

1 Jeffrey K. Brown, Bar No. 162957
jkb@paynefears.com
2 Christopher J. Taylor, Bar No. 292369
CJT@paynefears.com
3 PAYNE & FEARS LLP
Attorneys at Law
4 4 Park Plaza, Suite 1100
Irvine, California 92614
5 Telephone: (949) 851-1100
Facsimile: (949) 851-1212
6
7 Attorneys for Respondent
STAR FISHERIES, INC.

8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

PAYNE & FEARS LLP
ATTORNEYS AT LAW
4 PARK PLAZA, SUITE 1100
IRVINE, CALIFORNIA 92614
(949) 851-1100

11 WILLIAM B. COWEN, Regional
12 Director of Region 21 of the National
Labor Relations Board, for and on
13 behalf of the NATIONAL LABOR
RELATIONS BOARD,
14
15 Petitioner,
16
17 v.
18 STAR FISHERIES, INC.,
19
20 Respondent.

Case No. 2:17-cv-02679-ODW (JEMx)

**RESPONDENT STAR FISHERIES,
INC.'S OBJECTIONS TO
PETITIONER'S PROPOSED
FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

Judge: Hon. Otis D. Wright II

Date: May 8, 2017

Time: 1:30 p.m.

Ctrm.: 5D, 5th Floor, First Street
Courthouse

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22
23 Respondent Star Fisheries, Inc. ("Star") respectfully submits the following
24 Objections to the Proposed Findings of Fact and Conclusions of Law lodged with
25 this Court by the Regional Director of the National Labor Relations Board's 21st
26 Region ("Petitioner"):
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1 On Tuesday, May 2, 2017, Petitioner lodged with this Court, and served upon
2 Star, Proposed Findings of Fact and Conclusions of Law. Star objects to
3 Petitioner’s Proposed Findings of Fact and Conclusions of Law on the grounds that
4 (1) they are not authorized by the Local Rules or the Federal Rules of Civil
5 Procedure, and (2) assuming *arguendo* that they are authorized, they are untimely.

6
7 I. **Petitioner’s Proposed Findings of Fact and Conclusions of Law are Not**
8 **Authorized by the Local Rules or the Federal Rules of Civil Procedure**
9

10 The Local Civil Rules for the United States District Court for the Central
11 District of California (“Local Rules”) contain two rules which authorize the
12 submission of findings of fact and conclusions of law: Local Rule 52-1 and Local
13 Rule 52-2.

14
15 Local Rule 52-1 provides “[i]n any matter *tried to the Court* without a jury
16 requiring findings of fact and conclusions of law, counsel for each party shall lodge
17 and serve proposed findings of fact and conclusions of law at least seven (7) days
18 before *trial*.” L.Civ.R. 52-1. Based on its plain language, Local Rule 52-1 applies
19 to bench trials, not a petition for a temporary injunction which is being heard and
20 decided as a noticed motion, as is the case here. Moreover, Petitioner’s Petition is
21 not a matter “requiring findings of fact and conclusions of law,” because nothing in
22 the National Labor Relations Act, the Federal Rules of Civil Procedure, or the Local
23 Rules even suggests they are required. Thus, Local Rule 52-1 does not authorize
24 Petitioner’s Proposed Findings of Fact and Conclusions of Law.

25
26 Local Rule 52-2 provides “[i]n all other cases where findings of fact and
27 conclusions of law are required under F.R.Civ.P. 41, 52, and 65, the attorney
28 directed to do so by the Court shall lodge and serve proposed findings of fact within

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1 seven (7) days of the decision.” L.Civ.R. 52-2. Because Rules 41, 52, and 65 of the
2 Federal Rules of Civil Procedure do not require findings of fact and conclusions of
3 law in the instant action, Local Rule 52-2 does not apply.
4

5 Rule 41 of the Federal Rules of Civil Procedure governs dismissal of actions.
6 *See* Fed. R. Civ. P. 41. Thus, it clearly does not apply here.
7

8 Rule 52 of the Federal Rules of Civil Procedure requires the court to find
9 facts and state its conclusions of law “in an action tried on the facts without a jury”
10 or when “granting or refusing an interlocutory injunction.” Fed. R. Civ. P. 52.
11 Moreover, Rule 52(a)(3) specifically provides “[t]he court is not required to state
12 finding or conclusions when ruling on a motion under Rule 12 or 56 *or*, unless these
13 rules provide otherwise, *on any other motion.*” Fed. R. Civ. P. 52(a)(3) (Emphasis
14 Added.) Because the Petition is being heard as a motion, and is neither a bench trial
15 nor an interlocutory injunction, Rule 52 does not apply.
16

17 Rule 65 of the Federal Rules of Civil Procedure governs preliminary
18 injunctions and restraining orders. But it does not even suggest that findings of fact
19 and conclusions of law are required. *See* Fed. R. Civ. P. 65. Rather, pursuant to
20 Rule 65(d)(1), when granting an injunction or a restraining order, the court must
21 simply issue an order which “state[s] the reasons why it issued,” “state[s] its terms
22 specifically,” and a “describe[s] in reasonable detail ... the acts or acts restrained or
23 required.” Fed. R. Civ. P. 65(d)(1). Thus, an brief order which complies with Rule
24 65(d)(1), rather than detailed findings of fact and conclusions of law, is all that is
25 authorized or required.
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