**UNITED STATES OF AMERICA**
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**
**REGION 6**

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| COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC | : | |
| and | : | CASE NO. 06-CA-198724<br>06-CA-199538; and<br>06-CA-201097 |
| INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 712, AFL-CIO | : | |

**MOTION OF RESPONDENT COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC TO DISMISS ALLEGATIONS IN THE CONSOLIDATED COMPLAINT FOR LACK OF JURISDICTION**

## I. INTRODUCTION

Respondent Comcast Cable Communications Management, LLC ("Comcast") moves to dismiss certain allegations in the Complaint issued by Region 6 of the National Labor Relations Board ("NLRB" or the "Board") on September 29, 2017 and amended on October 4 and November 2, 2017 (the Complaint and subsequent amendments are hereinafter referred to as the "Consolidated Complaint"). Paragraphs 7 through 12 of the Consolidated Complaint should be dismissed because they have no factual nexus to the boilerplate legal conclusions framed as an unfair labor practice charge in Case No. 06-CA-199538. In violation of the National Labor Relations Act ("NLRA" or the "Act"), the Board exercised independent authority to initiate unfair labor practice proceedings to investigate and plead the allegations in Paragraphs 7 through 12 of the Consolidated Complaint. Because these allegations have no factual nexus to the relevant charge, and because these allegations are the result of the Board improperly exercising independent authority to initiate ULP proceedings, Comcast respectfully requests that Paragraphs 7 through 12 of the Consolidated Complaint be dismissed.

## II. FACTUAL BACKGROUND

### A. In December 2016, the Union Files an RC Petition, Seeking to Represent a Group of Employees in Beaver Falls, But an Election is Never Held Because the Union Withdrew the Petition in January 2017.

On December 8, 2016, the International Brotherhood of Electrical Workers, Local 712 (the "Union") filed a petition in case number 06-RC-189478, seeking to represent a unit of Comcast employees who work at its Beaver Falls, Pennsylvania facility.[1] The parties reached a Stipulated Election Agreement on or about December 15, 2016, and an election was scheduled for January 11, 2017. That election, however, was never held because the Union voluntarily withdrew the petition on January 6, 2017. The Union did not file any ULP charges at that time objecting to Comcast's campaign conduct. The Regional Director approved the request to withdraw the petition, with prejudice. (*See* Order Approving Withdrawal of Petition and Cancelling Election, attached as Ex. A). Thus, the election scheduled for January 11, 2017 was canceled.

### B. Nearly Five Months After the Petition Was Filed, Comcast Terminates the Employment of Jason Davis, Following His Second DUI Arrest.

On April 7, 2017, Jason Davis, a CommTech 5, Network Maintenance Technician for Comcast, was arrested for his second DUI offense. As a result of this DUI, Davis's license was revoked. On April 18, 2017, Judge Philip M. Vigorito, of the Newton Falls Municipal Court, issued an order restricting the driver's license of Davis. (*See* Journal Entry (April 18, 2017), attached as Ex. B). The order granted Davis "full driving privileges upon showing proof of insurance, proof of employment, proof of the installation of an ignition interlock devise (sic.)

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[1] Comcast is one of the nation's largest video, high-speed internet and phone providers to residential customers. Comcast also provides high-speed Internet and phone service to businesses. Comcast operates a facility in Beaver Falls, which is part of Comcast's Keystone Region.

on his personal vehicle and the issuance of the restricted operator's license." (*See id.*). The order also provided that a SCRAM unit would be placed on Davis to operate in lieu of the ignition interlock device while he was operating any work vehicle. (*See id.*).

As a CommTech 5, Network Maintenance Technician, Davis was assigned a 15,000 pound Comcast vehicle. He also was required to possess a valid driver's license and maintain a satisfactory driving record as a condition of his employment. Thus, in accordance with its policies and procedures, Comcast terminated Davis's employment, effective April 21, 2017. (*See* Compl. at ¶ 14).

### C. The Union Files an Unfair Labor Practice Charge Alleging that Comcast Terminated Davis's Employment in Violation of the Act.

On May 11, 2017, the Union filed an unfair labor practice charge on behalf of Jason Davis. (*See* Charge, Case No. 06-CA-198724 (May 11, 2017), attached as Ex. C). The Union alleged that Comcast discharged, disciplined, and/or retaliated against Davis not because of his failure to maintain a full, valid driver's license or his second DUI arrest, but rather because he "joined or supported a labor organization and in order to discourage union activities and/or membership."[2] (*See id.*). The Union alleged that such actions violated Section 8(a)(3) of the Act. (*See id.*).

### D. On May 25, the Union Files a Second ULP Charge, Which Contains Boilerplate Allegations Concluding that Comcast Violated the Act.

On or about May 25, 2017, the Union filed an unfair labor practice charge in case number 06-CA-199538. (*See* Charge, Case No. 06-CA-199538, attached as Ex. D). The Charge

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[2] Comcast disputes the Union's allegations in Case Nos. 06-CA-198724, 06-CA-198724, 06-CA-201097 and the Board's allegations in the Consolidated Complaint. However, for the purposes of this Motion to Dismiss only, Comcast will assume the aforementioned allegations are true.

vaguely concluded that Comcast violated Section 8(a)(1) of the Act "[s]ince about December 9, 2016." The Charging Party then alleged that Comcast:

> [B]y its agents, officers, and officials, coerced, restrained, and interfered with its employees in the exercise of their section 7 rights by acts of interrogation, threats, statements of futility, solicitation of grievances, promising benefits, granting benefits, and other acts, conduct, and statements, in order to discourage employee support for unionization.

(*See* Ex. D). The Charge did not contain a *single* specific factual allegation against Comcast. It did not include any alleged unlawful statements made by Comcast, specific dates of any of the alleged violative conduct, any specific benefits alleged to have been unlawfully promised or granted by Comcast, or any factual information concerning the alleged "interrogations" or "solicitation of grievances." The Charge simply contained a laundry list of boilerplate potential violations of the Act, bereft of any factual allegations whatsoever.

### E. On the Same Date the Union Filed its Second ULP Charge, the NLRB's Field Attorney Issues a Request for Evidence.

The NLRB's Field Attorney, Meghan B. Phillips, issued a request for evidence letter on May 25th, the same date the Union filed the Charge in case 06-CA-199538. (*See* E-mail and Letter from M. Phillips to D. Johns and E. Clarke (May 25, 2017), attached as Ex. E). The letter briefly addressed the substance of the Union's allegations concerning interrogations in case 06-CA-199538, which does not appear in the Charge. The letter stated:

> As I discussed with Mr. Johns during our May 24 phone conversation, many (if not all) of the alleged incidents of unlawful interrogation occurred during the ride-ons/ride-alongs that Comcast managers and supervisors allegedly had with employees on or around December 9, 2016 up to and including January 6, 2017.

(*See id.* at 1). Ms. Phillips wrote that the Charge language pertaining to allegations that Comcast illegally "grant[ed] benefits" was based upon an allegation (not specified in the Charge) that

"Comcast, in response to employee complaints, granted the benefit of a new dispatcher/router in order to discourage union activity." (*See id.* at 1-2).

Finally, concerning the Charge allegations that Comcast violated the Act by "threats," "statements of futility," "solicitation of grievances," "promising benefits," and "other acts, conduct and statements, in order to discourage employee support for unionization," Ms. Phillips wrote only that "many, if not all," of these alleged incidents occurred during "mandatory meetings/ captive audience" meetings, which was again not specified in the Charge. (*See id.* at 2). Ms. Phillips did not, however, identify: (1) the content of any statements; (2) the date of such statements; or (3) the identity of the speaker.

Then, without providing any further explanation of the substance of the Union's allegation, Ms. Phillips requested a broad list of nine categories of documents. (*See id.* at 2-3). This list included:

> 3. Any scripts, recordings, or contemporaneous notes of what Comcast's agents said in their presentations to and interactions with BFSC employees during the mandatory meetings/ "captive-audience" meetings held between December 8, 2016 and January 6, 2017.
>
> 7. The names and positions of any Comcast manager, supervisor, or agent who performed ride-along/ride-ons with Comcast employees between December 8, 2016 and January 6, 2017
>
> 8. Any documents or evidence as will show the date for and the names of employees and supervisors and/or managers involved in ride-alongs or ride-ons between December 1, 2013 and December 1, 2016.

(*See id.* at 2-3).

### F. On June 16, the NLRB's Field Attorney Reveals Additional Information That She Asserts Relates to the Union's Allegations Against Comcast.

On June 16, 2017, Ms. Phillips sent a second request for evidence letter in cases 06-CA-198724 and 06-CA-199538. (*See* Letter from M. Phillips to D. Johns and E. Clarke (June

16, 2017), attached as Ex. F). With respect to the allegation concerning an "unlawful grant of a benefit," Ms. Phillips notified Comcast that the Union's allegation related, not to the announcement of a new dispatcher, but rather that Comcast sped up the implementation of its decision to close its Lancaster facility by providing Beaver Falls employees with a new dispatcher sooner than it otherwise would have. (*See id.* at 2, 5). With this information, Ms. Phillips again provided Comcast with new information not found anywhere in the Union's original Charge.

Ms. Phillips then, for the first time, set forth nine instances of alleged interrogation by Comcast officials. Ms. Phillips alleged that the following Comcast officials engaged in unlawful interrogations during ride-alongs/ride-ons during the critical period between December 2016 and early January 2017: (1) Greg Wagner; (2) an unidentified Comcast supervisor or manager from a Comcast facility in Texas named Mike; (3) Randy Tecza, Vice President, Technical Operations; (4) Dave Henning, Manager, Network Maintenance; (5) Sean Benninghoff, Comcast Manager; (6) an unidentified manager from Comcast's Pittsburgh office; and (7) Marc Golden, Maintenance Supervisor. (*See* Ex. F at 2-5). Ms. Phillips also (again, for the first time) raised an issue concerning an alleged interrogation that did not occur during a ride-along/ride-on – that Supervisor Marc Golden asked an employee about the Union during an "end-of-the-month" inspection in late December 2016. (*See id.* at 4).

Next, Ms. Phillips disclosed a single factual allegation related to alleged statements made by Comcast at "captive-audience" meetings. Specifically, Ms. Phillips alleged that Comcast "managers, supervisors, or agents told BFSC employees that if they selected Union representation then the employees would no longer be able to present issues directly to their respective manager or supervisor. Instead, the Comcast officials contended, employees would be

required to present any work-related issue the respective employee or employees had through the shop steward." (Ex. F at 5). Ms. Phillips wrote that such statements "are alleged as unlawful threats." (*See id.*).[3] Notably, in a phone call on June 15, 2017, Ms. Phillips indicated to Erin K. Clarke, counsel for Comcast, that her allegation that Comcast told employees that they could no longer approach management with their complaints was the only issue she was able to find in her investigation stemming from "captive audience" meetings. She informed Ms. Clarke that, at that time, the other purported statements made by Comcast officials at "captive audience" meetings appeared to be permitted by the Act.

### G. On July 15, 2017, More Than Six Months After the Union Withdrew the Petition, the NLRB's Field Attorney Alerted Comcast of Three Additional Statements She Alleged Were Made at Captive-Audience Meetings, Which Had Not Previously Been Raised to Comcast.

On July 15, 2017, which was more than six months after the Union withdrew the petition, Ms. Phillips issued yet another request for evidence in Case 06-CA-199538. Despite her disclosure a month earlier that she was not aware of other allegedly unlawful statements, Ms. Phillips set forth three new allegations that she claimed stemmed from "captive-audience" meetings held between December 9, 2016 and January 6, 2017. (*See* Letter from M. Phillips to D. Johns and E. Clarke (July 15, 2017), attached as Ex. H). Ms. Phillips asserted that "Comcast, by and through its agents, officers, and officials, including John MacGowan, John Meyer, and/or Deric Bomar violated Section 8(a)(1) of the Act" by telling employees: (1) "[if] they voted in favor of Union representation they would lose the ability to drive their Comcast-issued vehicles to and from work because the ability to take their Comcast-issued trucks and vehicles home in

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[3] On June 21, 2017, the Union filed a third unfair labor practice charge in case number 06-CA-201097, alleging that "[s]ince about April 2017, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by maintaining an overly broad conflicts of interest rule in its Code of Conduct. (*See* Charge in Case 06-CA-201097 (June 21, 2017), attached as Ex. G).

the evenings would not be part of the status quo;" (2) "their quarterly bonuses were not part of the status quo and would be lost if they voted in favor of Union representation"; and (3) "if they voted in favor of Union representation they would only receive a 1.9% raise rather than the up to 3% raise that employees previously received." (*See id.* at 1-2). None of these allegations, nor any approximation thereof, appeared in the Union's initial Charge.

### H. On July 20, 2017, the NLRB's Field Attorney Discloses Additional Allegations That She Claims She Learned Through Her Investigation.

On July 20, 2017, the NLRB's Field Attorney issued yet another request for evidence related to the cases filed by the Union. (*See* Letter from M. Phillips to D. Johns and E. Clarke (July 20, 2017), attached as Ex. I). With respect to case 06-CA-199538, Ms. Phillips wrote that her investigation disclosed that at a mandatory employee meeting on December 9, 2016, unidentified Comcast officials stated in response to a technician's question concerning the overbooking of appointments that Comcast acknowledged the issue but stayed silent on whether the company planned to hire contract workers to reduce the load of technicians. (*See id.* at 2). Ms. Phillips further claimed that "within a week or two of the employee's inquiry," Comcast began to employ additional contract workers. (*See id.*). This was again the first time these allegations had been raised to Comcast.

### I. The Regional Director Issues a Complaint, Which Contains Allegations Not Raised in any Charge and One Allegation That Was Never Even Raised During the Region's Investigation.

On August 30, 2017, Field Attorney Meghan Phillips contacted counsel for Comcast to inform Comcast that the Regional Director found merit to allegations concerning Cases 06-CA-199538 and 06-CA-201097. Ms. Phillips disclosed the substance of allegations to which the Regional Director found merit. Ms. Phillips also informed Comcast, for the first time, of one allegation that did not occur during the pre-election period unlike the issues that had been

previously raised to Comcast. Specifically, Ms. Phillips informed Comcast of a new allegation that, in the end of January 2017, Network Maintenance Supervisor Marc Golden threatened employees that he would be more strictly enforcing Comcast's rules.

On September 29, 2017, the Regional Director for Region 6 issued a Complaint, which contained allegations that reportedly stem from the charge in Case 06-CA-199538.[4] The Board Amended the Complaint on October 4, 2017 and issued a Consolidated Complaint on November 2, 2017. Specifically, the Consolidated Complaint's allegations that appear to stem from that charge are as follows:

> 7. Respondent, by Marc Golden:
>
> (a) About late December 2016 or early January 2017, on a date presently unknown to the General Counsel but within Respondent's knowledge, during a ride-out in one of Respondent's vehicles, interrogated its employees regarding their union activities and/or support for the Union.
>
> . . . .
>
> 8. Respondent, by David Henning, in about late December 2016 or early January 2017, on a date unknown to the General Counsel but within Respondent's knowledge, during a ride-out in one of Respondent's vehicles, interrogated its employees regarding their union activities and/or support for the Union.
>
> 9. Respondent, by Greg Wagner or an unidentified supervisor of Respondent, on about December 16, 2016, during a ride-out in one of Respondent's vehicles, interrogated its employees regarding their union activities and/or support for the Union.
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> 10. Respondent, by John MacGowan and Deric Bomar, in about December 2016 or early January 2017, at a mandatory meeting held at the Respondent's BFSC facility:
>
> (a) Threatened its employees with the loss of quarterly bonuses; and

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[4] The initial Complaint, Consolidated Complaint, and Second Amendment to Consolidated Complaint are attached for reference as Exhibit J.

> (b) Told its employees that if they selected union representation they would no longer be permitted to contact management directly with their questions, concerns or problems.
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> 11. Respondent, by John MacGowan and Deric Bomar, in about December 2016 or early January 2017, at a mandatory employee meeting held at the Respondent's BFSC facility, threatened its employees with lower annual pay increases.
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> 12. In about December 2016, Respondent accelerated its implementation of improvements in the routing function used to dispatch its employees employed at Respondent's BFSC facility.

(Consolidated Compl. at ¶¶ 7-12).

In addition, paragraph 7(b) of the Complaint contains an allegation that was *never* raised to Comcast via a charge or the Region's investigations into the charges filed by the Union. In paragraph 7(b) of the Complaint, the Region asserts that in January 2017, Comcast, by Marc Golden, "during an end-of-month vehicle check held in [Comcast's] BFSC facility parking lot, threatened its employees with stricter enforcement of [Comcast's] rules." This allegation was raised for the first time in the Complaint.

## III. THE BOARD LACKS JURISDICTION OVER THE ALLEGATIONS IN PARAGRAPHS 7 THROUGH 12 OF THE CONSOLIDATED COMPLAINT.

### A. The General Counsel and the Board Lack Independent Authority to Initiate Unfair Labor Practice Proceedings.

The Act prohibits the NLRB from initiating its own investigation into unfair labor practices or issuing a complaint on its own initiative. *See* 29 U.S.C. § 160(b). Specifically, Section 10(b) of the Act provides, in pertinent part:

> Whenever it is charged that any person has engaged in or is engaging in any . . . unfair labor practice, the Board . . . shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, . . . *Provided,* That no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made . . . .

29 U.S.C. § 160(b).

This provision serves two purposes: (1) it "functions in part as a statute of limitations by prohibiting the issuance of a complaint based on conduct occurring more than six months prior to the filing of a charge";[5] and (2) "it underscores that the General Counsel and Board lack independent authority to initiate unfair labor practice proceedings." *Carney Hosp.*, 350 NLRB 627, 628 (2007); *see also Nickles Bakery of Indiana*, 296 NLRB 927, 928 (1989) ("Allowing the boilerplate 'other acts' language to support unrelated 8(a)(1) complaint allegations contravenes 10(b)'s mandate that the Board 'not originate complaints on its own initiative.") (quoting *G.W. Galloway Co. v. NLRB*, 856 F.2d 275, 280 (D.C. Cir. 1988) ("By precluding the Board from initiating complaints without a corresponding charge from an outside party, Congress apparently intended to limit the Board's activities to those matters shown to be of concern to the very people the Act was designed to protect.")).

Although the Board may, in certain circumstances, include allegations in the complaint that have not been specifically alleged in the charge, the Board does not have "*carte blanche* to expand the charge as it may please, or to ignore it altogether." *NLRB v. Fant Milling Co.*, 360 U.S. 301, 307, 309 (1959). Rather, a factual nexus between the allegations in the charge and the complaint must be established. *Precision Concrete v. NLRB*, 334 F.3d 88, 92 (D.C. Cir. 2003). Thus, if in a complaint, "the Board ventures outside the strict confines of the charge, it must limit itself to matters sharing a significant factual affiliation with the activity alleged in the charge." *G.W. Galloway*, 856 F.2d at 280.

To determine whether there is a sufficient factual nexus between the allegations in a complaint and a timely filed charge, the Board follows a three-part test set forth in *Nickles*

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5 As the Board has recognized, Section 10(b) is intended, in part, to prevent "litigation based on disputes over stale events." *Bentson Contracting Co.*, 298 NLRB 199 (1990).

*Bakery*, 296 NLRB 927 (1989) and *Redd-I, Inc.*, 290 NLRB 1115 (1988). First, the Board considers whether the complaint allegations involve the same legal theory as the charge. Second, the Board considers whether the allegations "arise from the same factual circumstances or sequence of events as the . . . charge." Finally, the Board will determine "whether a respondent would raise similar defenses to both allegations." 296 NLRB at 928.

As set forth in detail below, the Region's Consolidated Complaint wholly fails to satisfy this test as to paragraphs 7 through 12.

### B. The Boilerplate Language in the Charge in Case 06-CA-199538 is Insufficient to Confer Jurisdiction on the Board Over the Particularized Allegations in Paragraphs 7 through 12 of the Consolidated Complaint.

The Board lacks jurisdiction to adjudicate the lawfulness of the allegations in paragraphs 7 through 12 of the Consolidated Complaint because the boilerplate language in the Charge is insufficient to support Section 10(b) jurisdiction. Indeed, the allegations cannot meet the Board's *Nickles Bakery* standard because the underlying charge related to those allegations fails to allege a *single* fact. Instead, the Charge simply sets forth a laundry list of boilerplate allegations that Comcast violated the Act throughout the nearly six month period preceding the filing of the Charge, stating:

> [B]y its agents, officers, and officials, coerced, restrained, and interfered with its employees in the exercise of their section 7 rights by acts of interrogation, threats, statements of futility,[6] solicitation of grievances, promising benefits, granting benefits, and other acts, conduct, and statements, in order to discourage employee support for unionization.

*See* Ex. D.

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[6] Notably, the Region never disclosed any underlying facts related to the Union's allegation that Comcast agents, officers, and officials made "statements of futility."

The Board has held that boilerplate language in a charge, bereft of any factual allegations, cannot support Section 10(b) jurisdiction. *See Nickles Bakery*, 296 NLRB at 928 (ruling that the language "[b]y the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act" in charge was merely boilerplate language that contravened Section 10(b)'s mandate that the Board not originate complaints); *see also* General Counsel Memorandum OM-07-74 ("Board law has explicitly found . . . boilerplate langue [to be] meaningless."); *Wal-Mart Stores, Inc.*, No. 28-CA-167277, JD (SF)-34-16 at 8-9 (Aug. 31, 2016) (ruling that the Board lacked jurisdiction over allegations that respondent violated Section 8(a)(1) in connection with *Weingarten* allegations where those allegations were based on boilerplate language in charge referencing non-specific Section 8(a)(1) violation).

Indeed, the vague language of the Charge in Case 06-CA-199538 fails to satisfy the NLRB's own Casehandling Manual, which requires that a charge allege "with adequate specificity" the allegedly unfair labor practice at issue. Section 10020.1 requires:

> CA and CB charges should set forth the section of the Act alleged to have been violated and describe with **adequate specificity** the **conduct alleged to be an unfair labor practice, including allegedly violative statements**. For instance, where discriminatory acts are asserted, all known alleged discriminates should be named when practicable. Where, however, the names of all alleged discriminatees are not known, the charge should expressly state those known and add "and others whose names are presently unknown."

*See* NLRB Casehandling Manual § 10020.1 (emphasis added). The Charge in Case 06-CA-199538, however, falls woefully short of the requirements of the Casehandling Manual because it fails to allege *any* conduct on the part of Comcast that allegedly violated the Act. The Charge instead asserts only conclusory assertions that unknown Comcast "agents, officials, and officers" violated the Act on unidentified dates between December 9, 2016 and the date the Charge was

filed, more than five months later. Nor, as specifically required in the Casehandling Manual, does the Charge identify the content of the alleged statements that purportedly constituted "threats," "statements of futility," or "promising benefits" or whether such statements were made to individual employees, a group of employees, or made at "captive-audience" meetings. The Charge also does not identify any "benefits" that were promised or granted to employees or who conducted the alleged "interrogations" or solicited the grievances as alleged in the Charge. In short, the Charge does not complain about, let alone put Comcast on notice of, any specific conduct alleged to be a violation of the Act.

Because the Charge in Case 06-CA-199538 does not set forth any factual basis for the allegations in paragraphs 7 through 12 of the Consolidated Complaint, it cannot possibly meet the *Nickles Bakery* standard. As recognized by the United States Court of Appeals for the D.C. Circuit: "A fortiori, when the charge contains no factual allegations at all, as in the instant case, there can be no nexus and a complaint cannot properly issue." *Lotus Suites v. NLRB*, 32 F.3d 588 (D.C. Cir. 1994) (internal citation and quotation omitted); *see also Precision Concrete*, 334 F.3d at 93 ("Although the charges at issue are not mere boilerplate, neither do they contain enough detail about the charged conduct to enable us 'sensibly to apply the test of substantial relation.'").

In *Lotus Suites*, the D.C. Circuit flatly rejected the NLRB's argument that where a charging party broadly alleges a violation of Section 8(a)(1), the Board can consider complaint allegations that allege particular violations of Section 8(a)(1). 32 F.3d at 591-92. There, the charge alleged that the employer "by the above and other acts, interfered with, restrained, and coerced its employees in the exercise of their rights as guaranteed by Section 7 of the Act." *Id.* at 590. But, the complaint alleged six specific violations of Section 8(a)(1). The D.C. Circuit

held that the Board was without authority to initiate an investigation and issue a complaint based on the charge's allegation that was "utterly lacking in factual specificity." *Id.* at 592. In rejecting the Board's exercise of jurisdiction over the particularized 8(a)(1) allegations in the complaint, the D.C. Circuit wrote:

> What, pray, were the matters of concern to the Union? Why, any violations of § 8(a)(1) that the Board might turn up in its investigation. Nothing more specific appears in the charge, anyway. It hardly matters who filled in the blank space on the charge form if the box remains so lacking in content that it is not possible sensibly to apply the test of "substantial relation" between the factual allegations in the charge and those in the complaint. Indeed, if the Board's point were accepted, then a charging party could, in effect, cause the Board to do what the Congress prohibited it from doing, . . ., embarking upon an unbounded inquiry into any and all possible violations of the Act.

*Id.* at 591.

Similarly, in this case, the Charge in Case 06-CA-199538 fails to allege any facts to which the *Nickles Bakery* standard could be applied. As reflected in the vague, non-specific language in the Charge, the Union's concern regarding Comcast's conduct that occurred nearly six months before the Charge was filed appears to be almost *any* issue that the Region might uncover in its investigation. The conclusion that the Union's Charge was simply a license to the Region to embark on an "unbounded inquiry" into any and all possible violations of the Act is underscored by the fact that no specific "threats," "promises of benefits," incidents of "interrogation" or "solicitation[s] of grievances" were identified to Comcast by either the Charging Party or the Region until well after the Charge was filed and most were not identified until after the six month limitations period concluded. And, neither the Region nor the Charging Party ever identified the "statements of futility" that concerned the Union when it filed the Charge.

Accordingly, it is simply impossible to apply the Board's substantial relation test to the allegations in paragraphs 7 through 12 of the Consolidated Complaint because there are no facts in the Charge to consider in determining whether the Consolidated Complaint's allegations share a "significant factual affiliation" with or grow out of the allegations in the Charge. The Board, therefore, cannot meet its burden of demonstrating that it has jurisdiction over the Consolidated Complaint's allegations in paragraphs 7 through 12. These allegations must, therefore, be dismissed.

### C. Permitting Jurisdiction over the Allegations in Paragraphs 7 through 12 of the Consolidated Complaint Would Violate Section 10(b)'s Mandate that The Board Not Act on its Own Initiative.

As a practical matter, if the Board is allowed to exercise jurisdiction over the allegations in paragraphs 7 through 12 of the Consolidated Complaint, it would be granting itself the power to do exactly what Congress prohibited in Section 10(b) -- initiating a complaint and expanding an investigation on its own initiative. Congress intentionally denied the Board such authority to initiate or expand charges or investigations. *See Allied Waste Svcs. of Fall River*, Cases 01-CA-123082, 2014 WL 7429200 (NLRB Dec. 31, 2014) (citing *National Assn. of Manufacturers v. NLRB*, 717 F.3d 947, 951 (D.C. Cir. 2013) ("neither the Board nor its agents are authorized to institute charges *sua sponte*")). As recently noted, this limitation on the Board's authority was "no accident" as Congress eliminated the NLRB's broad "power to initiate or expand unfair practice proceedings, at the Board's initiative," that had been originally included in the earliest version of the NLRA legislation. *See id.* at *2.

If the conclusion that the Board has jurisdiction over the allegations in paragraphs 7 through 12 of the Consolidated Complaint based upon the vague language in the Charge were accepted, the Board would have *carte blanche* to pursue any allegation it may please, even where a Charging Party never initially raised a specific factual complaint concerning a respondent in a

charge. In other words, all that a charging party would need to do to permit the Board to investigate potential (but unknown at the time the charge is filed) violations of the Act is to file a vague charge on the eve of the expiration of the six month period – without identifying any underlying facts that form the basis of a charge – to allow the Board an "unbounded inquiry into any and all possible violations of the Act." *Lotus Suites*, 32 F.3d at 592.

Accordingly, to allow the Board to exercise jurisdiction over the allegations in paragraphs 7 through 12 of the Consolidated Complaint is "'tantamount to allowing the Board to enlarge its jurisdiction beyond that given to it by Congress.'" *Id.* at 592 (quoting *G.W. Galloway Co. v. NLRB*, 856 F.2d 275, 280 (D.C. Cir. 1988)). The allegations in paragraphs 7 through 12 of the Consolidated Complaint must therefore be dismissed.

## IV. CONCLUSION

For the foregoing reasons, Respondent Comcast Cable Communications Management, LLC respectfully requests that its Motion to Dismiss be granted and the allegations in paragraphs 7 through 12 of the Consolidated Complaint be dismissed.

Respectfully submitted,

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Date: November 16, 2017

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## AFFIDAVIT OF SERVICE

I, Mary Cate Gordon, hereby certify that, on this day, Comcast Cable Communications Management LLC's Motion to Dismiss in the above-captioned matter was filed electronically with the Board and served via e-mail on:

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Dated: November 16, 2017

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# EXHIBIT A

**UNITED STATES OF AMERICA**
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**
**REGION 6**

**COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC A DELAWARE LIMITED LIABILITY COMPANY**

**Employer**

**and** **Case 06-RC-189478**

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 712, AFL-CIO**

**Petitioner**

## ORDER APPROVING WITHDRAWAL OF PETITION AND CANCELLING ELECTION

On January 6, 2017, the Petitioner submitted a request to withdraw its petition in the above case. The investigation shows no inconsistent action with the request. Accordingly,

**IT IS ORDERED** that the Petitioner's request to withdraw its petition is approved, with prejudice. Any petition filed by International Brotherhood of Electrical Workers, Local 712, AFL-CIO within six months from this date that encompasses the same or substantially the same unit of employees as involved in this matter will not be entertained unless good cause is shown.

**IT IS FURTHER ORDERED** that the election scheduled for January 11, 2017, is cancelled. Inasmuch, the Employer should post this order next to all Notices of Election that were previously posted.

Dated: January 6, 2017

NANCY WILSON
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 06
1000 Liberty Ave Rm 904
Pittsburgh, PA 15222-4111

# EXHIBIT B

TRUMBULL COUNTY, OHIO

State of Ohio

Plaintiff

-vs-

JASON DAVIS

Defendant

Case No. TRC1701674A

JUDGE PHILIP M. VIGORITO

**JOURNAL ENTRY**

This comes on for consideration of the motion of the Defendant, Jason Davis, for full driving privileges, pursuant to H.B. 388.

For good cause shown, the motion is found well-taken and is hereby granted. The Defendant shall have full driving privileges upon showing proof of insurance, proof of employment, proof of the installation of an ignition interlock devise on his personal vehicle and the issuance of the restricted operator's license. Additionally, a SCRAM unit will be placed upon the Defendant, which will operate in lieu of the ignition interlock device when the Defendant is driving his work vehicle.

IT IS SO ORDERED:

Date: April 18, 2017

JUDGE

NEWTON FALLS MUNICIPAL COURT
TRUMBULL COUNTY, OHIO

# EXHIBIT C

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 6
1000 Liberty Ave Rm 904
Pittsburgh, PA 15222-4111

Agency Website: www.nlrb.gov
Telephone: (412)395-4400
Fax: (412)395-5986

Download
NLRB
Mobile App

May 15, 2017

Comcast
Mike King, Employer Representative
2810 Darlington Rd
Beaver Falls, PA 15010-1028

Re: Comcast
Case 06-CA-198724

Dear Mr. King:

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 Meghan B. Phillips whose telephone number is (412)690-7103. If this Board agent is not available, you may contact Supervisory Attorney Suzanne S. Donsky whose telephone number is (412)690-7104.

**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.nlrb.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.nlrb.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.nlrb.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,

Nancy Wilson
Regional Director

Enclosures:
1. Copy of Charge
2. Commerce Questionnaire

nm

FORM EXEMPT UNDER 44 U.S.C. 3512

INTERNET FORM NLRB-501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**CHARGE AGAINST EMPLOYER**

| DO NOT WRITE IN THIS SPACE | |
|---|---|
| Case | Date Filed |
| 06-CA-198724 | 5-11-17 |

**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
Comcast

b. Tel. No.
(800) 266-2278

c. Cell No.

f. Fax No.

d. Address *(Street, city, state, and ZIP code)*
2810 Darlington Rd
PA Beaver Falls 15010-1028

e. Employer Representative
Mike King
Employer Representative

g. e-Mail
michael_king@cable.comcast.com

h. Number of workers employed
25

i. Type of Establishment *(factory, mine, wholesaler, etc.)*
Broadcasting & Cable TV

j. Identify principal product or service
TV/Internet

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 *(list subsections)* 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)*

--See additional page--

3. Full name of party filing charge *(if labor organization, give full name, including local name and number)*
Michael L McGee Title: Organizer
International Brotherhood of Electrical Workers

4a. Address *(Street and number, city, state, and ZIP code)*
217 Sassafras Lane
PA Beaver 15009-____

4b. Tel. No.
(724) 775-0969

4c. Cell No.
(412) 974-7318

4d. Fax No.
(724) 775-5695

4e. e-Mail
mmcgee@ibew712.org

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)*
Local Union 712

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.

By Michael L McGee
*(signature of representative or person making charge)*

Title: Michael L McGee
Organizer
*(Print/type name and title or office, if any)*

Address 217 Sassafras Lane
Beaver PA 15009-

05/11/2017 14:45:45
*(date)*

Tel. No.
(724) 775-0969

Office, if any, Cell No.
(412) 974-7318

Fax No.
(724) 775-5695

e-Mail
mmcgee@ibew712.org

**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.

## Basis of the Charge

**8(a)(3)**

Within the previous six months, the Employer discharged an employee(s) because the employee(s) joined or supported a labor organization and in order to discourage union activities and/or membership.

| Name of employee discharged | Approximate date of discharge |
|---|---|
| Jason Davis | April 21, 2017 |

**8(a)(3)**

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) joined or supported a labor organization and in order to discourage union activities and/or membership.

| Name of employee disciplined/retaliated against | Type of discipline/retaliation | Approximate date of discipline/retaliation |
|---|---|---|
| Jason Davis | Fired | April 21, 2017 |

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 |
|---|---|
| | 06-CA-198724 |

**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.

# EXHIBIT D

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

# CHARGE AGAINST EMPLOYER

**INSTRUCTIONS:**

| DO NOT WRITE IN THIS SPACE | |
|---|---|
| Case | Date Filed |
| | |
| 06-CA-199538 | 5-25-17 |

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

## 1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

| | | |
|---|---|---|
| a. Name of Employer<br>Comcast | | b. Tel. No.<br>(800)266-2278 |
| | | c. Cell No. |
| d. Address (street, city, state ZIP code)<br>2810 Darlington Rd.<br>Beaver Falls, PA 15010-1028 | e. Employer Representative<br>Mike King<br>Employer Representative | f. Fax No. |
| | | g. e-Mail<br>michael_king@cable.comcast.com |
| | | h. Dispute Location (City and State)<br>Beaver Falls, PA |
| i. Type of Establishment (factory, nursing home, hotel)<br>Broadcasting & Cable TV | j. Principal Product or Service<br>TV/Internet | k. Number of workers at dispute location<br>25 |

l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) 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*)

Since about December 9, 2016, the above-named employer, by its agents, officers, and officials, coerced, restrained, and interfered with its employees in the exercise of their section 7 rights by acts of interrogation, threats, statements of futility, solicitation of grievances, promising benefits, granting benefits, and other acts, conduct, and statements, in order to discourage employee support for unionization.

3. Full name of party filing charge (*if labor organization, give full name, including local name and number*)

International Brotherhood of Electrical Workers, Local 712, AFL-CIO

| | |
|---|---|
| 4a. Address (street and number, city, state, and ZIP code)<br>217 Sassafras Lane<br>Beaver, PA 15009 | 4b. Tel. No.<br>(724)775-0969 |
| | 4c. Cell No.<br>(412)974-7318 |
| | 4d. Fax No.<br>(724)775-5695 |
| | 4e. e-Mail<br>mmcgee@ibew712.org |

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<br>**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.<br>(724)775-0969 |
| By: Michael L. McGee | Michael L. McGee<br>Organizer | Office, if any, Cell No.<br>(412)974-7318 |
| (signature of representative or person making charge) | Print Name and Title | Fax No.<br>(724)775-5695 |
| Address: 217 Sassafras Lane<br>Beaver, PA 15009 | Date: 5/25/17 | e-Mail<br>mmcgee@ibew712.org |

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

RECEIVED
NLRB
REGION 6

2017 MAY 25 PM 3:34

PITTSBURGH, PA

**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.

1-1982152589

RECEIVED
NLRB
REGION 6

2017 MAY 25 PM 3:34

PITTSBURGH, PA

# EXHIBIT E

**Gordon, Mary Cate (NJ)**

| | |
|---|---|
| **From:** | Phillips, Meghan B. <Meghan.Phillips@nlrb.gov> |
| **Sent:** | Thursday, May 25, 2017 5:54 PM |
| **To:** | Johns, Daniel (Phila); Clarke, Erin (Phila) |
| **Subject:** | NLRB Case 06-CA-198724, Comcast: Request for evidence letter and commerce questionnaire attached |
| **Attachments:** | Comcast Request for Evidence ltr sent on 5-25-17.pdf; Commerce questionnaire NLRB 5081.pdf |

Mr. Johns and Ms. Clarke:

I greatly appreciate Mr. Johns taking the time out of his busy schedule to speak with me yesterday, Thursday, May 24, 2017, regarding this case and the type of evidence I would be requesting in my formal request for evidence letter. My formal request for evidence letter and the Board's commerce questionnaire are attached to this email. I note that although the Union filed an additional charge encompassing numerous alleged 8(a)(1) violations earlier today, that charge has not been docketed yet. Therefore, the charge has not been assigned a case number. After the charge is docketed, I will email you a pdf copy of the charge, which is in addition to the charge that the Region will formally serve upon Comcast and you, as Comcast's designated counsel, by USPS first-class mail. The attached request for evidence letter requests evidence pertaining to and your client's position on the allegations encompassed within the charge that the Union filed today. In order to investigate this case expeditiously, I request that you also provide your client's response to the allegations contained in the soon-to-be-docketed charge and the requested evidence relating to that soon-to-be-docketed charge.

If you have any questions, updates, or concerns, please contact me at your earliest convenience by telephone (412-690-7103 (office phone) (202-679-6011 (work cell phone)), or e-mail (Meghan.Phillips@nlrb.gov). I look forward to receiving your position statement and evidence on or before close of business on Thursday, June 8, 2017.

Best,
Meghan B. Phillips,
Field Attorney, Region 6

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 6
1000 Liberty Ave Rm 904
Pittsburgh, PA 15222-4111

Agency Website: www.nlrb.gov
Telephone: (412)395-4400
Fax: (412)395-5986

Agent's Direct Dial: (412) 690-7103

May 25, 2017

Erin K. Clarke, Esq.
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

Daniel V Johns, Esq.
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

Re: Comcast
Case 06-CA-198724

Dear Ms. Clarke and Mr. Johns:

I appreciate Mr. Johns making room in his busy schedule on Wednesday, May 24, 2017 in order to discuss this case and the type of evidence I would be requesting. As a follow-up to my May 24 phone conversation with Mr. Johns, I am writing to formally request your client's evidence in response to the charge in the above-captioned case. The International Brotherhood of Electrical Workers (IBEW), Local 712 ("Union") filed the first charge in this matter, Case 06-CA-198724, on or about May 11, 2017. That charge alleges that alleges that Comcast ("Employer") violated Section 8(a)(3) and (1) of the National Labor Relations Act ("Act") when it discharged Jason Davis because Davis joined or supported a labor organization and in order to discharge union activities and/or membership.

The Union filed the second charge in this matter today (Thursday, May 25, 2017), but that charge has not been docketed yet and therefore does not currently have an assigned case number. I will email you a copy of the new charge once it has been docketed. Additionally, the Region will serve a copy of the charge by mailing it via USPS first-class mail to Comcast.

The new charge alleges that, since about December 9, 2016, Comcast by its agents, officers, and officials, violated Section 8(a)(1) of the Act by coercing, restraining, and interfering with its employees in the exercise of their Section 7 rights by "acts of interrogation, threats, statements of futility, solicitation of grievances, promising benefits, granting benefits, and other acts, conduct, and statements, in order to discourage employee support for unionization." As I discussed with Mr. Johns during our May 24 phone conversation, many (if not all) of the alleged incidents of unlawful interrogation occurred during the ride-ons/ride-alongs that Comcast managers and supervisors allegedly had with employees on or around December 9, 2016 up to and including January 6, 2017. The charge language about "granting benefits" includes the

allegation that Comcast, in response to employee complaints, granted the benefit of a new dispatcher/router in order to discourage union activity. Finally, many, if not all, of the remaining alleged incidents of Section 8(a)(1) conduct purportedly occurred during Comcast's numerous mandatory meetings/ "captive-audience" meetings.

**Board Affidavits:** I am requesting to take affidavits from Steve Tripp, Marc Golden, Dave Henning, and any other individuals who you believe have information relevant to the investigation of this matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of me taking sworn statements from them, constitutes less than complete cooperation in the investigation of the charge. Please contact me **by close of business on Tuesday, June 6, 2017** in order to schedule these affidavits. I will make myself available **on or before Thursday, June 15, 2017** in order to take sworn affidavits. If, however, you are unwilling to present witnesses for the purposes of me taking sworn testimony from them, please provide me a written statement, such as an email, stating that you will not be presenting witnesses for the purposes of me obtaining sworn affidavits from them, **on or before close of business on Tuesday, June 6, 2017**.

Additionally, I request that, by **no later than close of business on Thursday, June 8, 2017,** you provide me with the **documentary evidence** requested below, along with the Employer's **formal position statement and a completed commerce questionnaire or stipulation to commerce.**

**Documentary Evidence:** Please provide the following documents listed below, along with any and all other evidence you deem to be relevant to the case. For the purposes of this request, the term "region" refers to the region or district that the Beaver Falls Service Center, which is located at 2810 Darlington Road, Beaver Falls, PA 15010 (hereinafter "BFSC"), is a part of. It is my understanding that there are six or seven different offices, including an office in New Castle, Pennsylvania, which comprise the region that BFSC is a part of.

1. The names of all managers and supervisors and their accompanying titles for all Comcast managers and supervisors employed at the BFSC and/or the region that the BFSC is a part of.

2. A true and correct copy of any provisions of Comcast's Code of Conduct, Handbook, or other rules and/or policies relating to safe driving and drug and alcohol use.

3. Any scripts, recordings, or contemporaneous notes of what Comcast's agents said in their presentations to and interactions with BFSC employees during the mandatory meetings/ "captive-audience" meetings held between December 8, 2016 and January 6, 2017.

4. The names and positions of any Comcast manager, supervisor, attorney, attorney, or human resources department employee who was present at the mandatory

meetings/ "captive-audience meetings" held at BFSC between December 8, 2016 and January 6, 2017.

5. Any document or other evidence pertaining to Comcast's decision to discharge Jason Davis, including a copy of any document that David "Dave" Henning read aloud to Jason Davis during the April 21, 2017 meeting where Comcast's officials discharged Jason Davis ("discharge meeting").

6. The complete contents of Jason Davis' personnel file and/or employee file.

7. The names and positions of any Comcast manager, supervisor, or agent who performed ride-alongs/ride-ons with Comcast employees between December 8, 2016 and January 6, 2017.

8. Any documents or evidence as will show the date for and the names of employees and supervisors and/or managers involved in ride-alongs or ride-ons between December 1, 2013 and December 1, 2016.

9. Any document as will show when Comcast decided to assign a different router/dispatcher to fulfillment technicians employed at BFSC.

**Commerce Questionnaire:** Please complete the commerce questionnaire, which I previously provided to you as an email attachment and which I sent via an email attachment today, **on or before close of business on Thursday, June 8, 2017**. Alternatively, you can stipulate in an email, your formal position statement, or other written correspondence that the Board's commerce thresholds are satisfied in this case. If you chose to provide a commerce stipulation rather than completing the commerce questionnaire, please do so **on or before close of business on Thursday, June 8, 2017**.

**Position Statement:** The position statement should include the Employer's position concerning the allegations in the charges, including the facts and any applicable legal arguments. Additionally, this position statement should include the Employer's position on the appropriateness of Section 10(j) injunctive relief in this matter. As Mr. Johns and I discussed during our May 24 phone conversation, Section 10(j) of the Act permits the NLRB to ask a federal district court "for appropriate temporary relief or restraining order" pending the Board's resolution of an unfair labor practice charge. The district court is authorized to grant "such temporary relief or restraining order as it deems just and proper." *If* the Region determines the Charged Party has violated the Act as alleged, General Counsel's Memorandum 10-07, dated September 30, 2010, pp. 3–4, which current General Counsel Richard F. Griffin, Jr. affirmed early in his tenure as General Counsel, requires that the Region submit a recommendation to the Injunction Litigation Branch within the NLRB's Division of Advice. Accordingly, your position statement, which is due on or before June 8, 2017, should include your position, legal theory, case law, and supporting evidence regarding whether injunctive relief would be appropriate for the alleged violations in this case and whether such injunctive relief would be just and proper. I emphasize that the Region has not yet made a decision as to whether Comcast has violated the Act as alleged. Rather, we want to provide you with adequate notice that injunctive relief will be

considered if such a decision is made. Additionally, after submitting an initial position statement, you are free to submit a subsequent and/or supplemental position statement or statements on the propriety of Section 10(j) relief and/or the merits of this case.

**Deadline for Submitting Evidence:** To resolve this matter as expeditiously as possible, you must provide your evidence, position statement, and completed commerce questionnaire and/or commerce stipulation in this matter by close of business on **Thursday, June 8, 2017**. Additionally, if you are willing to present witnesses for affidavits, please contact me by close of business on **Tuesday, June 6, 2017** in order to schedule affidavits. If, however, you are unwilling to present witnesses for the purposes of me taking sworn testimony from them, please provide me a written statement, such as an email, stating that you will not be presenting witnesses for the purposes of me obtaining sworn affidavits from them, on or before close of business on **Tuesday, June 6, 2017**.

Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to **www.nlrb.gov,** select **E-File Documents,** enter the **NLRB case number,** and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, by telephone, (412-690-7103 (office phone) or 202-679-6011 (work cell phone)), or e-mail (Meghan.Phillips@nlrb.gov), so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Sincerely,

MEGHAN B. PHILLIPS
Field Attorney

# EXHIBIT F

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 6
1000 Liberty Ave Rm 904
Pittsburgh, PA 15222-4111

Agency Website: www.nlrb.gov
Telephone: (412) 395-4400
Fax: (412) 395-5986

*Sent by electronic mail*

Agent's Direct Dial: (412) 690-7103

June 16, 2017

Erin K. Clarke, Esq.
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

Daniel V. Johns, Esq.
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

Re: Comcast
Cases 06-CA-198724 and 06-CA-199538

Dear Ms. Clarke and Mr. Johns:

I greatly appreciate Ms. Clarke making room in her busy schedule to speak with me about this case on the afternoon of Thursday, June 15, 2017. The purpose of this letter is to set forth the additional evidence I have gathered concerning the particulars of the alleged Section 8(a)(1) conduct and to request additional information from you pertaining to the decision to discharge alleged discriminatee Jason Davis and to the decision to grant the benefit of a new dispatcher. I am requesting that you provide with your supplemental position statement regarding these Section 8(a)(1) allegations, any requested information or information that you believe is pertinent to the analysis of the allegation that Comcast's discharge of Jason Davis violated Section 8(a)(3), and the documents requested in this letter on or before close of business on Friday, June 30, 2017.

As I explained in my May 25, 2017 Request for Evidence letter in this case, the International Brotherhood of Electrical Workers (IBEW), Local 712 ("Union") filed the first charge in this matter, Case 06-CA-198724, on or about May 11, 2017. That charge alleges that alleges that Comcast ("Employer") violated Section 8(a)(3) and (1) of the National Labor Relations Act ("Act") when it discharged Jason Davis because Davis joined or supported a labor organization and in order to discharge union activities and/or membership. On or about May 25, 2017, the Union filed the charge in Case 06-CA-199538, which alleges that since about December 9, 2016, Comcast by its agents, officers, and officials, violated Section 8(a)(1) of the Act by coercing, restraining, and interfering with its employees in the exercise of their Section 7 rights by "acts of interrogation, threats, statements of futility, solicitation of grievances,

promising benefits, granting benefits, and other acts, conduct, and statements, in order to discourage employee support for unionization."

With regard to the unlawful grant of a benefit of a new dispatcher, the Union does not allege that the announcement was unlawful. Rather, I explained during my phone conversation with Ms. Clarke, the Union alleges that Comcast sped up its implementation its decision to close the Lancaster dispatching center by providing the employees with a new dispatcher sooner than it would have done but for the Union's election petition.

As I further discussed with Ms. Clarke today, although Agency policy precludes me from providing the names of statutory employees who are alleged to have been interrogated, I am able to provide you with additional information concerning the alleged unlawful interrogations, a separate promise of a benefit, and unlawful solicitation of grievances with the implied promise to remedy those grievances.[1] For organizational purposes, I have set forth each alleged incident of unlawful interrogation in a separate paragraph and, where it is alleged that the incident constitutes one or more violations of Section 8(a)(1) *in addition* to the alleged unlawful interrogation, the paragraph states the additional violation alleged.

(1) On or about December 16, 2016, Greg Wagner, who is a supervisor from Comcast's Pittsburgh office, performed a ride-along/ride-on with an employee from the Beaver Falls Service Center ("BFSC") during which Wagner asked the technician "whether he was interested in the Union." The employee replied that he "was not for or against the Union." Prior to this ride-along/ride-on, the employee had not mentioned the Union during his conversations with Wagner and had never informed any Comcast supervisor or manager of whether or not he supported the Union. It is further noted that this employee had never previously met Wagner, but that Wagner introduced himself to the employee as a supervisor or manager from Comcast's Pittsburgh office.

(2) Sometime around late December 2016 or the first week of January 2017,[2] a Comcast supervisor or manager from a Comcast facility in Texas named Mike (last name unknown) performed a ride-out/ride-on with a BFSC employee during which supervisor Mike asked the employee "Where do you stand on the union?" "Why are guys doing this unionizing?" and "what issues are there?" The employee replied that he was "on the fence" about the Union and that wanted to collect information from listening to Comcast and the Union about the pros and cons of unionizing. The employee had not previously mentioned the Union during his conversation with supervisor Mike, had never previously met supervisor Mike, and had never previously disclosed his union support or lack thereof to supervisor Mike.

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[1] My investigation of the 8(a)(1) violations alleged in Case 06-CA-199538 is still ongoing. I will provide you with additional relevant information concerning these violations if and when I obtain it during my investigation.

[2] All incidents of alleged interrogation occurred sometime between after the Union filed the election petition on December 8, 2016 and when the Union withdrew the election petition on January 6, 2017.

Additionally, during this same conversation, supervisor Mike told the employee that if the employees voted for Union representation the employees would no longer be able to go their respective supervisors when they wanted to have a particular work issue addressed and would instead be required to present all of their work-related issues through a Union shop steward. Supervisor Mike also told this employee that if the employees selected the Union as their representative, the employees would be required to pay outrageously high Union dues. It is alleged that this incident constituted an unlawful interrogation, unlawful solicitation of grievances and implied promise to remedy those grievances, and an unlawful threat.

(3) Around the end of December 2016 or the first week of January 2017, Randy Tecza, Vice President, Technical Operations, Keystone Region performed a ride-out/ride-along with a BFSC employee and asked the employee "Where do you stand on the Union?" The employee replied that he was "on the fence" about the Union and that wanted to collect information from listening to Comcast and the Union about the pros and cons of unionizing. The employee had not previously mentioned the Union during his conversation with supervisor Tezca, had not met Tezca prior to the Union filing the election petition, and had never previously disclosed his union support or lack thereof to a Comcast manager or supervisor. During this same ride-along/ride-on, Tecza promised to provide the employee with a new Comcast-issued work vehicle. It is alleged that this incident constituted an unlawful interrogation and an unlawful promise of a benefit.

(4) Sometime near or after December 16, 2016, Dave Henning, manager, Network Maintenance, performed a ride-on/ride-along with a BFSC employee. Near the end of the ride-on/ride-along, Henning asked the employee "Do you have any questions about the Union?" Additionally, Henning explained to the employee that he had experience with unions and was there to answer any questions that the employee may have about unions. The employee replied by stating that he had been a member of a union when he worked at the Warren, Ohio location and the Penn Hills, Pennsylvania Comcast facility, so he did not have any questions about the Union. The employee also said "I'm behind the guys and what they want." After this exchange, Henning asked the employee "what are the employees' main complaints?" The employee replied "whatever they have been complaining about for the last couple of years. If you would listen to the employees' complaints at the Wednesday meetings, then you would know." The employee did not mention the Union to Henning prior to Henning asking the employee if he had any questions about the Union, and the employee had not previously discussed with Henning whether or not the employee supported the Union. The Union alleges that this incident was unlawful interrogation and an unlawful solicitation of grievances and implied promise to remedy the grievances.

(5) Sometime on or around late December 2016 and early January 2017, Comcast manager Sean Benninghoff (spelling of first and last names uncertain), who is a network manager for Comcast in another Comcast region, performed a ride-out/ride-on with a BFSC employee. Near the end of the ride-along/ride-on, Benninghoff asked the employee "Do you have any questions about the Union?" Benninghoff also

stated that he (Benninghoff) "experience with the union" or "experience with a union or unions." The employee replied that he did not have any questions about the Union because he had previously been a Union member at the East Hills facility. The employee had previously mentioned the Union to Benninghoff and did not regularly interact with Benninghoff.

(6) In late December 2016, while supervisor Marc Golden was performing an end-of-the month inspection that Golden, as a supervisor, performed on each BFSC maintenance technician's Comcast-issued vehicle at the end of the month. While performing the inspection, Golden asked the employee "What do you think about this Union stuff?" and also stated "I didn't realize that anything was wrong" and that he (Golden) was "shocked that the employees had contacted the Union." The employee replied stating that Golden knew what his (the BFSC maintenance technician's) views on unionized were because they are the same that they were years ago when Keith Dissette (spelling uncertain) asked the employee about his union sympathies.[3]

(7) Sometime in December 2016 or early January 2017, the manager of Tech Operations (Cordless) from Comcast's Pittsburgh office ("Pittsburgh manager") performed a ride-on/ride-along with a BFSC employee. During the ride-on/ride-along, the Pittsburgh manager asked the employee if he had any questions about the Union. The manager also told the employee about the differences between the Pittsburgh office, which is a unionized facility, and BFSC, which is not unionized. The employee never provided the Pittsburgh manager with his position on the Union. The employee had never met the Pittsburgh manager prior to the ride-on/ride-along, but knew what the Pittsburgh manager's position was because he told the employee his name and position at the beginning of the ride-on/ride-along.

(8) Sometime during December 2016 or early January 2017, maintenance supervisor Marc Golden performed a ride-along/ride-on with a BFSC employee. During that ride-on/ride-along, Golden asked the employee "what do you think about what is going on?" The employee replied "are you talking about the union?" Golden responded "yes, the Union," and the employee replied "yes, I'm for it." This employee had not previously discussed his Union sympathies or lack thereof with

[3] By way of background, the employee involved in this alleged interaction with Marc Golden noted that a decade or more ago when the employee began working at BFSC, Keith Dissette, who was a manager at BFSC at that time and who transferred to a Philadelphia, PA area Comcast location around 2005–06, Dissette had asked the employee what he thought about unions and the employee replied "I will go with whatever the majority of my coworkers want and will back them 100%." The employee further alleges that Marc Golden knew about the content of the employee's conversation with Dissette because, not long after Dissette had the conversation with the employee, Marc Golden had a conversation with the employee regarding the employee and Dissette's conversation. During his conversation with the employee, Marc Golden referenced Dissette's anti-union stance and relayed to the employee what Dissette had shared with Golden about the employee's response to Dissette's questioning.

Marc Golden and had not mentioned the Union to Golden prior to Golden's questioning.

(9) Sometime in or around December 2016 and January 2017, maintenance manager Dave Henning performed a ride-on/ride-along with a BFSC employee, during which Henning asked "what do you think about what's going on?" and "is there anything that is upsetting you?" The employee replied "do you mean the Union?" Henning replied "yes, the Union," and the employee responded "the Union is not upsetting me, but all of these ride-alongs are." The employee had not previously discussed his position on the Union with Henning and had not broached the issue of the Union during any discussions with Henning prior to this ride-along/ride-on.

As I further discussed with Ms. Clarke during our phone conversation, it is further alleged that sometime during one or more of Comcast's captive-audience meetings, which were held between December 12, 2016 and when the Union withdrew the election petition, one or more Comcast managers, supervisors, or agents told the BFSC employees that if they selected Union representation then the employees would no longer be able to present issues directly to their respective manager or supervisor. Instead, the Comcast officials contended, employees would be required to present any work-related issue the respective employee or employees had through the shop steward. This incident or incidents are alleged as unlawful threats.

Finally, as I mentioned to Ms. Clarke during our phone conversation, the Union does not allege that Comcast's announcement or decision to close the Lancaster dispatching center constituted an unlawful grant of a benefit. Rather, the Union alleges that by speeding up its implementation of this decision and providing the BFSC employees with a new dispatcher just one or two weeks after the announcement, Comcast unlawfully granted a benefit to employees that it would not have granted at that time but for the upcoming Union election. Because your prior position statement cited *American Sunroof Corp.*, 248 NLRB 748 (1980), I request that you address other similar cases regarding the timing of a grant or announcement of benefits, including 401(k) benefits, in your supplemental position statement. In so doing, it may be helpful for you to read *Divi Carina Bay Resort*, 356 NLRB 316 (2000), *enforced mem.*, 451 F. App'x 143 (3d Cir. 2011) and the cases it cites regarding the announcement and grant of a 401(k) benefit.

**Documents:** I am making a second written request for the following documents, which I previously requested in the May 25, 2017 Request for Evidence:

1. Any scripts, recordings, or contemporaneous notes of what Comcast's agents said in their presentations to and interactions with BFSC employees during the mandatory meetings/ "captive-audience" meetings held between December 8, 2016 and January 6, 2017. If these documents or recordings do not exist, please state so in your supplemental position statement.

2. The names and positions of any Comcast manager, supervisor, attorney, attorney, or human resources department employee who was present at the mandatory meetings/ "captive-audience meetings" held at BFSC between December 8, 2016 and January 6, 2017.

3. Any document or other evidence pertaining to Comcast's decision to discharge Jason Davis.

4. The complete contents of Jason Davis' personnel file and/or employee file.

5. The names and positions of any Comcast manager, supervisor, or agent who performed ride-alongs/ride-ons with Comcast employees between December 8, 2016 and January 6, 2017.

6. Any documents or evidence as will show the date for and the names of employees and supervisors and/or managers involved in ride-alongs or ride-ons between December 1, 2013 and December 1, 2016.

7. Any document as will show when Comcast decided to assign a different router/dispatcher to fulfillment technicians employed at BFSC.

**Please provide the following documents, along with any and any other evidence you deem to be relevant to the case:**

1. Any document dated prior to Comcast's December 8, 2016 announcement of the closure of the Lancaster, PA dispatching center, which may show when and how Comcast planned to "roll out" or "phase out" the Lancaster, PA dispatching/routing center.

2. Complete personnel files for the following employees: Arlen Lee Blank, Larry Smith,[4] Marc Golden, Robert Guinn, Jacob Robinson, Scott Disney, Glenn Hatt,[5] and Scott Reynolds.[6]

3. Documentation or information as will show what state the Grantsville facility, where Robert Guinn was employed, is located.

4. Any information or documentation pertaining to when Comcast promulgated and issued the Keystone Safe Driving Policy, how Comcast informed employees of

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[4] Mr. Blank currently works at the New Castle, PA Comcast facility. Until this week, when Comcast issued a separation notice to Larry Smith, Larry Smith also worked at the New Castle facility.

[5] My investigation has disclosed that Glenn Hatt was a manager or supervisor at BFSC and/or in the Keystone Region and held the position that Mike King, Director of Field Operations, Tech Operations, holds with Comcast until Hatt left Comcast's employ in or around 2010 or 2011.

[6] My investigation has disclosed that Scott Reynolds previously worked at BFSC or another facility within the Keystone Region, but that Scott Reynolds currently works as a dispatcher/router for Comcast.

the policy (*e.g.*, distribution of a paper copy of the policy to all employees), and when Comcast informed the employees of the policy.

5. Any documentation or information as will show if and when Jason Davis was provided with a copy of the Keystone Safe Driving Policy.

6. Any documentation or information as will show who was involved in the decision to discharge Jason Davis, including who made the recommendation that he should be discharged.

7. Any documentation or information as will show how Comcast determined that Jason Davis would not be permitted to wear a SCRAM ankle bracelet while in Comcast's employ.

8. Any documentation or information as will show whether or not Comcast has discharged or disciplined other employees who were required to wear a SCRAM ankle bracelet.

9. Any documentation or information as will show whether or not Comcast has discharged or disciplined other employees who were required to wear other devices, including house-arrest ankle bracelets.

10. Any rule or policy as will show that Comcast prohibited employees from wearing SCRAM bracelets while performing work on behalf of Comcast. Such information or documentation should include whether or not such a rule exists, whether the rule was written or oral, when the rule was implemented, who the rule was applied to, and if and how the rule was communicated to Comcast employees, including Jason Davis.

11. Any documentation or information pertaining to Dave Henning's, Lori Lafferty's, and Marc Golden's communications with Jason Davis regarding his April 2017 DUI, including whether or not a SCRAM device would be acceptable, prior to and after his discharge.

12. Any documents or information as will show what policy the Code of Conduct rules cited in Exhibit G (p. 40 of Comcast's June 8, 2017 position statement) were contained in, when this policy was implemented, and how it was communicated to employees (*e.g.*, orally or in writing, including via email).

**Commerce Questionnaire:** Please complete the commerce questionnaire, which I previously provided to you as an email attachment and which I sent via an email attachment today, **on or before close of business on Friday, June 30, 2017**. Alternatively, you can stipulate in an email, your formal position statement, or other written correspondence that the Board's commerce thresholds are satisfied in this case. If you chose to provide a commerce stipulation rather than completing the commerce questionnaire, please do so **on or before close of business on Friday, June 30, 2017.**

**Deadline for Submitting Evidence and Supplemental Position Statement:** To resolve this matter as expeditiously as possible, you must provide your evidence, supplemental position statement, and completed commerce questionnaire and/or commerce stipulation in this matter by close of business on **Friday, June 30, 2017**.

Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to **www.nlrb.gov,** select **E-File Documents,** enter the **NLRB case number,** and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, by telephone, (412-690-7103 (office phone) or 202-679-6011 (work cell phone)), or e-mail (Meghan.Phillips@nlrb.gov), so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Sincerely,
**/s/ Meghan B. Phillips**
Meghan B. Phillips,
Field Attorney, NLRB Region 6 (Pittsburgh)

# EXHIBIT G

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 6
1000 Liberty Ave Rm 904
Pittsburgh, PA 15222-4111

Agency Website:
www.nlrb.gov
Telephone: (412)395-4400
Fax: (412)395-5986

Download
NLRB
Mobile App

June 22, 2017

Comcast Cable Communications Management, LLC
Michael King
Director of Field Operations, Tech Operations
2810 Darlington Rd
Beaver Falls, PA 15010-1028

Re: Comcast Cable Communications Management, LLC
Case 06-CA-201097

Dear Mr. King:

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 Meghan B. Phillips whose telephone number is (412)690-7103. If this Board agent is not available, you may contact Supervisory Attorney Suzanne S. Donsky whose telephone number is (412)690-7104.

**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.nlrb.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.

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.

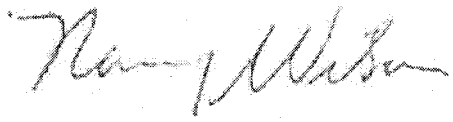
We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), 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.nlrb.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.nlrb.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,



Nancy Wilson
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

nm

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**CHARGE AGAINST EMPLOYER**

| DO NOT WRITE IN THIS SPACE | |
|---|---|
| Case | Date Filed |
| 06-CA-201097 | 6-21-17 |

**INSTRUCTIONS:**

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

| | | |
|---|---|---|
| a. Name of Employer<br>Comcast Cable Communications Management, LLC | | b. Tel. No.<br>(800)266-2278<br>c. Cell No. |
| d. Address (street, city, state ZIP code)<br>2810 Darlington Road<br>Beaver Falls, PA 15010-1028 | e. Employer Representative<br>Michael "Mike" King,<br>Director of Field Operations,<br>Tech Operations | f. Fax No.<br>g. e-Mail<br>michael_king7@cable.comcast.com<br>h. Dispute Location (City and State) |
| i. Type of Establishment (factory, nursing home, hotel)<br>Broadcasting & Cable TV | j. Principal Product or Service<br>TV/Internet | k. Number of workers at dispute location<br>25 |

l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) 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*)

Since about April 2017, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by maintaining an overly broad conflicts of interest rule in its Code of Conduct.

3. Full name of party filing charge (*If labor organization, give full name, including local name and number*)
International Brotherhood of Electrical Workers, Local 712

| | |
|---|---|
| 4a. Address (street and number, city, state, and ZIP code)<br>217 Sassafras Lane<br>Beaver, PA 15009 | 4b. Tel. No.<br>(724)775-0969<br>4c. Cell No.<br>(724)974-7318<br>4d. Fax No.<br>(724)775-5695<br>4e. e-Mail<br>mmcgee@ibew712.org |

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<br>**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.<br>(724)775-0969 |
| By: Michael L. McGee<br>(signature of representative or person making charge) Michael L. McGee, Organizer<br>Print Name and Title | Office, if any, Cell No.<br>(724)974-7318<br>Fax No.<br>(724)775-5695 |
| Address: 217 Sassafras Lane<br>Beaver, PA 15009<br>Date: 06/21/2017 | e-Mail<br>mmcgee@ibew712.org |

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.

1-2001428322

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 |
|---|---|
| | 06-CA-201097 |

**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.

# EXHIBIT H

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 6
1000 Liberty Ave Rm 904
Pittsburgh, PA 15222-4111

Agency Website: www.nlrb.gov
Telephone: (412) 395-4400
Fax: (412) 395-5986

*Sent by electronic mail*

Agent's Direct Dial: (412) 690-7103

July 15, 2017

Erin K. Clarke, Esq.
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

Daniel V. Johns, Esq.
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

Re: Comcast
Case 06-CA-199538

Dear Mr. Johns and Ms. Clarke:

As noted on page 2, note 1 of my June 16, 2017 revised request for evidence letter for Cases 06-CA-198724 and 06-CA-199538, my investigation of the Section 8(a)(1) allegations in Case 06-CA-198724 has been an ongoing one. This letter is to request a position statement from you and evidence in response to alleged Section 8(a)(1) violations in Case 06-CA-198724 that are alleged to have occurred at Comcast's Beaver Falls Service Center ("BFSC").

**Allegations:** The allegations for which I am seeking your position statement and evidence are as follows:

(1) In captive-audience meetings held between December 9, 2016 up to and including January 6, 2017, Comcast, by and through its agents, officers, and officials, including John MacGowan, John Meyer, and/or Deric Bomar violated Section 8(a)(1) of the National Labor Relations Act ("NLRA" or "the Act") by telling employees that they voted in favor of Union representation they would lose the ability to drive their Comcast-issued vehicles to and from work because the ability to take their Comcast-issued trucks and vehicles home in the evenings would not be part of the status quo.

(2) In captive-audience meetings held between December 9, 2016 up to and including January 6, 2017, Comcast, by and through its agents, officers, and officials, including John MacGowan, John Meyer, and/or Deric Bomar violated Section 8(a)(1) of the Act by telling employees that their quarterly bonuses were not part of the status quo and would be lost if they voted in favor of Union representation.

(3) In captive audience meetings held between December 9, 2016 up to and including January 6, 2017, Comcast, by and through its agents, officers, and officials, including John MacGowan, John Meyer, and/or Deric Bomar violated Section 8(a)(1) of the Act by telling employees that if they voted in favor of Union representation they would only receive a 1.9% raise rather than the up to 3% raise that employees previously received.

**Position Statement:** The position statement should include Comcast's position concerning the allegations in the charges, including the facts and any applicable legal arguments.

**Documents:** Please provide documents requested below, along with any and all other evidence you deem to be relevant to the case. I am reiterating my request for the documents that I requested in my May 25, 2017 and June 16, 2017 request for evidence letters:

1. Any scripts, recordings, or contemporaneous notes of what Comcast's agents said in their presentations to and interactions with BFSC employees during the mandatory meetings/ "captive-audience" meetings held between December 8, 2016 and January 6, 2017.

2. The names and positions of any Comcast manager, supervisor, attorney, attorney, or human resources department employee who was present at the mandatory meetings/ "captive-audience meetings" held at BFSC between December 8, 2016 and January 6, 2017.

3. The names and positions of any Comcast manager, supervisor, or agent who performed ride-alongs/ride-ons with Comcast employees between December 8, 2016 and January 6, 2017.

4. Any documents or evidence as will show the date for and the names of employees and supervisors and/or managers involved in ride-alongs or ride-ons between December 1, 2013 and December 1, 2016.

5. Any document as will show when Comcast decided to assign a different router/dispatcher to fulfillment technicians employed at BFSC.

6. Any document dated prior to Comcast's December 8, 2016 announcement of the closure of the Lancaster, PA dispatching center, which may show when and how Comcast planned to "roll out" or "phase out" the Lancaster, PA dispatching/routing center.

In response the defense you set forth in your July 14, 2017 position statement in Case 06-C-199538, I request the following documentary evidence:

- Documentary evidence as will show the number of complaints, errors, and late dispatching assignments related to dispatching that occurred with regard to the Beaver Falls Service Center location and all other locations that would be serviced by the dispatching center in Summit Park, Pennsylvania.

**Date for Submitting Evidence and Supplemental Position Statement:** To resolve this matter as expeditiously as possible, you must provide your evidence and position in this matter no later than 5pm on Monday, July 31, 2017. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to **www.nlrb.gov,** select **E-File Documents,** enter the **NLRB case number,** and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to **www.nlrb.gov,** select **E-File Documents,** enter the **NLRB case number,** and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, by telephone, (412-690-7103 (office phone) or 202-679-6011 (work cell phone)), or e-mail (Meghan.Phillips@nlrb.gov), so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Sincerely,
**/s/ Meghan B. Phillips**
Meghan B. Phillips,
Field Attorney, NLRB Region 6 (Pittsburgh)

# EXHIBIT I

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 6
1000 Liberty Ave Rm 904
Pittsburgh, PA 15222-4111

Agency Website: www.nlrb.gov
Telephone: (412) 395-4400
Fax: (412) 395-5986

*Sent by electronic mail*

Agent's Direct Dial: (412) 690-7103

July 20, 2017

Erin K. Clarke, Esq.
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

Daniel V. Johns, Esq.
Ballard Spahr, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

Re: Comcast Cable Communications Management, LLC,
Case 06-CA-201097

and

Comcast, Case 06-CA-199538

Dear Ms. Clarke and Mr. Johns:

This letter supplements my request for evidence in the July 3, 2017 request for evidence letter in Case 06-CA-201097, my May 25, June 16, and July 15, 2017 request for evidence letters in Case 06-CA-199538, and my July 13, 2017 email reiterating my prior requests for documentary evidence in Cases 06-CA-199538 and 06-CA-198724.

**Case 06-CA-201097**

In your July 14, 2017 response to my July 3, 2017 request for evidence letter in Case 06-CA-201097, you have asserted that Comcast's officials erroneously cited to a rule in "Comcast Internal Correspondence: CORRECTIVE ACTION NOTICE," which was included as Exhibit G to Comcast's June 8, 2017 position statement. Specifically, you asserted that the "Conduct Policy was mistakenly drawn from a prior version of Comcast's Conduct Policy that was no longer in effect at the time of Davis's termination." In so doing, you did not address the evidence that at a minimum, Comcast maintains this rule online and that it is available at the by using the following URL: http://corporate.comcast.com/images/Code-of-Conduct.pdf. As of July 20, 2017,

that rule is still maintained online and still contains the allegedly unlawful provision. Additionally, the first page of the policy states that it was updated in June 2017. Please address those issues in your position statement.

In order to substantiate your assertion that this rule was "no longer in effect at the time of Davis's termination," I am requesting the following documentary evidence:

1. Documents as will show when the policy cited in the corrective action notice for Jason Davis was rescinded.

2. Documents as will show how Comcast communicated the rescission and/or revision of the prior policy to employees and when Comcast communicated the rescission and/or revision of the policy was communicated to employees.

3. A copy of the prior Conduct Policy cited in the corrective action notice for Jason Davis.

4. Documents as will show when the prior Conduct policy was promulgated the period when it was in effect.

**Case 06-CA-199538**

My investigation of Case 06-CA-199538 has also disclosed that after Comcast officials mentioned during a mandatory employee meeting on or around December 9, 2016 that they were in the process of improving certain employee working conditions, including dispatching/routing, that a technician asked what Comcast officials planned to do about the overbooking of appointments for fulfillment technicians, which were causing fulfillment technicians to have to work several hours after the official end time for their shifts. The Comcast officials replied by acknowledging the issue with overbooking but did not state that, prior to the Union filing the election petition, had planned to bring in additional contract workers to reduce the workload for the fulfillment technicians. Within a week or two of the employee's inquiry, Comcast began to employ additional contractors in order to aid the fulfillment technicians' workload, which reduced the fulfillment technicians' respective workloads by up to 50%.

In addition to requesting Comcast's position on this additional allegation, I am requesting the following documentary evidence:

1. Any document from prior to the Union's filing of the December 8, 2016 election petition that shows that Comcast planned to bring in additional contract employees during December 2016 and January 2017.

2. Any documents as will show the number of contract employees that Comcast employed during the period between December 8, 2016 and January 6, 2017. This documentation should also include the number of hours that the collective group of contractors worked during this period.

3. Any documents as will show the number of contract employees that Comcast employed between August 2016 and December 8, 2016. This documentation should also include the number of hours that the collective group of contractors worked during this period.

4. Any documents as will show the number of contract employees that Comcast employed between December 2014 and January 2015, as well as between December 2015 and January 2016. This documentation should also include the number of hours that the collective group of contractors worked during those periods.

As a follow-up to your July 14, 2017, I am requesting additional information in order to substantiate Comcast's assertions regarding why the new dispatching system/dispatcher was assigned to the Beaver Falls Service Center ("BFSC") in December 2016 and when Comcast made its decision to assign the new dispatcher/dispatching system to BFSC in December 2016 rather than at some later date. On page 4 your July 14, 2017 position you asserted that "Comcast recognized in the summer of 2016 that the Beaver Falls has been particularly negatively impacted by the change" with dispatching. You noted that the transition to the new dispatching system occurred between December 2016 and May 2017, and that "[b]ecause employees who were already in Pittsburgh had previous experience routing for the western half of Pennsylvania, Comcast transferred those employees into the routing positions for locations in the western half of Pennsylvania first."

In order to substantiate your written assertions, I am requesting the following documentary evidence:

1. Any document as will show when Comcast decided to assign a different router/dispatcher to fulfillment technicians employed at the Beaver Falls Service Center.[1]

---

[1] I also requested this information in my May 25, 2017 request for evidence letter.

2. Any document dated prior to Comcast's December 8, 2016 announcement of the close of the Lancaster, PA dispatching center, which may show when and how Comcast planned to "roll out" or "phase out" the Lancaster, PA dispatching/routing center.[2]

3. Documents as will show the number of complaints received and any other issues related to dispatching (*e.g.,* missed appointment windows due to dispatching assigning appointments after the appointment window promised to the customer had elapsed) with respect to the Beaver Falls Service Center ("BFSC") that Comcast was aware of in the summer of 2016, as well as the same documentation for complaints and other issues that Comcast was aware of prior to December 8, 2016.

4. Documents as will show the number of complaints received and any other issues related to dispatching (*e.g.,* missed appointment windows due to dispatching assigning appointments after the appointment window promised to the customer had elapsed) with respect to the other facilities located within the same region that BFSC is a part of, which Comcast was aware of in the summer of 2016, as well as the same documentation for complaints and other issues that Comcast was aware of prior to December 8, 2016.

5. Documents as will show the date that other facilities in the same region in which the BFSC is located received improved dispatching and/or a new dispatcher between December 8, 2016 and May 2017.

**Date for Submitting Evidence:** To resolve this matter as expeditiously as possible, you must provide your evidence and position statement in this matter **by 5pm on Monday, July 31, 2017**. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to **www.nlrb.gov,** select **E-File Documents,** enter the **NLRB case number,** and follow the detailed instructions.

Please be advised that under extant Board law, it is the employer's burden to show that the timing of the announcement or the timing of the granting of benefits is governed by factors other than the pendency of the election, and that the employer would have acted in the same manner even if the union were not in the picture. *See, e.g., Arrow Elastic Corp.*, 230 NLRB 110, 113 (1977), *enforced,* 573 F.2d 702 (1st Cir. 1978); *Essex International*, 216 NLRB 575, 576 (1974). If

[2] I made this same request in my June 16 and July 15, 2017 request for evidence letters, as well as in a July 13, 2017 email where I reiterated my prior requests for documentary evidence that I had previously requested but that Comcast had not provided.

I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, by telephone, (412-690-7103 (office phone) or 202-679-6011 (work cell phone)), or e-mail (Meghan.Phillips@nlrb.gov), so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Sincerely,
**/s/ Meghan B. Phillips**
Meghan B. Phillips,
Field Attorney, NLRB Region 6 (Pittsburgh)

# EXHIBIT J

**UNITED STATES OF AMERICA**
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**
**REGION 6**

**COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC**

**and**

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 712, AFL-CIO**

**Cases 06-CA-198724; 06-CA-199538; and 06-CA-201097**

# ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT AND NOTICE OF HEARING

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board ("the Board") and to avoid unnecessary costs or delay, IT IS ORDERED THAT Case 06-CA-199538, which is based on a charge filed by the International Brotherhood of Electrical Workers, Local 712, AFL-CIO ("Union") against Comcast, herein described by its correct name, Comcast Cable Communications Management, LLC, and herein called "Respondent," and Cases 06-CA-198724 and 06-CA-201097, which are based on charges filed by the Union against Respondent, are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, 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 Board's Rules and Regulations, and alleges that Respondent has violated the Act as described below.

1. (a) The charge in Case 06-CA-198724 was filed by the Union on May 11, 2017, and a copy was served on Respondent by U.S. mail on May 15, 2017.

(b) The amended charge in Case 06-CA-198724 was filed by the Union on August 15, 2017, and a copy was served on Respondent by U.S. mail on August 15, 2017.

(c) The charge in Case 06-CA-199538 was filed by the Union on May 25, 2017, and a copy was served on Respondent by U.S. mail on May 26, 2017.

(d) The charge in Case 06-CA-201097 was filed by the Union on June 21, 2017, and a copy was served on Respondent by U.S. mail on June 22, 2017.

2. At all material times, Respondent, a Delaware corporation with an office and place of business in Beaver Falls, Pennsylvania ("Respondent's BFSC facility"), has been engaged in providing telecommunication services.

3. (a) Annually, Respondent, in conducting is business operations described above in paragraph 2, derives gross revenues in excess of $100,000 from the operation of its business.

(b) Annually, Respondent, in conducting its business operations described in paragraph 2, has purchased and received at Respondent's BFSC facility, goods valued in excess of $50,000 directly from points outside of the Commonwealth of Pennsylvania.

4. 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.

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

6. 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:

Lori Lafferty - Human Resources Manager

| | | |
|---|---|---|
| Danielle Erringer | - | Human Resources Director |
| Kristen Harris | - | Senior Manager of Employee Relations and Engagement |
| John Meyers | - | Regional Vice President (Keystone Region) |
| Steve Trippe | - | Vice President of Operations (Keystone Region) |
| Michael King | - | Director of Field Operations, Tech Operations |
| Marc Golden | - | Supervisor, Network Maintenance |
| Christine Whitaker | - | Senior Vice President (Keystone Region) |
| Deric Bomar | - | Vice President of Labor Relations |
| John MacGowan | - | Vice President of Labor Relations |
| Greg Wagner | - | Supervisor, Respondent's Corliss Street facility in Pittsburgh, Pennsylvania |
| David Henning | - | Manager, Network Maintenance |

7. Respondent, by Marc Golden:

(a) About late December 2016 or early January 2017, on a date presently unknown to the General Counsel but within Respondent's knowledge, during a ride-out in one of Respondent's vehicles, interrogated its employees regarding their union activities and/or support for the Union.

(b) About January 2017, on a date unknown to the General Counsel but within Respondent's knowledge, during an end-of-month vehicle check held in Respondent's BFSC facility parking lot, threatened its employees with stricter enforcement of Respondent's rules.

8. Respondent, by David Henning, in about late December 2016 or early January 2017, on a date unknown to the General Counsel but within Respondent's knowledge, during a ride-out in one of Respondent's vehicles, interrogated its employees regarding their union activities and/or support for the Union.

9. Respondent, by Greg Wagner or an unidentified supervisor of Respondent, on about December 16, 2016, during a ride-out in one of Respondent's vehicles, interrogated its employees regarding their union activities and/or support for the Union.

10. Respondent, by John MacGowan and Deric Bomar, in about December 2016 or early January 2017, at a mandatory employee meeting held at the Respondent's BFSC facility, threatened its employees with the loss of quarterly bonuses.

11. Respondent, by John MacGowan and Deric Bomar, in about December 2016 or early January 2017, at a mandatory employee meeting held at the Respondent's BFSC facility, threatened its employees with lower annual pay increases.

12. In about December 2016, Respondent accelerated its implementation of improvements in the routing function used to dispatch its employees employed at Respondent's BFSC facility.

13. Since about April 2017, Respondent has maintained the following provisions in its corporate Code of Conduct policy:

(a) PRINCIPLES OF BUSINESS CONDUCT

> The foundation of the Code consists of the following important principles of business conduct, which are the key ingredients in establishing and maintaining trust:
>
> ***
>
> Avoid conflicts of interest, and the appearance of such conflicts, between work and personal affairs.
>
> ***

(b) CONFLICTS OF INTEREST: WHAT TO KNOW

- We all must avoid conflicts of interest and make business decisions in the best interests of the Company.
- A conflict of interest may exists when you are involved in activities that might interfere, or appear to interfere, with the performance of your duties and responsibilities, or that could harm the Company's reputation or business relationships.

- You must disclose and receive approval, as needed, for all outside work, financial interests and other personal activities or relationships that may create, or appear to create a conflict of interest. A potential conflict of interest could arise if you have the ability to influence Company decisions relating to employment or business transactions that affect a family member or close personal relationship.

***

(c) CONFLICTS OF INTEREST: WHAT TO DO

- Avoid personal activities or relationships that may cause actual or potential conflicts or create the appearance of a conflict with your job or the Company's interests.

***

- Do not use Company assets, information, resources or influence for personal benefit or to promote an outside business or activity of yours, a family member or a close personal relationship. This includes the use of Company facilities, office equipment, email, employee or client information, software or company applications.

***

(d) FINANCIAL INTERESTS: WHAT TO WATCH FOR

- Personal relationships that may conflict with your job responsibilities or compromise Company interests.
- Activities that would lead an impartial person to question whether your motivations are consistent with your job or the Company's best interests.

***

14. On about April 21, 2017, Respondent discharged its employee Jason Davis.

15. Respondent engaged in the conduct described above in paragraph 14 because Jason Davis formed, joined, and/or assisted the Union and engaged in protected concerted activities, and to discourage its employees from engaging in these activities.

16. By the conduct described above in paragraphs 7 through 13, 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.

17. By the conduct described above in paragraphs 14 and 15, 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.

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

## REQUESTED REMEDIES

In view of the fact that the Respondent maintains the rule listed in paragraph 13 on a corporate-wide basis and that the Respondent maintains the rule on its internal intranet and the internet, the General Counsel seeks an Order requiring the Respondent to: (1) rescind the rule set forth above in paragraph 13 on a nation-wide basis; (2) post in all its facilities any Notice to Employees that may issue in this proceeding with respect to the allegation set forth in paragraph 13; and (3) electronically post any Notice to Employees that may issue in this proceeding with respect to the allegation set forth in paragraph 13 for employees at all its facilities.

As part of the remedy for the Respondent's unfair labor practices alleged in paragraphs 7 through 14, the General Counsel seeks an Order requiring Respondent to transmit, by E-Mail and Respondent's intranet system, to all employees at Respondent's BFSC facility, a copy of the Notice to Employees required in this case. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

As part of the remedy for the unfair labor practice alleged above in paragraphs 14 and 15, the General Counsel seeks an Order requiring that the Respondent:

(a) Reimburse Jason Davis for all search-for-work and work-related expenses regardless of whether the discriminatee(s) received interim earnings in excess of these expenses, or at all, during any given quarter, or during the overall backpay period.

(b) Reimburse Jason Davis for reasonable consequential damages incurred by him as a result of the Respondent's unlawful conduct.

(c) 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 consolidated complaint. The answer must be **received by this office on or before October 12, 2017, or postmarked on or before October 11, 2017**. 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.nlrb.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 consolidated complaint are true.

## NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on January 29, 2018, at 10:00 a.m., at the National Labor Relations Board, Region 6 Office, William S. Moorhead Federal Building, 1000 Liberty Avenue, Room 904, Pittsburgh, PA 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 consolidated 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: September 29, 2017

SUZANNE C. BERNETT
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 06
1000 Liberty Ave Rm 904
Pittsburgh, PA 15222-4111

Attachments

FORM NLRB 4338
(6-90)

**UNITED STATES GOVERNMENT**
**NATIONAL LABOR RELATIONS BOARD**
# NOTICE

Cases 06-CA-198724;
06-CA-199538; and
06-CA-201097

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

(1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).

(2) Grounds must be set forth in ***detail***;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and

(5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Comcast Cable Communications
Management, LLC
Mike King, Employer Representative
2810 Darlington Road
Beaver Falls, PA 15010-1028

Daniel V. Johns, Esquire
Ballard Spahr, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

Erin K. Clarke, Esquire.
Ballard Spahr, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

International Brotherhood of Electrical
Workers, Local 712, AFL-CIO
Michael McGee, Organizer
217 Sassafras Lane
Beaver, PA 15009

Form NLRB-4668
(6-2014)

# Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlrb.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlrb.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

## I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.

- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

## II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits: Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered**

**in evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts**: An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.

- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

- **Date for Filing Post-Hearing Brief**: Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

## III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.

- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.

- **Exceptions to the ALJ's Decision**: The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA**
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**
**REGION 6**

**COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC**

**and**

**Cases 06-CA-198724;**
**06-CA-199538; and**
**06-CA-201097**

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 712, AFL-CIO**

## AMENDMENT TO ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT

An Order Consolidating Cases, Consolidated Complaint and Notice of Hearing having issued on September 29, 2017,

**IT IS ORDERED**, pursuant to Section 102.17 of the Board's Rules and Regulations that the above Consolidated Complaint is amended in the following respect:

### ANSWER REQUIREMENT

The Answer Requirement is corrected to state that the answer must be **received by this office on or before October 13, 2017, or postmarked on or before October 12, 2017.**

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.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 consolidated complaint are true.

Dated: October 3, 2017

NANCY WILSON
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 06
1000 Liberty Ave Room 904
Pittsburgh, PA 15222-4111

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 6

**COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC**

**and**

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 712, AFL-CIO**

**Cases 06-CA-198724; 06-CA-199538; and 06-CA-201097**

## SECOND AMENDMENT TO CONSOLIDATED COMPLAINT

An Order Consolidating Cases, Consolidated Complaint and Notice of Hearing having issued on September 29, 2017, and an Amendment to the Order Consolidating Cases, Consolidated Complaint and Notice of Hearing having issued on October 3, 2017,

**IT IS ORDERED**, pursuant to Section 102.17 of the Board's Rules and Regulations that the above Consolidated Complaint is further amended in the following respects:

Paragraph 10 is amended as follows:

10. Respondent, by John MacGowan and Deric Bomar, in about December 2016 or early January 2017, at a mandatory employee meeting held at Respondent's BFSC facility:

(a) Threatened its employees with the loss of quarterly bonuses; and

(b) Told its employees that if they selected union representation they would no longer be permitted to contact management directly with their questions, concerns, or problems.

RECEIVED 11/6/17

## 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 second amendment to complaint. The answer must be **received by this office on or before November 16, 2017, or postmarked on or before November 15, 2017.** 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.nlrb.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 second amendment to complaint are true.

Dated: November 2, 2017

Suzanne C. Bernett

SUZANNE C. BERNETT
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 06
1000 Liberty Ave Rm 904
Pittsburgh, PA 15222-4111