

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C.**

GENERAL MOTORS, LLC

Respondent

Case 07-CA-053570

and

**MICHAEL ANTHONY HENSON, an
Individual**

Charging Party

**COUNSEL FOR THE GENERAL COUNSEL'S RESPONSE TO
THE BOARD'S NOTICE TO SHOW CAUSE**

1. On November 7, 2018, the Board issued a notice to show cause why this case should not be remanded to the judge for further proceedings in light of *The Boeing Co.*, 365 NLRB No. 154, slip op. at 14–17 (2017), including, if necessary, the filing of statements, reopening the record, and issuance of a supplemental decision.

2. Counsel for the General Counsel requests that the following parts of the work rule at issue in Respondent's "GM Employee and Representative Social Media Policy," as stated in amended complaint paragraph 5, be remanded to the Administrative Law Judge for further proceedings in light of the Board's decision in *The Boeing Co.*, 365 NLRB No. 154 (2017):

5. (a) Since at least February 9, 2011, Respondent has maintained a written policy and set of work rules entitled "GM Employee and Representative Social Media Policy," attached hereto as Exhibit A.

(b) The GM Employee and Representative Social Media Policy includes the following provisions:

Use Good Judgment About What You Share And How You Share

...be sure that your posts are completely accurate and not misleading and that they do not reveal non-public company information on any public site.... Non-public company information includes:

- Personal Information about another GM employee, such as his or her...performance, compensation....

When in doubt about whether the information you are considering sharing falls into one of the above categories, DO NOT POST. Check with GM Communications or GM legal to see if it's a good idea...

- Get permission before posting ... personal information of anyone other than you online....

3. The General Counsel's position is that, under the analysis set forth in *Boeing*, the remaining parts of the work rule alleged in amended complaint paragraph 5 are lawful on its face and, in the interest of preserving scarce Agency resources, Counsel for the General Counsel respectfully requests that the remaining allegations of amended complaint paragraph 5 be dismissed by the Board and opposes remand to the Administrative Law Judge for further proceedings.

4. In light of the General Counsel's position with regard to paragraph 3, above, Counsel for General Counsel requests to withdraw Exceptions 5, 6, 9, 10 and 11 of its Exceptions of Counsel for the then Acting General Counsel to the Administrative Law Judge's Decision, dated August 22, 2012, which are pending before the Board.

WHEREFORE, Counsel for the General Counsel requests that, based on the foregoing, this case be partially remanded as noted to the Administrative Law Judge for further proceedings in light of the Board's decision in *The Boeing Co.*, 365 NLRB No. 154 (2017).

Dated at Detroit, Michigan, this 20th day of November, 2018.

/s/ Mary Beth Foy

Mary Beth Foy

Counsel for the General Counsel

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CERTIFICATE OF SERVICE

I hereby certify that a copy of COUNSEL FOR THE GENERAL COUNSEL'S RESPONSE TO THE BOARD'S NOTICE TO SHOW CAUSE in *General Motors, LLC*, Case 07-CA-053570, was served by E-Filing and E-mail on this 20th day of November, 2018:

Via E-Filing

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