

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

EXCALIBUR CHARTER SCHOOL, INC.

and

Case 28-CA-023039

NATHANIEL WICKE, an Individual

**GENERAL COUNSEL’S MOTION TO AMEND COMPLAINT
AND FOR REMAND TO REGIONAL DIRECTOR**

Pursuant to Section 102.24 of the Rules and Regulations of the National Labor Relations Board (the Board), Counsel for the General Counsel (CGC) respectfully moves to amend the Complaint and Notice of Hearing in this matter (the Complaint) to remove one allegation and further moves for the one remaining remanded allegation pending before the Administrative Law Judge to be remanded to the Regional Director of Region 28 (the Regional Director) to approve a settlement agreement signed by Respondent and the Charging Party.

On January 26, 2011, Administrative Law Judge Joel P. Biblowitz issued a decision finding certain conduct by Respondent, including its maintenance of certain rules, to be unlawful.

On December 14, 2017, the Board issued its decision in *The Boeing Company (Boeing)*, 365 NLRB No. 154 (Dec. 14, 2017), overturning the first prong of *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004).

On March 29, 2018, the Board issued a decision in this proceeding in which it resolved multiple complaint allegations and severed for further consideration allegations that Respondent violated Section 8(a)(1) of the National Labor Relations Act by maintaining certain rules. *Excalibur Charter School, Inc.*, 366 NLRB No. 49 (2018).

On October 15, 2018, the Board issued a Notice to Show Cause why the severed allegations should not be remanded for further consideration under *Boeing*. On October 16, 2018, the General Counsel filed a response supporting remand, and on October 29, 2018, Respondent filed a response opposing remand.

On December 19, 2018, the Board remanded this case to Chief Administrative Law Judge Robert A. Giannasi, for the purpose of designating an Administrative Law Judge to reopen the record, if necessary, and prepare a supplemental decision addressing the allegations affected by *Boeing* and setting forth credibility resolutions, findings of fact, conclusions of law, and a recommended Order.

Pursuant to Section 102.17 of the Rules and Regulations of the National Labor Relations Board, Series 8, as amended (the Board's Rules), CGC hereby moves to amend the Complaint to remove paragraph 4(f) in light of *Boeing*.

On April 19, 2019, Respondent and the Charging Party executed a settlement agreement that remedies the conduct found unlawful by the Board in *Excalibur Charter School, Inc.*, 366 NLRB No. 49, and the one remaining remanded rule allegation in paragraph 4(e) of the Complaint. The agreement comports with the remedial provisions of Board orders in cases involving such allegations.

For the foregoing reasons, CGC respectfully requests that the remanded rule allegation this case be remanded to the Regional Director to approve the settlement agreement executed by Respondent and the Charging Party.

Dated at Phoenix, Arizona, this 9th day of May 2019.

Respectfully submitted,

/s/ Néstor Zárate

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **GENERAL COUNSEL'S MOTION TO AMEND COMPLAINT AND FOR REMAND TO REGIONAL DIRECTOR** in *Excalibur Charter School, Inc.*, Case 28-CA-023039, was served via E-Gov, E-Filing, and Electronic Mail, on this 9th day of May 2019 on the following:

Via E-Gov, E-Filing:

Honorable Robert A. Giannasi
Chief Administrative Law Judge
National Labor Relations Board
Division of Judges – Washington, DC
1015 Half Street SE
Washington, DC 20570-0001

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