UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMERICAN RED CROSS BLOOD SERVICES, WESTERN LAKE ERIE REGION,

Respondent,

Case No. 08-CA-090132

and

THE UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 75,

Charging Party.

RESPONDENT AND UNION JOINT RESPONSE TO NOTICE TO SHOW CAUSE

On June 4, 2013, Administrative Law Judge Mark Carissimi issued a decision in the above-captioned case addressing complaint allegations that certain rules or policies maintained by American Red Cross Blood Services, Western Lake Erie Region ("Respondent") violate Section 8(a)(1) of the National Labor Relations Act, based on the analytical framework set forth in *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004) that held an employer's maintenance of a facially neutral work rule would be unlawful "if employees would reasonably construe the language to prohibit Section 7 activity." *Id.* at 647. Recently, the Board overruled the *Lutheran Heritage Village* "reasonably construe" test and announced a new standard that applies retroactively to all pending cases. *The Boeing Co.*, 365 NLRB No. 154, slip op. at 14-17 (2017).

On October 2, 2018, the Board issued a Notice to Show Cause why this case should not be remanded to the administrative law judge for further proceedings consistent with the Board's decision in *Boeing*.

On October 12, 2018, the United Food and Commercial Workers Union, Local 75 ("Union") and Respondent conferred regarding this matter, and the Union expressed its desire to withdraw the underlying charge.

The Union is in the process of filing a request to withdraw its charge with the Regional Director of NLRB Region 8, and will be asking the Region to file with the Board a motion to remand the case to the Regional Director for processing of the Union's withdrawal request.

Respondent and the Union jointly ask that you hold this case in abeyance until that determination by the Region is made.

This 16th day of October, 2018

Jointly Submitted by:

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2018, a copy of the foregoing was served on the following individuals in the following manner:

By E-filing
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This 16th day of October, 2018
Dated at _____

/s/

_____
Agent Performing Service
Address
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Phone
E-mail