Party

and

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 70**

Charging Party

Case 05-CA-180732

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on July 26, 2016, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Lee Robbins, President
C.W. Wright Construction Company
11500 Ironbridge Road
Chester, VA 23831

John S. Bolesta, Esq.
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
1909 K Street, N.W., Suite 1000
Washington, DC 20006-1134

Greg Guidry, Esq.
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
603 Silverstone Road, Suite 102A
Lafayette, LA 70508-6069

July 26, 2016

Date

Stephanie Cook, Designated Agent of
NLRB

Name

/s/ Stephanie Cook

Signature

EXHIBIT 3

UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD		DO NOT WRITE IN THIS SPACE	
FIRST AMENDED CHARGE AGAINST EMPLOYER		Case 05-CA-180732	Date Filed 11/3/16
INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.			
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer C.W. Wright Construction Company, LLC		b. Tel. No. (804) 768-1054	c. Cell No.
d. Address (street, city, state, ZIP code) 11500 Ironbridge Road P.O. Box 3810 Chester, VA 23831		e. Employer Representative Lee Robbins, President	f. Fax No.
		g. e-Mail info@cwwright.com	h. Number of workers employed 40
i. Type of Establishment (factory, mine, wholesaler, etc.) Utilities		j. Identify principal product or service electrical linework	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1), and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)			
<p>Within the previous six months, the Employer has interfered with, restrained and coerced its employees in the exercise of rights protected by Section 7 of the Act by the following conduct:</p> <ol style="list-style-type: none"> 1) soliciting employee grievances and implying a promise to remedy those grievances in order to discourage employees from joining or supporting a union; 2) engaging in surveillance of employees' union activities; 3) creating the impression of surveillance of employees' union activities; 4) promising and granting benefits to employees in order to discourage them from joining or supporting a union, including pay raises, improved retirement benefits, and per diem; 5) threatening employees with unspecified reprisal for talking to each other about the union and about their terms and conditions of employment; and 6) telling employees that selecting a union would be futile. 			
3. Full name of party filing charge (if labor organization, give full name, including local name and number) International Brotherhood of Electrical Workers, Local Union 70			
4a. Address (street and number, city, state, and ZIP code) 3606 Stewart Road Forestville, MD 21061		4b. Tel No. (301) 516-7730	4c. Cell No. (301) 787-7461
		4d. Fax No. (301) 516-7461	4e. e-Mail Lu70ibew@verizon.net
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filed in when charge is filed by a labor organization) International Brotherhood of Electrical Workers			
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel No. (302) 495-7013	
By 	Rick Fridell, Business Representative	Cell No. (302) 864-8481	
(signature of representative or person making charge)	(Print/Type name and title or office, if any)	Fax No. (302) 495-7013	
3606 Stewart Road Forestville, MD 21061	11/3/2016	e-Mail rickibew126@aol.com	
(Address)	(date)		

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. §151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

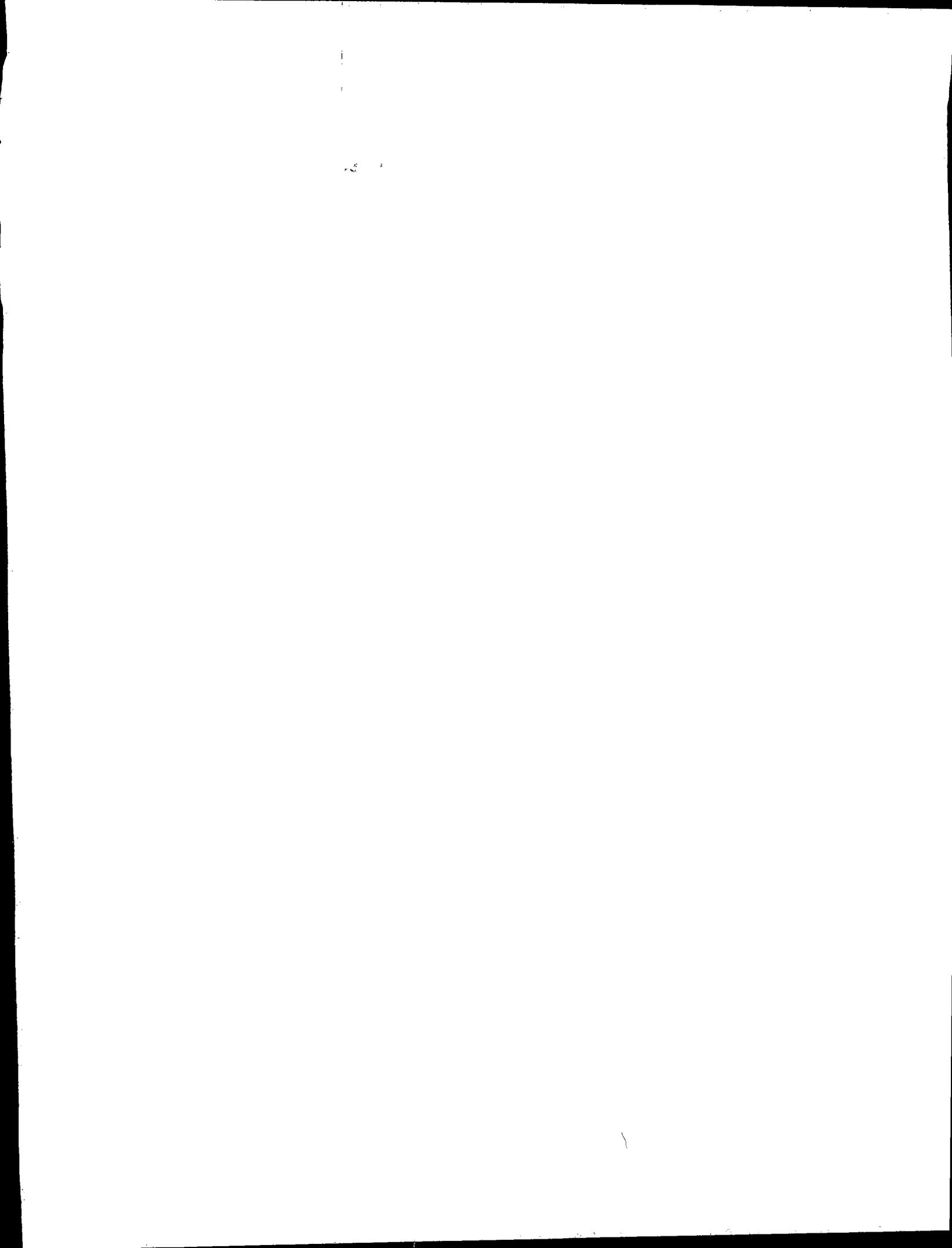


EXHIBIT 4



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, SUITE 600
BALTIMORE, MD 21201

Agency Website: www.nlr.gov
Telephone: (410) 962-2822
Fax: (410) 962-2198



Download
NLRB
Mobile App

November 7, 2016

Mr. Lee Robbins, President
C.W. Wright Construction Company, LLC
11500 Ironbridge Road
Chester, VA 23831

Re: C.W. Wright Construction Company, LLC
Case 05-CA-180732

Dear Mr. Robbins:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney Andrew Andela whose telephone number is (410) 962-5615. If the agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

Charles L. Posner
Regional Director

Enclosure: Copy of First Amended Charge

cc: See Page Two

cc: John S. Bolesta, Esq.
Ogletree, Deakins, Nash,
Smoak & Stewart, PC
1909 K Street, N.W., Suite 1000
Washington, DC 20006

Greg Guidry, Esq.
Ogletree, Deakins, Nash,
Smoak & Stewart, PC
603 Silverstone Road
Suite 102A
Lafayette, LA 70508-6069

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**C.W. WRIGHT CONSTRUCTION COMPANY,
LLC**

Charged Party

and

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 70**

Charging Party

Case 05-CA-180732

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on November 7, 2016, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Mr. Lee Robbins, President
C.W. Wright Construction Company, LLC
11500 Ironbridge Road
Chester, VA 23831

John S. Bolesta, Esq.
Ogletree, Deakins, Nash,
Smoak & Stewart, PC
1909 K Street, N.W., Suite 1000
Washington, DC 20006

Greg Guidry, Esq.
Ogletree, Deakins, Nash,
Smoak & Stewart, PC
603 Silverstone Road
Suite 102A
Lafayette, LA 70508-6069

November 7, 2016

Jacqueline Denegal, Designated Agent of
NLRB

Date

Name

/s/ Jacqueline Denegal

Signature

EXHIBIT 5

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

C.W. WRIGHT CONSTRUCTION COMPANY, LLC

and

Case 5-CA-180732

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION 70

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by International Brotherhood of Electrical Workers, Local Union 70 (the Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that C.W. Wright Construction Company, LLC (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Union on July 21, 2016, and a copy was served on Respondent by U.S. mail on July 26, 2016.

(b) The first amended charge in this proceeding was filed by the Union on November 3, 2016, and a copy was served on Respondent by U.S. mail on November 7, 2016.

2. (a) At all material times, Respondent has been a limited liability company with an office and place of business in Forestville, Maryland (the Forestville facility), and has been an electrical contractor providing services to the utility industry.

(b) In conducting its operations during the 12-month period ending October 31, 2016, Respondent performed services valued in excess of \$50,000 in states other than the State of Maryland.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

- | | | | |
|-----|-------------|---|---|
| (a) | R.J. Akers | - | General Foreman/General Manager |
| (b) | Mike Diaz | - | Vice-President of Operations/
Division Manager |
| (c) | Hank May | - | General Foreman |
| (d) | Lee Robbins | - | President |
| (e) | Larry Young | - | Division Manager |

6. Respondent, by Akers:

(a) about May 17, 2016, in an office at the Forestville facility, threatened its employees with unspecified reprisals should they engage in union activities and/or protected concerted activities;

(b) about May 25, 2016, in the parking lot at the Forestville facility, by telling employees that he would see them later that night, created an impression among its employees that their union activities were under surveillance by Respondent; and

(c) About May 25, 2016, near the Union's hall in Forestville, Maryland, engaged in surveillance of employees' union activities.

7. About May 2016, Respondent, by Young, at the Forestville facility, by telling employees that Respondent would never go union, informed its employees that it would be futile for them to select the Union as their bargaining representative.

8. About June 7, 2016, Respondent, by Robbins at a meeting at the Colony South hotel in Clinton, Maryland, promised its employees if they refrained from union organizational activity:

- (a) increased wages;
- (b) increased 401(k) matching contributions; and
- (c) expanded eligibility criteria for per diem benefits.

9. About July 2016, Respondent, by Diaz at the Forestville facility, by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from union organizational activity.

10. About June 2016, Respondent granted a wage increase to employees employed at Respondent's Northern Division facilities.

11. About June 2016, Respondent expanded its eligibility criteria for per diem payments for employees employed at Respondent's Northern Division facilities.

12. About July 2016, Respondent increased the maximum amount of its matching contributions to the 401(k) plans of employees employed at its Northern Division facilities.

13. By the conduct described above in paragraphs 6 through 9, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

14. By the conduct described above in paragraphs 10 through 12, Respondent has been discriminating in regard to the hire or tenure, or terms or conditions of employment, of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

15. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

As part of the remedy for the unfair labor practices alleged above in paragraphs 6 through 14, the General Counsel seeks an Order requiring that, at a meeting or meetings scheduled to ensure the widest possible attendance of its Northern Division employees, Respondent's representative read the notice to the employees on, work time, in the presence of a Board agent. Alternatively, the General Counsel seeks an order requiring that Respondent promptly have a Board agent read the notice to employees, during work time, in the presence of Respondent's supervisors and agents identified above in paragraph 5.

Additionally, the General Counsel seeks an Order requiring that Respondent will also copy and mail, at its own expense, a copy of the Notice to Employees to all current employees and former employees who were employed at any time, at any of its Northern Division facilities, on or after May 1, 2016.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before December 14, 2016, or postmarked on or before December 13, 2016.**

Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on

each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on March 13, 2017, at 10:00 a.m., at Hearing Room A, Suite 600, Bank of America Center – Tower II, 100 South Charles Street, Baltimore, Maryland, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Baltimore, Maryland this 30th day of November 2016.

(SEAL)

/s/ CHARLES L. POSNER

Charles L. Posner, Regional Director
National Labor Relations Board, Region 5
Bank of America Center - Tower II
100 South Charles Street, Suite 600
Baltimore, MD 21201

Attachments

EXHIBIT 6

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

C.W. WRIGHT CONSTRUCTION COMPANY, LLC

and

Case 5-CA-180732

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION 70

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing
(with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **November 30, 2016**, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

CERTIFIED MAIL NO.
7012 2210 0001 6440 5140

John S. Bolesta, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, PC
1909 K Street, N.W., Suite 1000
Washington, DC 20006-1134

Mr. Lee Robbins
C.W. Wright Construction
Company, LLC
11500 Ironbridge Road
Chester, VA 23831

Greg Guidry, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, PC
603 Silverstone Road, Suite 102A
Lafayette, LA 70508-6069

Mr. Rick Fridell
International Brotherhood of Electrical
Workers, Local 70
3606 Stewart Road
Forestville, MD 21061

November 30, 2016

Monica Graves
Designated Agent of NLRB

Date

Name

Monica Graves

Signature

EXHIBIT 7

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

C.W. WRIGHT CONSTRUCTION COMPANY,
LLC

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION 70

Case 5-CA-180732

ORDER

On November 30, 2016, the Regional Director for Region Five issued a Complaint and Notice of Hearing (“the Complaint”) in the above-captioned case, alleging, in part, that Respondent violated Section 8(a)(1) of the Act by promising its employees increased 401(k) matching contributions, as well as that Respondent violated Section 8(a)(1) and (3) of the Act by increasing the maximum amount of its matching contributions to the 401(k) plans of employees employed at Respondent’s Northern Division facilities. Upon the request of International Brotherhood of Electrical Workers, Local Union 70 (“Charging Party”), I am withdrawing the allegations in paragraphs 8(b) and 12 of the Complaint.

The Charging Party has also requested withdrawal of the corresponding allegations in paragraph 4 of the first amended charge, in which the Charging Party alleges, *inter alia*, that Respondent violated the Act by promising, and granting, improved retirement benefits to employees in order to discourage them from joining or supporting a union. I hereby approve the Charging Party’s request to withdraw this specific portion of its charge. All other allegations in the first amended charge remain and have not been withdrawn, including the remaining allegations in paragraph 4.

IT IS HEREBY ORDERED that paragraphs 8(b) and 12 of the Complaint and Notice of Hearing are withdrawn. In addition, the Charging Party's request to withdraw those corresponding allegations from the first amended charge is approved. This action does not affect the remaining allegations of the Complaint and the first amended charge which remain outstanding and will be further processed by this office.

Dated at Baltimore, Maryland this 9th day of March 2017.

(SEAL)

/s/ SEAN R. MARSHALL

Sean R. Marshall, Acting Regional Director
National Labor Relations Board, Region 5
Bank of America Center – Tower II
100 South Charles Street, Suite 600
Baltimore, Maryland 21201

EXHIBIT 8

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

C.W. WRIGHT CONSTRUCTION COMPANY,
LLC

and

Case 5-CA-180732

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION 70

AFFIDAVIT OF SERVICE OF: Order

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **March 9, 2017**, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

CERTIFIED MAIL NO.

7015 0640 0003 0684 7678

John S. Bolesta, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, PC
1909 K Street, N.W., Suite 1000
Washington, DC 20006-1134

Mr. Lee Robbins
C.W. Wright Construction
Company, LLC
11500 Ironbridge Road
Chester, VA 23831

CERTIFIED MAIL NO.

7015 0640 0003 0684 7685

Greg Guidry, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, PC
603 Silverstone Road, Suite 102A
Lafayette, LA 70508-6069

Mr. Rick Fridell
International Brotherhood of Electrical
Workers, Local 70
3606 Stewart Road
Forestville, MD 21061

March 9, 2017

Date

Monica Graves
Designated Agent of NLRB

Name

Monica Graves

Signature

EXHIBIT 9

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

C.W. WRIGHT CONSTRUCTION COMPANY, LLC,

and

Case 5-CA-180732

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION 70**

**NOTICE OF WITHDRAWAL OF ANSWER AND DEFENSES TO
COMPLAINT AND NOTICE OF HEARING**

Respondent C.W. Wright Construction Company, LLC (“Respondent” or “C.W. Wright”), by its undersigned counsel, pursuant to Sections 102.20-23 of the Rules and Regulations of the National Labor Relations Board and subject to the Regional Director’s March 9, 2017, withdrawal of the allegations in paragraphs 8(b) and 12 of the Complaint and approval of the Charging Party’s request to withdrawal the corresponding allegations in paragraph 4 of the first amended charge, hereby withdraws its answer and affirmative defenses to the Complaint and Notice of Hearing in the above captioned matter.

Respectfully submitted this **9th** day of March, 2017.



John Bolesta, Esq.
**Ogletree, Deakins, Nash, Smoak
& Stewart, P.C.**
1909 K. Street, N.W., Suite 1000
Washington, DC 20006
(202) 263-0242

Gregory Guidry, Esq.
**Ogletree, Deakins, Nash, Smoak
& Stewart, P.C.**

603 Silverstone Road, Suite 102A
Lafayette, LA 70508
(337) 769-6583

*Attorneys for Respondent C.W. Wright
Construction Company, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this **9th** day of March, 2017 the foregoing Notice of Withdrawal of Answer and Defenses to Complaint and Notice of Hearing was filed electronically and that service copies sent by federal express to:

Mr. Rick Fridell, Business Representative
International Brotherhood of Electrical
Workers Local Union 70
3606 Stewart Road
Forestville, MD 21061

Charles Posner, Regional Director
National Labor Relations Board, Region 5
100 South Charles Street, Suite 600
Baltimore, MD 21201



John S. Bolesta