

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

BOAR'S HEAD PROVISIONS CO., INC.

Respondent

and

**Cases 07-CA-209874
07-CA-212031**

**UNITED FOOD & COMMERCIAL WORKERS
INTERNATIONAL UNION (UFCW), AFL-CIO**

Charging Party

**THE GENERAL COUNSEL'S MOTION TO STRIKE RESPONDENT'S
POST-HEARING REPLY BRIEF**

On September 18, 2019, the Respondent filed a motion with the Administrative Law Judge seeking leave to file a post-hearing reply brief in the above matter. Without waiting for the Judge to rule on its motion, Respondent simultaneously filed its brief. For the reasons set forth below, the General Counsel respectfully asks that Respondent's motion be denied and that its so-called reply brief be stricken and not considered by the Judge.

1. The Board's Rules and Regulations make no provision for the filing of post-hearing reply or answering briefs. *Coca-Cola Bottling Works*, 186 NLRB 1050, 1050 fn. 2 (1970). The trial judge, however, has the discretion to ask for such briefing, or to grant a motion for leave to file reply briefs, in an appropriate case. *Fruehauf Corp.*, 274 NLRB 403, 403 fn. 2 (1985).

2. A party seeking to file a reply brief has the burden to show some reason warranting acceptance of such. *NACCO Materials*, 331 NLRB 1245, 1246 fn. 2 (2000). This comports with the judicial principle that the parties' right to file post-hearing briefs is not unlimited, either as to time or otherwise. Without such limits, the parties could theoretically file

reply briefs to reply briefs ad infinitum. As the Board stated in *Franks Flower Express*, 219 NLRB 149, 150 (1975), enfd. mem. 529 F.2d 520 (5th Cir. 1976), “The administration of justice requires an end to litigation at some point.”

3. In the instant case, Respondent has not demonstrated why it could not have fully argued the facts and applicable law in their first brief, or any prejudice to the Respondent in not allowing it to file a reply brief. Accordingly, its motion should be denied and its reply brief not considered.

Respectfully submitted this 24th day of September 2019.

_____/s/
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CERTIFICATE OF SERVICE

The undersigned certifies that on September 24, 2019, he served copies of the General Counsel’s Motion to Strike Respondent’s Post-Hearing Reply Brief in the above-matter on counsel for the parties listed below via electronic mail.

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