

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

REGISTRY OF INTERPRETERS FOR THE
DEAF, INC.

and

Case 20-CA-164088

PACIFIC MEDIA WORKERS GUILD, LOCAL
39521

COUNSEL FOR THE GENERAL COUNSEL'S MOTION TO
WITHDRAW CERTAIN CROSS-EXCEPTIONS

On December 29, 2016, ALJ Joel P. Biblowitz issued his decision in this matter. ALJ Biblowitz found that Registry of Interpreters for the Deaf, Inc. ("Respondent") violated Section 8(a)(1) of the National Labor Relations Act, as amended ("Act"), by maintaining an unlawful antitrust policy and by removing a Section 7-protected Facebook exchange from a forum that it operates and maintains. See ALJD at 9:35-37, 11:20-22, 11:24-26.

Following the filing of exceptions by Registry of Interpreters for the Deaf, Inc. ("Respondent"), on February 9, 2017, Counsel for the General Counsel ("GC") filed limited cross-exceptions to the ALJ's Decision. With his cross-exceptions 4 and 5, the GC argued that the ALJ erred in failing to treat the Respondent's civility policy separately from Respondent's antitrust policy. The GC also argued that the ALJ erred by failing to find that the civility policy would reasonably be construed as restricting Section 7 activity and is thus unlawful by itself.

In *The Boeing Co.*, 365 NLRB No. 154, 2017 WL 6403495, at *15-*16 (Dec. 14, 2017), the Board overruled the *Lutheran Heritage* "reasonably construe" test applicable to facially neutral workplace rules and announced a new standard that applies retroactively to all pending cases. In doing so, the Board overruled prior cases finding rules requiring "basic standards of civility in the workplace" to be unlawful. See *id.* at *16 and fn.76.

In light of the Board's current view of rules akin to Respondent's civility policy placed in issue by the GC's cross-exceptions 4 and 5; and in light of the ALJ's findings and conclusions that will, in the GC's view, provide opportunity for an adequate remedy to Respondent's unfair labor practices, the GC hereby requests to, and does, WITHDRAW his cross-exceptions 4 and 5, and hereby RELINQUISHES the argument, on exceptions, that the maintenance of Respondent's civility policy, by itself, violates the Act.

DATED AT San Francisco, California, this 7th day of November, 2018.

Respectfully Submitted,

/s/ Richard J. McPalmer

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AFFIDAVIT OF SERVICE OF COUNSEL FOR THE GENERAL COUNSEL'S MOTION TO
WITHDRAW CERTAIN CROSS-EXCEPTIONS and COUNSEL FOR THE GENERAL
COUNSEL'S RESPONSE TO THE BOARD'S NOTICE TO SHOW CAUSE

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **November 7, 2018**, I served the above-entitled document(s) by **e-mail** upon the following persons, addressed to them at the following addresses:

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November 7, 2018

Date

Vicky Luu, Designated Agent of NLRB

Name

/s/ V Luu

Signature