

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

PHILLIPS 66

AND

Cases: 31-CA-085243
31-CA-096709

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

**CHARGING PARTY UNION'S RESPONSE
TO BOARD'S NOTICE TO SHOW CAUSE**

On November 20, 2018, the Board issued a Notice to Show Cause in the above-captioned matter, in which it directed the parties to show cause, in writing, on or before December 4, 2018, why the complaint allegations involving the maintenance of an allegedly unlawful work rule or policy should not be severed and remanded to the administrative law judge for further proceedings consistent with the Board's decision in *Boeing Company*, 365 NLRB No. 154 (2017), including reopening the record if necessary. The Board further directed the parties to address whether a remand would affect the Board's ability to resolve the remaining complaint allegations, including whether those allegations should be severed and retained, or instead included in the remand. After a timely request was submitted, the Board granted the parties an extension of time until December 18, 2018, to file a Response to the Board's Notice to Show Cause.

The majority of the complaint allegations in this case center around Respondent's unlawful threats/reprisals and retaliation against five health and safety employees who organized with the Union; Respondent's failure to bargain in good faith with the Union on behalf of those five employees; and Respondent's unlawful unilateral implementation of its final proposal in the

absence of impasse. A lesser included allegation involved Respondent's promulgation and maintenance of a work policy that prohibited employees from speaking to the news media. This singular 8(a)(1) charge regarding the maintenance of the alleged unlawful work policy is unrelated and independent of the primary issues of the case. Consequently, Charging Party does not object to the work rule allegation being severed and remanded to the administrative law judge for further proceedings in light of the Board's decision in *Boeing*.

A remand of the 8(a)(1) work policy allegation would not affect the Board's ability to resolve the remaining complaint allegations which have been outstanding since 2014. Thus, Charging Party respectfully requests that the Board sever the remaining allegations of the complaint concerning Respondent's unlawful threats/reprisals, retaliation, failure to bargain in good faith, and unilateral implementation, and retain jurisdiction over them.

Dated: December 18, 2018

Respectfully submitted,

/s/ Nancy A. Parker
Nancy A. Parker
United Steelworkers
60 Blvd. of the Allies, Suite 807
Pittsburgh, PA 15222
Phone: (412) 562-1679
Fax: (412) 562-2429
Email: nparker@usw.org

Attorney for Charging Party

CERTIFICATE OF SERVICE

I certify that on December 18, 2018, a copy of the foregoing Charging Party Union's Response to Board's Notice to Show Cause was served by use of e-filing and email on the following:

Via E-Filing:

Roxanne L. Rothschild, Executive Secretary
Office of the Executive Secretary
National Labor Relations Board
1015 Half Street SE, Room 5100
Washington, DC 20570-0001

Via Email:

Michael S. Chamberlin
Winston & Strawn LLP
333 S. Grand Ave., Suite 3800
Los Angeles, CA 90071
mchamberlin@winston.com

Nicole Pereira
Simone Gancayco
National Labor Relations Board, Region 31
11500 West Olympic Boulevard, Suite 600
Los Angeles, CA 90064
nicole.pereira@nlrb.gov
simone.gancayco@nlrb.gov

Michael Weiner
Gilbert & Sackman
3699 Wilshire Boulevard, Suite 1200
Los Angeles, CA 90010
mweiner@gsllaw.org

/s/ Nancy A. Parker
Nancy A. Parker