

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES, SAN FRANCISCO BRANCH OFFICE**

SSA PACIFIC, INC.

and

Cases 20-CA-151433
20-CA-156741
20-CA-156786

RONI SIMISOLA, an Individual
JOHN STUBBE, an Individual
ALAN COUCH, an Individual

PACIFIC MARITIME ASSOCIATION

and

Cases 20-CA-153169
20-CA-156732
20-CA-156792

RONI SIMISOLA, an Individual
JOHN STUBBE, an Individual
ALAN COUCH, an Individual

INTERNATIONAL LONGSHORE AND
WAREHOUSE UNION, LOCAL 18

and

Cases 20-CB-151490
20-CB-156767
20-CB-156787

RONI SIMISOLA, an Individual
JOHN STUBBE, an Individual
ALAN COUCH, an Individual

**ORDER INVITING MOTIONS TO REOPEN RECORD
PURSUANT TO *THE BOEING COMPANY*, 365 NLRB No. 154 (2017)**

On September 13, 2016, I issued a recommended decision in this case, in which I found, in part, that Respondents SSA Pacific, Inc. and Pacific Maritime Association (the Respondent-Employers) had violated Section 8(a)(1) of the Act, and Respondent International Longshore and Warehouse Union, Local 18 (Local 18) had violated Section 8(b)(1)(A) of the Act, by maintaining a hiring hall dispatch rule known as “ID Casual Rule 12.” See 366 NLRB No. 51 (2018). My stated rationale for determining this rule unlawful, as maintained by the Respondent-Employers, was based on the then-extant standard for employer-promulgated facially neutral rules under Section 8(a)(1) of the Act, set forth in *Lutheran Heritage Village-Lithonia*, 343 NLRB 646 (2004).

On December 14, 2017, the Board issued its decision in *The Boeing Company*, 365 NLRB No. 154 (2017), in which it partially overruled *Lutheran Heritage* and announced a new standard for evaluating facially neutral employer-promulgated rules. On April 3, 2018, the Board issued a decision in the instant proceeding, affirming my recommended decision on all but the two above-described allegations related to ID Casual Rule 12, which it severed and retained for further consideration.

On October 21, 2018, the Board issued a Notice to Show Cause as to why the two severed allegations should not be remanded to me to consider in light of the new *Boeing* standard. *SSA Pacific, Inc., et al.*, Cases 20-CA-151433, et al., Notice to Show Cause (Oct. 22, 2018). No party responded by the Board's stated deadline. On November 22, 2018, the Board remanded this matter to me "for the purpose of reopening the record, if necessary, and the preparation of a supplemental decision addressing the complaint allegations affected by *Boeing* and setting forth credibility resolutions, findings of fact, conclusions of law, and a recommended Order." *SSA Pacific, Inc., et al.*, Cases 20-CA-151433, et al., Order Remanding (Nov. 22, 2018). Accordingly, I will allow the parties to file supplemental post-hearing briefs addressing the application of the new *Boeing* standard to the ID Casual Rule 12, as maintained by the Employer-Respondents, as well as by Local 18.

Before setting a filing date for the supplemental briefing, I will entertain a party's motion to reopen the record in this proceeding for the purpose of offering evidence on issues raised by application of the Board's new standard to the remanded allegations. Any motion to reopen should identify the nature of the evidence sought to be introduced and identify, by page and line number, the specific portion of the standard enunciated in *The Boeing Company*, 365 NLRB No. 154, to which it relates. I also encourage the parties to consider whether the new standard warrants settlement of either remaining complaint allegation.

Accordingly, **IT IS HEREBY ORDERED** that a party seeking to reopen the record in this proceeding for the purpose of taking evidence on the issues raised by application of the Board's new standard to the instant case is directed to do so by close of business (PST) on **December 7, 2018**.

It is **FURTHER ORDERED** that any opposition brief to a party's motion to reopen the record must be filed by close of business (PST) on **December 14, 2018**, and any reply brief in further support of a motion to reopen must be filed by close of business (PST) on **December 28, 2018**.

Dated: November 28, 2018, San Francisco, California.



Mara-Louise Anzalone
Administrative Law Judge

Served by facsimile upon the following:

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