

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20**

SBM SITE SERVICES, LLC

and

Cases 20-CA-157693
20-CA-157705
20-CA-157761
20-CA-157884

JOSE LA SERNA, an Individual

and

ESTER QUINTANILLA, an Individual

and

ADILIO PRIETO, an Individual

and

LUZ DARY DUQUE LOPEZ, an Individual

MOTION TO PARTIALLY STRIKE

Counsel for the General Counsel hereby moves to partially strike Respondent's letter dated June 22, 2018, because it exceeds the parameters of a permissible post-brief submission. The Board's decision in *Reliant Energy*, 339 NLRB 66 (2003), provides a narrow structure for parties to advise the Board of significant legal authority that becomes available after briefs have been filed, but limits the parties' use of the new authority to avoid supplemental briefing:

parties in unfair labor practice cases . . . [are permitted] to call to the Board's attention pertinent and significant authorities that come to a party's attention after the party's brief has been filed. A party may promptly advise the Executive Secretary by letter, with a copy to all other parties. The letter should set forth the case citations and state the reasons for them, and refer to the pages, paragraphs, and lines of the brief to which the citations apply. *Id.* at 66.

Here, rather than simply stating its reason for citing the recent decision, and without referring the Board or the other parties to the pages, paragraphs and lines of its brief to which it believes the recent decision applies, Respondent inappropriately argues the facts of the pending case based on the recent decision, even comparing the facts of the instant case to the facts involved in the recent decision. Such additional, post-brief argument to the Board is inappropriate and should be restricted to supplemental briefs when the Board grants all parties leave to file them.

Paragraphs 2 and 3 of Respondent's June 22, 2018 letter improperly present additional, post-brief argument to the Board. Accordingly, the General Counsel respectfully requests that paragraphs 2 and 3 of Respondent's June 22, 2018 letter be stricken.

DATED at San Francisco, CA, this 9th day of July, 2018.

Respectfully submitted,

/s/ Carmen León
Carmen León
Counsel for the General Counsel

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ADILIO H. PRIETO AND LUZ DARY DUQUE
LOPEZ, an Individual**

**CERTIFICATE OF SERVICE OF COUNSEL FOR GENERAL COUNSEL'S MOTION
TO PARTIALLY STRIKE**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 9, 2018, I served the above-entitled document(s) by **electronic mail** upon the following persons, addressed to them at the following addresses:

Arlo Uriarte
arlo@liberationlawgroup.com
2760 Mission St
San Francisco, CA 94110-3104

Nick C. Geannacopulos , Attorney at Law
NGeannacopulos@seyfarth.com
Seyfarth Shaw, L.L.P.
560 Mission Street, Suite 3100
San Francisco, CA 94105

Candice T. Zee, Attorney at Law
CZee@seyfarth.com
Seyfarth Shaw, LLP
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021

Alison Loomis , Attorney at Law
ALoomis@seyfarth.com
Seyfarth Shaw, L.L.P.
560 Mission Street, Suite 3100
San Francisco, CA 94105

July 9, 2018

Date

Min-Kuk Song, FA NLRB

Name

/s/ Min-Kuk Song

Signature