

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

SYSCO CENTRAL ALABAMA, INC)	
)	
and)	Case No. 10-RC-238289
)	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL UNION NO. 612)	

**SYSCO CENTRAL ALABAMA, INC’S REPLY TO THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, LOCAL UNION NO. 612’S OPPOSITION TO
REQUEST TO REVIEW**

Sysco Central Alabama, Inc. (“Sysco Central AL” or the “Company”) submits this Reply to the International Brotherhood of Teamsters, Local Union No. 612’s (the “Union”) Opposition to Request to Review (“Response”).

I. Analysis

The Union began its Response by stating: “[c]ontrary to the Employer’s arguments, the Board’s blocking charge policy is necessary to effectuate the purposes of the Act.” The Company agrees with the Union: blocking charges may be necessary to effectuate the National Labor Relations Act (“Act”) in matters in which a Region has sufficient evidence to conclude that the allegations are likely to have merit. However, as evidenced in the Company’s Emergency Appeal and Supplement to the Emergency Appeal, a blocking charge in this case in no way effectuates the purposes of the Act.

First, the Union mischaracterizes the Company, to which a Reply is warranted. On pages 5-6 of the Response, the Union states: “Sysco has a long history of engaging in unlawful conduct in order to quash union organizing efforts.” The Union then cites *Sysco Grand Rapids, LLC*, 367 N.L.R.B. No. 111 (April 4, 2019), and an ALJ decision related to *Sysco Columbia, LLC*, JD-51-18 (August 16, 2018). As evidenced in both titles, Sysco Central AL is not a party to either of

these charges. Sysco Central AL is a separate corporation, and had no involvement in the decisions made in the past or currently being made at Sysco Grand Rapids, LLC or Sysco Columbia, LLC. Similarly, Frank Schuster and Mike Payne, the alleged violators of the Act in this blocking charge, were not named individuals in the Sysco Grand Rapids, LLC or Sysco Columbia, LLC matters. Importantly, this is the first time Sysco Central AL has ever been the subject of any unfair labor practice charge.

Second, the conversation between Field Examiner Lanita Cravey and Ogletree Deakins attorney Sara McCreary is significant, and not irrelevant, as stated by the Union. The Union argues that the purpose of a blocking charge is to effectuate the Act. However, and as previously argued, before a charge blocks an election, there must be some indication that there is merit to the allegations. This may be determined by a detailed offer of proof explaining the events, it may also be from an investigator gathering information through witnesses, affidavits, and document production. Sysco Central AL does not have the ability, under the Board's current processes, to see the evidence submitted in support of any blocking charge. The Board certainly can review the record and make its own determination of the evidence offered by the union. However, it appears that neither occurred in this case. The Field Examiner stated that the matter has not been investigated, witnesses have not been called, and the offer of proof essentially repeated the allegations made on the charge. The Board should not allow representation elections – that is, employees' Section 7 right to vote – to be blocked by mere allegations that have not been investigated or found to possibly have merit. Such conduct, if allowed, permits a union to file a baseless charge at the last minute to block employees from exercising their statutory right to vote in a timely manner. This is erroneous and should not be permitted by the Board.

II. Conclusion

Accordingly, the Board should grant Sysco Central AL's Emergency Request for Review and order the Region to hold an election as soon as reasonably possible, after consultation with the Company to determine a date that provides the greatest opportunity for all associates to vote.

Pursuant to the Board's rules, a copy of this request is being served upon the Regional Director and the Union via electronic mail.

Dated this 24th day of May, 2019.

Sincerely,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

A handwritten signature in black ink, appearing to read "Mark M. Stublely". The signature is written in a cursive style with a large initial "M".

Mark M. Stublely
Douglas M. Topolski

Counsel for Sysco Central Alabama, Inc.

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and

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **REPLY TO OPPOSITION TO EMERGENCY REQUEST FOR REVIEW** was served on the following parties on the **24th** day of **May, 2019**:

John D. Doyle, Jr., Regional Director
National Labor Relations Board
Region 10
John.Doyle@nrb.gov
Via Email & Electronic Filing

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OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

A handwritten signature in cursive script, appearing to read "Mark M. Stubley".

Mark M. Stubley
Douglas M. Topolski

Attorneys for Sysco Central Alabama, Inc.