

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

<b>SECURITAS SECURITY SERVICES</b>	)	
<b>USA</b>	)	
	)	<b>Case No. 16-CA-176006</b>
<b>and</b>	)	<b>16-CA-183494</b>
	)	
<b>RYAN PATRICK MURPHY,</b>	)	
<b>an Individual</b>	)	

**RESPONDENT’S REPLY TO GENERAL COUNSEL’S OPPOSITION TO  
RESPONDENT’S MOTION FOR PARTIAL SUMMARY REVERSAL**

Respondent Securitas Security Services USA hereby replies to the General Counsel’s opposition to Respondent’s motion for partial summary reversal. Respondent’s motion demonstrated that the Board’s decision in *The Boeing Co.*, 356 NLRB No. 154 (2017), compels dismissal of the General Counsel’s complaint against Respondent’s recording and camera policies, and that no purpose is served by remanding that issue to the Administrative Law Judge. The General Counsel’s opposition makes only two unsupported arguments in response, both of which should be rejected, as further discussed below.

First, the General Counsel argues that Securitas’s policy prohibits audio recording of disciplinary sessions and/or investigations, a prohibition that was not explicitly referred to in *Boeing*. (GC Opp’n 1). The General Counsel offers no rational basis for distinguishing between a rule prohibiting audio recording and a rule prohibiting video recording. Certainly, the *Boeing* opinion itself did not draw any such distinction. The General Counsel’s opposition also does not cite any Board case, even under *Lutheran Heritage Village*, granting to employees a protected right to record disciplinary sessions or investigations, whether by audio or video. Nor did the General Counsel’s answering brief to Respondent’s exceptions cite any such authority. To the

contrary, as pointed out in Respondent's brief in support of exceptions, numerous Board decisions have upheld an employer's right to prohibit such recordings in analogous circumstances. *See Pa. Tel. Guild (Bell Telephone)*, 277 NLRB 501, 501-02 (1985), *enf'd*, 799 F.2d 84 (3d Cir. 1986) (prohibiting recording of grievance sessions); *Bartlett-Collins Co.*, 237 NLRB 770, 772 (1978), *enf'd*, 639 F.2d 652 (10th Cir. 1981). Therefore, no purpose will be served by remanding this long pending case to the ALJ to consider the General Counsel's baseless claim that Securitas's no recording policy violates the Act.

The General Counsel's second argument for remand should carry equally little weight. The General Counsel asserts that the no-cameras rule in the present case is not "the same as *Boeing*," with the only difference being that Respondent's no camera policy is *narrower* than Boeing's prohibition. (GC Opp'n 1).<sup>1</sup> But it is absurd to contend that the Board intended to establish an entire category of presumptively lawful no camera policies ("Category I"), which would consist of *Boeing*'s exact policy and would exclude all others. The General Counsel cites no authority for such a novel reading of the Board's *Boeing* decision, but even if it were true, the General Counsel fails to explain how a *narrower* prohibition could constitute a *greater* infringement on employee rights than the broad no-camera policy the Board found to be lawful in *Boeing*.<sup>2</sup>

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<sup>1</sup> According to the GC's opposition, Boeing employees could "never take pictures at work" while Securitas employees may take pictures/videos when "required" by Company orders. (*Id.*).

<sup>2</sup> The General Counsel's opposition states without any explanation that the justifications for Securitas's rule are "different" from those in *Boeing*. (GC Opp'n 2). This unsupported assertion is entitled to no weight, and the record amply reflects that Securitas presented substantial evidence of the legitimate security-related justifications for its no recording/no camera policies that closely track the justifications upheld in *Boeing*. *See* Respondent's Motion for Summary Reversal and Respondent's Brief in Support of Exceptions.

## CONCLUSION

For the reasons set forth above and in Respondent's Partial Opposition to Remand and Motion for Summary Reversal, the Board should enforce the plain language of the *Boeing* decision by finding lawful Respondent's recording and camera policies, which are clearly lawful Category 1 rules.

Respectfully submitted,

/s/Maurice Baskin

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Reply has been served by electronic mail on the following this 2d day of November, 2018:

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