

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

INTERNATIONAL LONGSHORE AND  
WAREHOUSE UNION (Pacific Maritime  
Association)

and

EDMUND OBERTI, an individual

Case No. 19-CB-169296

**RESPONDENT ILWU'S MOTION FOR PERMISSION TO FILE LATE ITS "NOTICE  
ADOPTING PMA'S ANSWERING BRIEF TO C.P. EXCEPTIONS;" AFFIDAVIT OF  
ROBERT REMAR; AND NOTICE PROPOSED TO BE FILED**

**MOTION FOR PERMISSION TO FILE LATE PLEADING**

Pursuant to Board Regulation Section 102.2(d) and as stated in the Executive Secretary Office's letter of July 26, 2017, concerning Respondent's attempted filing of its Notice to Adopt Intervenor PMA's Answering Brief to Exceptions ("Notice"), which was e-filed on July 25, 2017, Respondent ILWU hereby moves for permission to file the Notice, a copy of which is attached to accompanying Affidavit of Robert Remar, hereinbelow.

The following good grounds exist for granting this motion. On or about June 26, 2017, Charging Party Edmund Oberti, filed pro per exceptions to the Administrative Law Judge's Decision dated May 25, 2017. Respondent ILWU and its counsel of record were never served with the Exceptions. (However, by email of July 7, 2017, the Executive Secretary Office provided Remar with a copy of Charging Party's Exceptions at Remar's request.) On July 6, 2017, Intervenor Pacific Maritime Association (PMA) filed its Answering Brief to the Exceptions, pointing out, among other things, the procedural and substantive deficiencies of the Exceptions. By its request, Respondent ILWU received an extension until July 24, 2017 to file its Answering Brief.

Thereafter, Respondent counsel Robert Remar reviewed the Exceptions and Intervenor PMA's Answering Brief and determined that there was nothing of substance to be added beyond PMA's pleading. Accordingly, Remar had calendared for July 24, 2017, the filing of Respondent ILWU's Notice Adopting PMA's Answering Brief.

However, on Sunday July 23 and Monday July 24, Remar was required by Respondent ILWU to devote all his time and attention on those days to assist its officials in the preparation of an important contract arbitration hearing scheduled for Tuesday, July 25, 2017. The amount of work and time involved in the arbitration preparation far exceeded Remar's

expectations and the intensity of the rush to prepare for the arbitration hearing caused him to forget to file Respondent's Notice on July 24, 2017. Remar has regularly practiced before the Board since 1983 and has never before missed a pleading deadline.

On July 25, 2017, Remar e-filed with the Executive Secretary Office Respondent's Notice Adopting Intervenor PMA's Opposition to Charging Party's exceptions to ALJ Decision and ILWU Motion for Leave to File this Notice. By letter of July 26, 2017, the Executive Secretary's Office notified Remar that since the Notice was untimely, a proper motion had to be filed under Section 102.2(d) in order to obtain permission for its filing and that the purported Motion contained in the July 25 Notice did not meet such procedure. Accordingly, the instant motion under Section 102.2(d) is hereby filed.

No prejudice to any party would arise from granting this motion for the following reasons. The proposed Notice does not add any additional facts or argument beyond what Intervenor PMA has already submitted in its timely Answering Brief filed some weeks ago. Thus, permitting filing of the proposed Notice would not add significant delay or complication or new considerations to the matter. Additionally, Remar diligently attempted to file the Notice the day after the July 24 deadline when he realized the oversight. Moreover, in such circumstances it would be grossly unfair to Respondent ILWU to be penalized for mistake of its counsel.

. This motion is supported by the sworn Affidavit of Robert Remar set forth below in this pleading, which includes a copy of the of the proposed Notice for filing.

Dated: August 2, 2017

Respectfully submitted,

LAW OFFICE OF ROBERT REMAR

By: s/ Robert S. Remar  
Robert S. Remar (SBN 100124)  
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*Attorneys for Respondent*, INTERNATIONAL  
LONGSHORE AND WAREHOUSE UNION

**AFFIDAVIT OF ROBERT REMAR IN SUPPORT OF  
MOTION FOR PERMISSION TO FILE LATE NOTICE ADOPTING INTERVENOR'S  
ANSWERING BRIEF TO EXCEPTIONS**

I, Robert Remar, hereby affirm the following:

1) I am counsel of record for Respondent ILWU and served as its counsel at the ULP hearing in this matter. I am licensed to practice law in all state and federal courts of California, as well as in the Ninth Circuit Court of Appeals, the District of Columbia Court of Appeals and the U.S. Supreme Court. I have regularly practiced before the Board since 1983.

2) On or about June 26, 2017, Charging Party Edmund Oberti, filed pro per exceptions to the Administrative Law Judge's Decision dated May 25, 2017. Respondent ILWU and its counsel of record were never served with the Exceptions. (However, by email of July 7, 2017, the Executive Secretary Office provided me with a copy of Charging Party's Exceptions.) On July 6, 2017, Intervenor Pacific Maritime Association (PMA) filed its Answering Brief to the Exceptions, pointing out, among other things, the procedural and substantive deficiencies in the Exceptions. By its request, Respondent ILWU received an extension until July 24, 2017 to file its Answering Brief.

3) Thereafter, as counsel for Respondent, I reviewed the Exceptions and Intervenor PMA's Answering Brief and determined that there was nothing of substance to be added beyond PMA's pleading. Accordingly, I had calendared for July 24, 2017, the filing of Respondent ILWU a Notice adopting PMA's Answering Brief.

4) However, on Sunday July 23 and Monday July 24, I was required by Respondent ILWU to devote all my time and attention to assist its officials in the preparation of an important contract arbitration hearing, scheduled for Tuesday July 25, 2017. The amount of work and time involved in the arbitration preparation far exceeded my expectations and the intensity of the rush to prepare for the arbitration hearing caused me to forget to file Respondent's Notice on July 24, 2017. I have regularly practiced before the Board since 1983 and have never before missed a pleading deadline.

5) On July 25, 2017, I e-filed with the Executive Secretary Office Respondent's Notice Adopting Intervenor PMA's Opposition to Charging Party's exceptions to ALJ Decision and ILWU Motion for Leave to File this Notice. By letter of July 26, 2017, the Executive Secretary's Office notified me that since the Notice was untimely, a proper motion had to be filed under Section 102.2(d) to obtain permission for its filing and that the purported Motion contained in the July 25 Notice did not meet such procedure. (Attached hereto as Exhibit "A" is a true and correct of said July 26, 2017 letter.) Accordingly, the instant motion under Section 102.2(d) is hereby filed. Attached as Exhibit "B" is a true and correct copy of the proposed Notice to be filed herein.

6) No prejudice to any party would arise from granting this motion for the following reasons. The proposed Notice does not add any additional facts or argument beyond what Intervenor PMA has already submitted in its timely Answering Brief filed some weeks ago. Thus, permitting filing of the proposed Notice would not add significant delay or

complication or new considerations to the matter. Additionally, I diligently attempted to file the Notice the day after the July 24 deadline when he discovered the oversight. Moreover, in such circumstances it would be grossly unfair to Respondent ILWU to be penalized for mistake of its counsel.

**I affirm under the laws of California and the United States that the above Affidavit is true and correct to the best of my personal knowledge and belief.**

**Executed on August 2, 2017 in San Francisco, CA.**



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**Robert Remar**

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

**INTERNATIONAL LONGSHORE AND  
WAREHOUSE UNION (Pacific Maritime  
Association)**

**and**

**EDMUND OBERTI, an individual**

**Case No. 19-CB-169296**

**[PROPOSED]**  
**RESPONDENT ILWU'S NOTICE ADOPTING PMA'S**  
**ANSWERING BRIEF TO C.P. EXCEPTIONS**

**PLEASE TAKE NOTICE THAT** RESPONDENT ILWU has nothing to add beyond the contents of Intervenor Pacific Maritime Association (PMA)'s Answering Brief To The Charging Party's Exceptions, filed by PMA on July 6, 2017, which Respondent ILWU hereby adopts in its entirety.

Dated: August 2, 2017

Respectfully submitted,

LAW OFFICE OF ROBERT REMAR

By: s/ Robert S. Remar  
Robert S. Remar (SBN 100124)  
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*Attorneys for Respondent, INTERNATIONAL  
LONGSHORE AND WAREHOUSE UNION*

## PROOF OF SERVICE

I am employed in the County of San Francisco, State of California. I am over the age of 18 years old and not a party to the within action; my business address is 1188 Franklin Street, 4<sup>th</sup> Floor, San Francisco, CA, 94109.

On **August 2, 2017**, I served a true and accurate copy of the foregoing document(s):

### **RESPONDENT ILWU'S MOTION FOR PERMISSION TO FILE LATE ITS "NOTICE ADOPTING PMA'S ANSWERING BRIEF TO C.P. EXCEPTIONS;" AFFIDAVIT OF ROBERT REMAR; AND NOTICE PROPOSED TO BE FILED**

on all interested parties in this action as follows:

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- BY E-MAIL:** I caused the documents to be sent to the person at the electronic notification address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under the penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **August 2, 2017** at San Francisco, California.

\_\_\_\_\_  
s/ Robert Remar  
Robert Remar