

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CRISTAL USA, INC.

and

INTERNATIONAL CHEMICAL WORKERS
UNION COUNCIL OF THE UNITED FOOD
AND COMMERCIAL WORKERS
INTERNATIONAL UNION, AFL-CIO, CLC,

Case No. 08-CA-200737

ICWUC'S MOTION MOTION FOR SUMMARY JUDGMENT

Now come the Charging Party, the International Chemical Workers Union Council/UFCW (Union), and hereby moves that summary judgment be granted in the above-captioned matter. In support of its motion, the Union incorporates by reference and relies herein on the Counsel for General Counsel's memoranda supporting her earlier-filed motion for summary judgment in this case, as well as the Union's earlier-filed memorandum supporting Counsel for General Counsel's motion for summary judgment in this case.

The Union continues to rely on its motion for recusal filed earlier in this matter and submits that it is applicable to Member Emanuel's participation in *PCC Structurals, Inc.*, 365 NLRB No. 160 (2017) from which he should have recused himself, since he was on the brief in *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013), *enfin*g, *Specialty Healthcare and Rehab. Ctr. Of Mobile*, 357 NLRB No. 83 (2011) (copy attached) and incorporates by reference its memorandum supporting said motion.

Nevertheless, the Union submits that *PCC Structural*s is not, and should not, be applicable, retroactively, to this matter, particularly since the underlying RC case in this matter may not be re-litigated in this CA case.

For the reasons stated therein, the Charging Party hereby requests that its motion for summary judgment be granted.

Dated: December 21, 2017
Akron, Ohio

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of December, 2017, a copy of the foregoing was electronically filed using the Board's electronic filing system and served electronically thereby on:

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