

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

ADT, LLC

Respondent

and

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCALS 46
AND 76**

Charging Party

CASE 19-CA-216379

**RESPONDENT'S EXCEPTIONS TO
ADMINISTRATIVE LAW JUDGE'S DECISION**

/s/ Daniel A. Adlong

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Pursuant to Section 102.46 of the National Labor Relations Board’s Rules and Regulations, ADT, LLC (“Respondent” or “ADT”) respectfully files the following Exceptions to the July 9, 2019, Decision of Administrative Law Judge (“ALJ”) John T. Giannopoulos.¹

I. The ALJ Improperly Relied Upon Evidence Relating to Respondent’s Motives to Conduct Analysis Related to the *Res Gestae* of Purportedly Protected Activities.

In support of its contention that the Board must determine solely whether the alleged discriminatees engaged in activities protected by Section 7 of the Act, Respondent excepts:

¹ References to the ALJ’s Decision are identified by the letter “D” followed by page and line number, e.g., “D. ___:___.”

1. To the conclusion that ADT Director of Labor Relations Nixdorf did not learn of the discharge of another employee for surreptitious recordings prior to making the decision to discharge the alleged discriminatees (D.12:17-13:6), because this conclusion is irrelevant, contrary to substantial evidence in the record, and unsupported by the record.

II. The ALJ Erroneously Equated the Purported Absence of a Technical Violation of State Law with Compliance with Respondent's No-Recording Policy.

In support of its contention that a violation of Respondent's No-Recording Policy does not depend upon a technical violation of Washington state law, Respondent excepts:

2. To the ALJ's conflation of a violation of state law with a violation of Respondent's No-Recording Policy (D.15:31-37; 16:42-43), as contrary to the substantial evidence in the record, unsupported by the record, and contrary to law.

3. To the conclusion that the alleged discriminatees did not violate ADT's no-recording rule (D.15:31-16:44), because this conclusion is contrary to substantial evidence in the record and contrary to law.

III. The ALJ Erroneously Equated the Purported Absence of a Technical Violation of Respondent's No-Recording Policy with Protection under the Act.

In support of its contention that the loss of protection under the Act does not depend upon whether the alleged discriminatees technically violated Respondent's No-Recording Policy, Respondent excepts:

4. To the finding that the alleged discriminatees engaged in activities protected by Section 7 of the Act (D.14:2-16:44), because this finding is contrary to the substantial evidence in the record, unsupported by the record, and contrary to law.

5. To the finding that alleged discriminatee Patrick Cuff recorded a meeting in order to engage activities protected by the Act (D.14:29-41), because this conclusion is contrary to the substantial evidence in the record and unsupported by the record.

6. To the finding that alleged discriminatee Mohamed Mansour recorded a meeting in order to engage activities protected by the Act (D.14:2-27), because this conclusion is contrary to the substantial evidence in the record, unsupported by the record, and contrary to law.

7. To the conclusion that the International Brotherhood of Electrical Workers' ultimate receipt of the alleged discriminatees' recordings "is alone sufficient to establish the union activities" of the alleged discriminatees (D.14:43-15:4), because this conclusion is contrary to substantial evidence in the record and contrary to law.

IV. The ALJ Erroneously Found Respondent Violated the Act, Recommended a Remedy, and Issued an Order Against Respondent.

In support of its contention that Respondent has not violated the Act in any manner, and thus neither a Remedy nor an Order are appropriate, Respondent excepts:

8. To the conclusion that ADT violated Sections 8(a)(1) and (3) of the Act by suspending and discharging the alleged discriminatees (D.16:44-17:15), because these conclusions are contrary to the substantial evidence in the record, unsupported by the record, and contrary to law.

9. To the ALJ's failure to recommend dismissal of the Complaint, as amended, in its entirety, because the failure to so recommend is contrary to the substantial evidence in the record, unsupported by the record, and contrary to law.

10. To the issuance of a Remedy (D.17:16-18:12),² because any Remedy is contrary to the substantial evidence in the record, unsupported by the record, and contrary to law.

² This Exception includes the Appendix-Notice to Employees, appended to the end of the Decision and recommended Order.

11. To the issuance of a recommended Order (D.18:14-19:37), because any Order is contrary to the substantial evidence in the record, unsupported by the record, and contrary to law.

Respectfully submitted,

/s/ Daniel A. Adlong

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ADT, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that on the 20th day of August 2019, the foregoing, **RESPONDENT'S EXCEPTIONS TO ADMINISTRATIVE LAW JUDGE'S DECISION**, was emailed and filed via electronic filing with:

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