

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

**LOCAL 58, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS (IBEW), AFL-CIO
(PARAMOUNT INDUSTRIES, INC.)**

Case No.: 17-1058

NLRB Case No.:
07-CB-149555

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent,

and

RYAN GREENE,

Intervenor.

RESPONSE TO INTERVENOR'S MOTION FOR AWARD OF COSTS

NOW COMES Petitioner, LOCAL 58, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (IBEW), AFL-CIO, by and through its attorneys, Miller Cohen PLC, and with its Response to Intervenor's Motion for Award of Costs states as follows:

In response to Intervenor's motion for costs, a legal issue exists as to whether an intervenor in this situation is entitled to costs. Typically, an Intervenor is not a prevailing party. Instead, Circuit Rule 39(c) provides: "No Costs Taxed for Briefs for Amici or Intervenor. No taxation of costs for briefs for intervenors or amici curiae or separate replies thereto will be assessed unless allowed by the court on motion." As noted by the D.C. Circuit in the past, costs may be appropriate to an intervening party if the intervenor "substantially contributed to [the] resolution of the issues presented." *American Public Gas Ass'n v. Federal Energy Regulatory Commission*, 587 F.2d 1089, 1098–99 (D.C. Cir. 1978).

Here, the Intervenor contributed little to the resolution of this case. Many of its arguments were duplicative of the arguments of the National Labor Relations Board. Also, in its Opinion, this Court did not adopt the legal reasoning or arguments of the Intervenor.

However, due to the small amount in controversy and the costs of responding to the motion more substantively, Local 58 does not oppose the motion and leaves the matter to the sound discretion of the court.

Respectfully submitted,
MILLER COHEN, P.L.C.

By: /s/Robert D. Fetter
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Date: May 24, 2018

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,
TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

1. This document complies with the word limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 473 words.

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Respectfully submitted,
MILLER COHEN, P.L.C.

By: /s/Robert D. Fetter
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CERTIFICATE OF SERVICE

I hereby certify that on *May 24, 2018*, the foregoing document ***RESPONSE TO INTERVENOR'S MOTION FOR AWARD OF COSTS*** was electronically filed by the undersigned's authorized representative, using the ECF system, which will send notification of such filing to all parties of record.

Respectfully submitted,

/s/Robert D. Fetter

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