

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

**METALCRAFT OF MAYVILLE, INC.**

**And**

**Case 18-CA-178322**

**DISTRICT LODGE NO. 10,  
INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE  
WORKERS OF AMERICA, AFL-CIO**

**COUNSEL FOR GENERAL COUNSEL'S MOTION TO STRIKE PORTIONS OF  
RESPONDENT'S REPLY BRIEF IN SUPPORT OF EXCEPTIONS**

On May 5, 2017, Respondent submitted its Reply Brief in Support of Exceptions to the Board ("Reply Brief"). In its Reply Brief, Respondent incorporates by reference its Brief to the ALJ in this matter. More specifically, on page 4 of its Reply Brief, Respondent cites to pages 75-80 of its Brief to the ALJ. Respondent does so again on page 6 of its Reply Brief, in footnote 3, citing pages 59-61 and 96-100 of its Brief to the ALJ. These citations should be struck as Respondent's Brief to the ALJ is not part of the record in this matter and improperly circumvents the Board's page limit requirements.

The "Contents of the Record" are defined in Section 102.45(b) of the Board's Rules and Regulations. That section provides:

(b) Contents of record. The charge upon which the complaint was issued and any amendments, the complaint and any amendments, Notice of Hearing, answer and any amendments, motions, rulings, orders, the transcript of the hearing, stipulations, exhibits, documentary evidence, and depositions, together with the Administrative Law Judge's decision and exceptions, and any cross-exceptions or answering briefs as provided in §102.46, constitutes the record in the case.

The parties' briefs to the ALJ in this matter are not part of the record as defined in Section 102.45(b) and therefore cannot be incorporated or cited to in the parties' briefs to the Board. Also see *National Extrusion & Manufacturing Co.*, 357 NLRB 127, 130 fn. 12 (2011) (Board denies a motion to include the parties' posthearing briefs to the ALJ in the record on the basis that Sec. 102.45 of the Board's Rule and Regulations defines the record, and it does not include posthearing briefs to the ALJ.).

Furthermore, briefs to the Board are subject to strict page limit requirements. Specifically, Respondent's Reply brief in support of its exceptions is subject to a ten-page limit pursuant to Section 102.46(e). Reference to its Brief to the ALJ, which was not subject to a page limit requirement, circumvents the Board's Rules and Regulations and should not be permitted.

By this motion, Counsel for General Counsel respectfully requests that references to Respondent's Brief to the ALJ be struck from its Reply Brief.

Respectfully submitted this 16th day of May, 2017.



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**AFFIDAVIT OF SERVICE OF: COUNSEL FOR GENERAL COUNSEL'S MOTION  
TO STRIKE PORTIONS OF RESPONDENT'S REPLY BRIEF IN SUPPORT OF  
EXCEPTIONS**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on May 16, 2017, I electronically-filed the above-titled document with the National Labor Relations Board and served the above-entitled documents as noted below upon the following persons, addressed to them at the following addresses:

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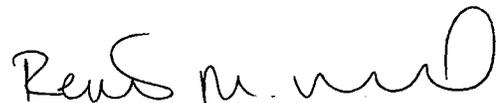
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5/16/2017

Date

Renée M. Medved, Designated Agent  
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Name



Signature