

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

ARGOS USA LLC d/b/a
ARGOS READY MIX, LLC,

and

Cases 12-CA-196002
12-CA-203177

CONSTRUCTION AND CRAFT WORKERS
LOCAL UNION NO. 1652, LABORERS'
INTERNATIONAL UNION OF NORTH
AMERICA, AFL-CIO

**GENERAL COUNSEL'S CROSS-EXCEPTIONS TO
THE ADMINISTRATIVE LAW JUDGE'S DECISION**

Cristina Ortega, Esq.
Counsel for the General Counsel
National Labor Relations Board, Region 12
51 SW 1st Street, #1300
Miami, FL 33130
Tel: (786) 482-7187
Fax: (305) 536- 5320
CristinaM.Ortega@nlrb.gov

I. INTRODUCTION

Pursuant to Section 102.46 of the Board's Rules and Regulations, the General Counsel, by and through undersigned counsel, hereby timely files these cross-exceptions to the Administrative Law Judge Kimberly R. Sorg-Graves' [the ALJ] May 14, 2019 decision. The specific grounds for these exceptions and citations are set forth in Counsel for the General Counsel's Brief in Support of Cross-Exceptions to the Administrative Law Judge's Decision, which is filed concurrently together with these exceptions.

II. EXCEPTIONS

1. The ALJ's reliance on *Total Security Management Illinois 1, LLC.*, 364 NLRB No. 106 (2016). [ALJD 23-26].
2. The ALJ's conclusions of law finding that Respondent failed and refused to bargain collectively and in good faith in violation of Section 8(a)(5) and (1) of the Act by failing and refusing to give Construction and Craft Workers Local Union No. 1652, Laborers' International Union of North America, AFL-CIO, notice and an opportunity to bargain before suspending employee Emmanuel Excellent. [ALJD pages 26:32-35, 28:17-21].
3. To the ALJ's reliance on *Purple Communications, Inc.*, 361 NLRB 1050 (2014). [ALJD 17-18].
4. To the ALJ's conclusions of law finding that Respondent's electronic communications policy is unlawful. [ALJD 18:1-4, 28:8].

5. The ALJ's failure to explicitly find that Respondent does not assign ready-mix drivers specific tasks while waiting at a jobsite to discharge concrete and that while waiting drivers generally do nothing or eat lunch. [ALJD 4:18-30].

6. The ALJ's failure to explicitly find that managers are permitted to carry and use cell phones in their vehicles. [ALJD 5:35 to 6:6].

Dated: August 9, 2019.

/s/ Cristina Ortega
Cristina Ortega, Counsel for the General Counsel
National Labor Relations Board, Region 12
Miami Resident Office
51 S.W. 1st Avenue, Room 1320
Miami, FL 33130
CristinaM.Ortega@nlrb.gov
Tel: (786) 482-7187
Fax: (305) 536-5320

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document, General Counsel's Cross-Exceptions to the Administrative Law Judge Decision, was served on August 9, 2019 as follows:

By Electronic Filing:

Hon. Roxanne Rothschild
Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

By Electronic Mail:

Steven M. Bernstein, Esq.
Fisher & Phillips, LLP
101 E Kennedy Blvd Ste 2350
Tampa, FL 33602-5136
sbernstein@fisherphillips.com

Douglas R. Sullenberger, Esq.
Fisher & Phillips, LLP
1075 Peachtree Street, NE, Suite 3500
Atlanta, GA 30309-3900
dsullenberger@fisherphillips.com

Reyburn W. Lominack III, Esq.
Fisher Phillips, LLP
1320 Main Street, Suite 750
Columbia, SC 29201
rlominack@fisherphillips.com

Andrei Rolle, Secretary-Treasurer
Construction and Craft Worker's Local Union No. 1652
2020 NW 32nd Street
Pompano Beach, FL 33064
andreirolle@bellsouth.net

/s/ Cristina Ortega
Cristina Ortega, Counsel for the General Counsel
National Labor Relations Board, Region 12
Miami Resident Office
51 S.W. 1st Avenue, Room 1320
Miami, FL 33130
CristinaM.Ortega@nlrb.gov
Tel: (786) 482-7187
Fax: (305) 536-5320