

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

HECTOR L. SANTANA-QUINTANA, et al.,

Case: 12-CB-136934, et al.

Charging Parties,

and

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 385,

Respondent.

RESPONDENT'S ANSWERING BRIEF TO CHARGING PARTIES'
CROSS-EXCEPTIONS

Respondent INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 385 hereby submits its Answering Brief in response to Charging Parties' Cross-Exceptions.

I. Local 385 does not object to Charging Parties' exceptions 1, 2, and 6, which duplicate some of the General Counsel's cross-exceptions and merely seek to correct careless errors made by the ALJ in the course of his result-driven analysis.

II. Local 385 objects to the remainder of Charging Parties' exceptions, which improperly seek to expand the ALJD beyond the facts found by the ALJ and which improperly seek additional, "extraordinary" remedies.

Ever-unashamed to invoke vitriolic hyperbole in aid of their crusade against unions, ever-undeterred by existing law which does not support their cause, ever-unconstrained by inconvenient facts and ever-eager to create alternative facts when even an ALJ who shares their ideology has concluded otherwise, and ever-unabashed in their zeal to ascribe evil motives to a union where none exist, four of the five represented charging parties invite the Board to disregard the plain and unambiguous language of the Act itself (Section 302(c)(4)) and, based on such invitation, they would have the Board order a litany of extreme, punitive, "remedies" which

are greatly in excess of an appropriate make-whole remedy which is all that the law allows, and which is all that the facts support.¹

Simply put, charging parties' arguments are built on the ideological belief that union members *should be* automatically entitled to immediate checkoff revocation upon resignation from union membership despite the untimeliness of their revocation requests, as broadcast and perpetuated by misleading website information which is contrary to the *conceded* state of the law (see brief at p. 16: "Admittedly, current Board precedent seems to allow unions to enforce such a [window period] restriction.") Remedies are based on what the law which forms the "legal landscape" for a union's actions *is*, not what charging parties believe it *should be* or wish that it were.

Not one case has been cited which would support any of the "extraordinary" remedies sought by charging parties under analogous facts, which in this case are limited to alleged isolated violations allegedly committed against eight random employees who have nothing in common, out of a total union membership of 9,000, in only three of Local 385's 50 bargaining units, over a two-year time span. Charging parties' entire hypothesis that the alleged violations in this case are "pervasive" and the "tip of the iceberg" is based on nothing more than naked rancor and abject speculation which is unsupported by any evidence that they are anything other than isolated, unconnected departures from an established (lawful) policy which documentary evidence shows is typically followed (R. Ex. 3 and 4), and which are therefore the exception, not the rule.

¹ The four remaining represented charging parties' positions are so extreme that even one of the formerly-represented charging parties, Santana-Quintana, has refused to join in them.

The four remaining represented charging parties' exceptions should therefore be given the consideration they deserve, which is none. They should be summarily denied in their entirety.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the Original of this Reply to General Counsel's Answering Brief was filed electronically with the Executive Secretary on the National Labor Relations Board e-filing system and that a true and correct copy was sent via e-mail to John Scully, Esq. jcs@nrtw.org, 8001 Braddock Road, Suite 600, Springfield, VA 22160; Alyssa Hazelwood, Esq., akh@nrtw.org, 8001 Braddock Road, Suite 600, Springfield, VA 22160, counsel for Charging Parties, and to Rafael Aybar, Esq., Counsel for the General Counsel, National Labor Relations Board, Region 12, Fifth Third Center, 201 East Kennedy Blvd., Ste. 530, Tampa, FL 33602-5824 Rafael.Aybar@nlrb.gov; this 7th day of July, 2017.

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