

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

DURA-LINE CORPORATION,
A SUBSIDIARY OF MEXICHEM

and

UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY, ALLIED
INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION, AFL-CIO-CLC

Cases 09-CA-163289
09-CA-164263
09-CA-165972
09-CA-166481
09-CA-167265

and

UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY, ALLIED
INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION, AFL-CIO-CLC,
LOCAL 14300-12

NOTICE TO SHOW CAUSE

On June 20, 2017, Administrative Law Judge Melissa M. Olivero issued a decision in this case. The Respondent filed exceptions and a supporting brief, the General Counsel and the Union filed answering briefs, and the Respondent filed a reply brief. In addition, the General Counsel filed limited exceptions and a supporting brief, and the Respondent filed an answering brief.

On July 12, 2018, the National Labor Relations Board issued a decision, 366 NLRB No. 126, ruling on the exceptions to several of the complaint allegations, but it severed and retained for future resolution the complaint allegation involving the Respondent's maintenance of its Confidentiality/Non-Disclosure Agreement. The severed allegation alleges that the Respondent violated Section 8(a)(1) of the National Labor Relations Act, based on the prong of 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* “reasonably construe” test and announced a new standard that applies retroactively to all pending cases. *The Boeing Co.*, 365 NLRB No. 154, slip op. 14-17 (2017).

Accordingly, the Board hereby issues the following notice to show cause why this complaint allegation should not be remanded to the judge for further proceedings in light of *Boeing*, including, if necessary, the filing of statements, reopening the record, and issuance of a supplemental decision.

NOTICE IS GIVEN that any party seeking to show cause why the complaint allegation involving the Respondent’s maintenance of its Confidentiality/Non-Disclosure Agreement should not be remanded to the administrative law judge must do so in writing, filed with the Board in Washington, D.C., on or before November 5, 2018 (with affidavit of service on the parties to this proceeding). Any briefs or statements in support of the motion shall be filed on the same date.

Dated, Washington, D.C., October 22, 2018.

By direction of the Board:

Farah Z. Qureshi

Associate Executive Secretary