

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

G4S SECURE SOLUTIONS (USA) INC.

and

Case 19-CA-221172

**WASTE TREATMENT SECURITY GUARDS
UNION 161**

**GENERAL COUNSEL'S OPPOSITION TO RESPONDENT'S
MOTION TO STRIKE PORTIONS OF GENERAL COUNSEL'S
BRIEF TO THE ADMINISTRATIVE LAW JUDGE**

Counsel for the General Counsel hereby opposes Respondent's Motion to Strike Portions of the General Counsel's brief to the Administrative Law Judge ("Respondent's Motion") in its entirety. Respondent's Motion is apparently based upon Counsel for the General Counsel's references to and use of facts contained in the Settlement Agreement involving Respondent's predecessor and their mutual client (Exhibit G) as well as the Advice Memorandum (Exhibit H) involving that predecessor. Respondent's disagreement with the use of those documents does not change the fact that the documents relied upon are part of the record it agreed to. It cannot now cry foul, as record evidence was used by its opposing counsel.

The parties stipulated and agreed to the record in this matter, which was accepted by the Administrative Law Judge. That record specifically includes the Settlement Agreement and the Advice Memorandum as Exhibits G and H. However, Respondent is now objecting to reliance upon the contents of the documents it agreed to include and, despite their inclusion in their entirety, argues essentially that its consent was some sort

of mere nonsensical agreement about the documents' existence. Indeed, Respondent disingenuously claims that the parties "merely stipulated the Advice memo was issued."

As stated previously, the parties did not merely stipulate that such those documents existed, but included the documents themselves as part of the stipulated record and identified them as Exhibits. The nature of record evidence, once admitted, is such that parties are free to rely upon it. *See, e.g., Kroger Co.*, 211 NLRB 363, 364 (1974). Counsel for the General Counsel did just that – appropriately referencing matters contained in the documents.

Respondent further claims, repeatedly, that the Advice Memorandum had nothing to do with a request for information. Rather than serve as the basis for Respondent's Motion, that is an argument for Respondent's brief as to relevance. For, as argued by the General Counsel, the Advice Memorandum included in the stipulated record as an exhibit was provided by the Union to Respondent to explain the relevance of its information request, most particularly a copy of the contract between Respondent and Bechtel. Respondent's repeated assertions that the Advice Memo did not address requested information specifically, although accurate, is simply the same intentional obscurantism that has led to the charge and Complaint this matter in the first place – it ignores the basis for the Union's assertion of relevance.

Respondent's similar attempts to twist references to the Settlement Agreement included as an exhibit to the Stipulated Record involving Respondent's predecessor and their mutual client is similarly disingenuous and intentionally obtuse. As with the Advice Memorandum, the point and purpose for the Union having provided that document was

the same as the Advice Memorandum – to explain why the Union believed the information that it had requested was relevant.

That Respondent now has misgivings about what it agreed to include in the Stipulated Record cannot serve as a legitimate basis for striking reliance on that evidence. Accordingly, Counsel for the General Counsel respectfully submits that Respondent's Motion to Strike should be denied in its entirety.

Dated at Seattle, Washington, this 22nd day of March, 2019.

Respectfully submitted,

/s/ S. Nia Renei Cottrell

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the General Counsel's Opposition to Respondent's Motion to Strike Portions of General Counsel's Brief to the Administrative Law Judge was served on the 22nd day of March, 2019, on the following parties:

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