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Attorneys for Proposed Intervenor INTERNATIONAL
UNION OF PAINTERS AND ALLIED TRADES, DISTRICT
COUNCIL 16, AFL-CIO

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

THE BOEING COMPANY,

Employer,

and

SOCIETY OF PROFESSIONAL
ENGINEERING EMPLOYEES IN
AEROSPACE, affiliated with
INTERNATIONAL FEDERATION OF
PROFESSIONAL & TECHNICAL
ENGINEERS, LOCAL 2001,

Union.

INTERNATIONAL UNION OF PAINTERS
AND ALLIED TRADES, DISTRICT COUNCIL
15, LOCAL 159, AFL-CIO,

Proposed Intervenor.

No. 19-CA-090932;
19-CA-090948;
19-CA-095926

**MOTION TO FILE OUT OF TIME
MOTION FOR RECONSIDERATION
AND MOTION FOR
RECONSIDERATION**

1. Proposed Intervenor, INTERNATIONAL UNION OF PAINTERS AND ALLIED TRADES, DISTRICT COUNCIL 16, AFL-CIO, acknowledges that this Out of Time Motion for Reconsideration is untimely under Section 102.48(c)(2) of the Board's Rules and Regulations. It is, however, timely because the evidence upon which this Motion is based was just created by Chairman Ring himself. Because the information was just created by the

Chairman recently, the evidence in support of this Motion was not available at the time the prior Motion for Reconsideration was filed on August 14, 2018.

2. The newly created evidence is the fact that Chairman Ring has recused himself in an Order remanding another Boeing case, 19-CA-089374, which Order issued on February 15, 2019. See footnote 1. See Attachment A to this Motion. This Order, which issued just recently, was not available at the time the prior Motion for Reconsideration was filed in August of 2018. In fact, it was created because Chairman Ring had not recused himself at the time the prior Motion was filed. For this reason, this out of time Motion for Reconsideration should be considered by the Board because the evidence upon which it is based was not created until recently by Chairman Ring's decision which he properly made to recuse himself from Case 19-CA-089374.

3. The Proposed Intervenor hereby files this Motion for Reconsideration. We realize that it is long after the Board issued its Decision finding that there was no conflict when Chairman Ring participated.

4. Chairman Ring recused himself as noted in footnote 1.

5. At the time the Board issued its Decision in this case on the conflict issue in 2018, Chairman Ring had not indicated whether he would recuse himself. He has now done so in this related case and he should have done so in the instant case.

6. For these reasons, the Board should now reconsider its Decision, vacate it and Chairman Ring should not participate at all in these deliberations. His recusal in Case 19-CA-089374 compels the same recusal in the instant case.

Dated: February 27, 2019

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: /s/ David A. Rosenfeld
 DAVID A. ROSENFELD

Attorneys for Proposed Intervenor
INTERNATIONAL UNION OF PAINTERS AND
ALLIED TRADES, DISTRICT COUNCIL 16,
AFL-CIO

EXHIBIT A

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

THE BOEING COMPANY

and

Case 19-CA-089374

JOANNA GAMBLE

ORDER REMANDING¹

On December 17, 2018, the National Labor Relations Board issued a Notice to Show Cause why this case should not be remanded for further consideration under *The Boeing Co.*, 365 NLRB No. 154 (2017). The General Counsel filed a response stating that he did not oppose remand, and the Respondent filed a response opposing remand.

Having duly considered the matter, including the arguments raised by the Respondent, we find that it would effectuate the purposes of the National Labor Relations Act to remand this case for further consideration in light of *Boeing*.²

IT IS THEREFORE ORDERED that this case is remanded to Administrative Law Judge Jeffrey D. Wedekind for the purpose of reopening the record, if necessary, and the preparation of a supplemental decision addressing any complaint allegations affected by *Boeing* and setting forth credibility resolutions, findings of fact, conclusions of law, and a recommended Order. Copies of the supplemental decision shall be served on all parties,

¹ Chairman Ring is recused and did not participate in this proceeding.

² The Respondent contends that remand is unwarranted because the Board can resolve the complaint allegations on the original stipulated record. Contrary to the Respondent's contention, we find a remand appropriate in these circumstances, to allow the judge to determine whether to reopen the record to take additional evidence and to initially consider this case in light of our *Boeing* decision.

after which the provisions of Section 102.46 of the Board's Rules and Regulations shall be applicable.

Dated, Washington, D.C., February 15, 2019.

By direction of the Board:

Roxanne Rothschild
Executive Secretary

