

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

WISMETTAC ASIAN FOODS, INC.

and

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, LOCAL 630

and

ROLANDO LOPEZ, an Individual

and

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, LOCAL 630

Case No. 21-CA-207463
21-CA-208128
21-CA-209337
21-CA-213978
21-CA-219153

Case No. 21-CA-212285

Case No. 21-RC-204759

**WISMETTAC ASIAN FOODS, INC.'S EXCEPTIONS
TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE**

Respectfully Submitted By:

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I. INTRODUCTION

Pursuant to Section 102.46 of the National Labor Relations Board’s Rules and Regulations, Wismettac Asian Foods, Inc. (hereinafter, “Respondent”), hereby takes exception to the below listed portions of the DECISION AND REPORT ON CHALLENGES AND OBJECTIONS (hereinafter, the “Decision”)¹, issued by Administrative Law Judge Eleanor Laws in the above captioned matter on August 30, 2019.

II. EXCEPTIONS TO THE DECISION RELATING TO THE ULP–CASE

<u>EXCEPTION NO.</u>	<u>DECISION PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
1	4:20-30	A B	Finding that there were no threats, assaults, or any other malfeasance associated with the Union’s August 21, 2017 request for recognition. [R Exh. 13; Tr. 224, 304-305.]
2	6:1-30	A B	Finding that Respondent representative Frank Matheu and labor consultant Gus Flores offered promises of benefits in return for employees not supporting the Union. [Supporting Brief ¶ III.(G); Tr. 121-122, 128, 343, 394-396, 556-559, 807-808, 851-852, 891-892.]
3	7:15-36	A B	Finding that Respondent representative Frank Matheu promised employees benefits at meetings on September 15 th and 18 th , 2017. [Supporting Brief ¶ III.(G); Tr. 146, 374, 522, 807-808, 848-849, 851-852, 891-892, 1520, 1562.]
4	8:44-47 9:1-6	B	Finding that Respondent surveilled employees at a parking lot meeting in September 2017. [Supporting Brief ¶ III.(D); Tr. 115, 138, 337-338, 473, 548-549, 673-674.]
5	11:19-24	B	Finding that Respondent violated its contract with Randstad Temporary Agency. [Supporting Brief ¶ III.(D); GC Exh. 29.]

¹ For the purposes of these exceptions “Supporting Brief” shall refer to Respondent’s Brief in Support of Exceptions filed herewith; the reference to the specific portion of the Supporting Brief shall incorporate all argument and evidence cited therein.

For the purposes of these exceptions and the Supporting Brief, the unfair labor practice portion of the case shall be referred to as the “ULP–Case”; the representation election portion of the case shall be referred to as the “R–Case”; “A” shall denote that exception is taken on the basis that the portion of the Decision excepted to is unsupported by law; and “B” shall denote that exception is taken on the basis that the portion of the Decision excepted to is unsupported by substantial evidence.

For the purposes of these exceptions and the Supporting Brief, the following abbreviations shall be used: Citations to the transcript shall be referred to as “Tr.” and reference will be made to any exhibit(s) relied upon; Respondent’s exhibits shall be referred to as “R Exh.”; the General Counsel’s exhibits shall be referred to as “GC Exh.”; the Union’s exhibits shall be referred to as “U Exh.”; citations to footnotes in the Decision shall be referred to as the superscript “fn.” and reference will be made to the number of the in-text line at which the footnote appears.

<u>EXCEPTION NO.</u>	<u>DECISION PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
6	12:9 ^{fn.15}	B	Finding that R Exh. 14 was unreliable evidence. [Supporting Brief ¶ III.(D); R Exh. 14; Tr. 1018-1019.]
7	13:2 ^{fn.17}	B	Finding that Pedro Hernandez was more credible than Frank Matheu as it related to Mr. Hernandez’s termination. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
8	15:14-28	B	Finding that Respondent’s employees were scared they were going to be sued by Respondent. [Supporting Brief ¶ III.(D); U Exh. 44; Tr. 1598.]
9	16:18 ^{fn.21}	B	Finding that Rolando Lopez did not receive the paperwork about the verbal counseling record at the meeting and did not know it existed until he requested his personnel file. [Supporting Brief ¶ III.(A); R Exh. 3; Tr. 610:9-617:14, 620:1-25, 626:6-627:1, 645:20-25, 880:23-25.]
10	19:4 ^{fn.25}	B	Finding that Marcus Mack was a “known antiunion employee”. [Supporting Brief ¶ III.(F)]
11	20:8 ^{fn.28}	B	Finding that Marcus Mack’s testimony as to Alberto Rodriguez using the word “nigga” was embellished. [Supporting Brief ¶ III.(F); GC Exh. 12, 37; Tr. 245-249, 823.]
12	24:7-8	B	Finding that Respondent representative Frank Matheu was not aware of the “insubordination” engaged in by Alberto Rodriguez. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 941, 938, 1078-1082, 1395-1398.]
13	24:8-9	B	Finding that Alberto Rodriguez was not interviewed about any of the incidents resulting in his termination. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 941, 938, 1078-1082, 1395-1398.]
14	27:32 ^{fn.41}	B	Finding that Respondent’s argument that its communications were protected under Section 8(c) of the Act is rejected. [Supporting Brief ¶ III.(G)]
15	28:30-47 29:1-8	A B	Finding that Respondent promised unlawful benefits on or about September 8, 2017. [Supporting Brief ¶ III.(G); GC Exh. 56; Tr. 807-808, 851-852, 891-892.]
16	29:10-30	A B	Finding that Respondent representative Frank Matheu promised unlawful benefits on or about mid-September 2017. [Supporting Brief ¶ III.(G); Tr. 807-808, 851-852, 891-892.]
17	29:32-40 30:110	A B	Finding that Respondent unlawfully promised better wages and benefits in meetings on September 15 th and 18 th , 2017. [Supporting Brief ¶ III.(G); Tr. 807-808, 851-852, 891-892.]

<u>EXCEPTION NO.</u>	<u>DECISION PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
18	30:14-40 31:1-40 31:24 ^{fn.44} 31:31 ^{fn.45}	A B	Finding that Rolando Lopez engaged in concerted activity. [Supporting Brief ¶ III.(A); R Exh. 3; Tr. 610:9-617:14, 620:1-25, 626:6-627:1, 645:20-25, 880:23-25.]
19	32:1-13	A B	Finding and citing case authority supporting the conclusion that Rolando Lopez was engaged in concerted activities. [Supporting Brief ¶ III.(A); R Exh. 3; Tr. 610:9-617:14, 620:1-25, 626:6-627:1, 645:20-25, 880:23-25.]
20	32:15-17 32:16 ^{fn.46}	A B	Finding that Rolando Lopez was disciplined for engaging in protected concerted activity. [Supporting Brief ¶ III.(A); R Exh. 3; Tr. 610:9-617:14, 620:1-25, 626:6-627:1, 645:20-25, 880:23-25.]
21	33:1-3	A B	Finding that Respondent had “union animus” based on statements made at employee meetings by Frank Matheu. [Supporting Brief ¶ III.(C)]
22	33:18-30	AB	Finding that the timing of the demotion of Ruben Munoz was “highly suspicious”. [Supporting Brief ¶ III.(C); GC Exhs. 57, 58, 59, 61, 62; Tr. 852:21-25, 853:1, 853:12-15, 853:16-25, 854:1-5, 854:20-25, 855:1, 855-857, 858, 859-860, 947-948.]
23	33:25 ^{fn.47} 33:35 ^{fn.48} 34:5-10	B	Finding that investigation of Ruben Munoz’s misconduct was “suspicious”. [Supporting Brief ¶ III.(C); GC Exhs. 57, 58, 59, 61, 62; Tr. 852:21-25, 853:1, 853:12-15, 853:16-25, 854:1-5, 854:20-25, 855:1, 855-857, 858, 859-860, 947-948.]
24	34:12-13	A B	Finding that the General Counsel established the “ <i>Wright Line</i> ” burden of proof. [Supporting Brief ¶ III.(C)]
25	34:29-32	A B	Finding that Respondent’s reasons for demoting Ruben Munoz were invalid. [Supporting Brief ¶ III.(C); GC Exhs. 57, 58, 59, 61, 62; Tr. 852:21-25, 853:1, 853:12-15, 853:16-25, 854:1-5, 854:20-25, 855:1, 855-857, 858, 859-860, 947-948.]
26	34:43-47 35:1-27	A B	Finding that Respondent representative Frank Matheu did not have a legitimate reason for demoting Ruben Munoz. [Supporting Brief ¶ III.(C); GC Exhs. 57, 58, 59, 61, 62; Tr. 852:21-25, 853:1, 853:12-15, 853:16-25, 854:1-5, 854:20-25, 855:1, 855-857, 858, 859-860, 947-948.]
27	35:29-40	B	Finding that use of labor consultants to assist in the investigation of Ruben Munoz was inappropriate and biased. [Supporting Brief ¶ III.(C), III.(H); GC Exhs. 57, 58, 59, 61, 62; Tr. 852:21-25, 853:1, 853:12-15, 853:16-25, 854:1-5, 854:20-25, 855:1, 855-857, 858, 859-860, 947-948.]

<u>EXCEPTION NO.</u>	<u>DECISION PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
28	35:42-43 36:1-10	B	Finding that Respondent showed anti-union behavior because Ruben Munoz's first-line supervisor was not involved in his discipline. [Supporting Brief ¶ III.(C); GC Exhs. 57, 58, 59, 61, 62; Tr. 852:21-25, 853:1, 853:12-15, 853:16-25, 854:1-5, 854:20-25, 855:1, 855-857, 858, 859-860, 947-948.]
29	36:10-15	B	Finding that Respondent did not justifiably rely upon witness statements in demoting Ruben Munoz. [Supporting Brief ¶ III.(C); GC Exhs. 57, 58, 59, 61, 62; Tr. 852:21-25, 853:1, 853:12-15, 853:16-25, 854:1-5, 854:20-25, 855:1, 855-857, 858, 859-860, 947-948.]
30	36:11-27	B	Finding that Respondent's reasons for demoting Ruben Munoz were implausible. [Supporting Brief ¶ III.(C); GC Exhs. 57, 58, 59, 61, 62; Tr. 852:21-25, 853:1, 853:12-15, 853:16-25, 854:1-5, 854:20-25, 855:1, 855-857, 858, 859-860, 947-948.]
31	36:29-31	A B	Finding that the General Counsel established a violation of the Act in the demotion of Ruben Munoz. [Supporting Brief ¶ III.(C); GC Exhs. 57, 58, 59, 61, 62; Tr. 852:21-25, 853:1, 853:12-15, 853:16-25, 854:1-5, 854:20-25, 855:1, 855-857, 858, 859-860, 947-948.]
32	37:1-2	B	Finding that it was undisputed that Pedro Hernandez was engaged in union activity that management was aware of. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
33	37:5-8	A B	Finding that Respondent terminated Pedro Hernandez due to anti-union motivation. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
34	37:17-19	A B	Finding that Respondent representative Frank Matheu improperly terminated Pedro Hernandez. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
35	37:45-47 38:1-21	A B	Finding that Respondent did not properly investigate allegations of alleged misconduct by Pedro Hernandez. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
36	38:25 ^{fn.57}	A B	Finding an adverse inference regarding Walter Vargas' failure to testify. [Supporting Brief ¶ III.(D)]

<u>EXCEPTION NO.</u>	<u>DECISION PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
37	38:38-40 39:1-10 39:1 ^{fn.58}	A B	Finding that Respondent did not follow past progressive discipline as it related to the termination of Pedro Hernandez. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
38	39:20-26	A B	Finding that Alberto Rodriguez' employment related claims were not subject to the arbitration agreement he had signed. [Supporting Brief ¶ III.(F); R Exh. 2, 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 938, 1078-1082, 1395-1398.]
39	39:35-40	A B	Finding that there was automatic anti-union animus against Alberto Rodriguez because of his union related conduct. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 938, 1078-1082, 1395-1398.]
40	39:42-43 40:1-30	A B	Finding that Respondent engaged in a pretext by issuing Alberto Rodriguez a written warning on December 17, 2017. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 938, 1078-1082, 1395-1398.]
41	40:19 ^{fn.59}		Finding that the testimony of Alberto Rodriguez was credible and trustworthy. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 938, 1078-1082, 1395-1398.]
42	41:30-38	A B	Finding that the General Counsel has established its initial burden of proof under the " <i>Wright Line</i> " test regarding the suspension and termination of Alberto Rodriguez. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 938, 1078-1082, 1395-1398.]
43	42:30-36	A B	Finding that Respondent pretextually and unlawfully suspended/terminated Alberto Rodriguez. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 938, 1078-1082, 1395-1398.]
44	43:7-30		Finding that Marcus Mack's statement as to misconduct by Alberto Rodriguez was not sufficient to warrant discipline. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 938, 1078-1082, 1395-1398.]
45	43:30-44 44:1-15	B	Finding that Alberto Rodriguez was not justifiably terminated for racial harassment and other repeated misconduct. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 938, 1078-1082, 1395-1398.]

<u>EXCEPTION</u> <u>NO.</u>	<u>DECISION</u> <u>PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
46	44:2 ^{fn.61}		Finding that the Alberto Rodriguez’ racial slur incident with Marcus Mack did not factor into the discipline Alberto Rodriguez received on January 31, 2018. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 938, 1078-1082, 1395-1398.]
47	44:5 ^{fn.62}	A B	Finding that Respondent imposing similar discipline on John Kirby and Cameron San Nicholas was different than the discipline imposed upon Alberto Rodriguez. [Supporting Brief ¶ III.(F); R Exh. 7; Tr. 704-705, 712-713, 742-745, 817-825, 875-878, 938, 1078-1082, 1395-1398.]
48	44:22-35	A B	Finding that Respondent had knowledge of the union activities of Fanor Zamora, Jeremiah Zermeno, and Pedro Hernandez. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
49	45:15-20	B	Finding that Respondent hired “new employees” after the Randstad mass layoff. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
50	45:22-28	A B	Finding that anti-union animus impacted the decision of Respondent not to hire Fanor Zamora, Jeremiah Zermeno, and Pedro Hernandez. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
51	45:30-33	B	Finding that Respondent has not met its burden that Fanor Zamora, Jeremiah Zermeno, and Pedro Hernandez were not qualified for the positions to be hired. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
52	45:34-38	A B	Finding that Respondent was not justified in refusing to hire Jeremiah Zermeno as a result of his conduct when informed he was being laid off. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
53	45:40-43	B	Finding that no wait should be given to the fact that other union supporters were not subject to adverse employment consequences by Respondent in the same way Fanor Zamora, Jeremiah Zermeno, and Pedro Hernandez were. [Supporting Brief ¶ III.(D); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]

<u>EXCEPTION NO.</u>	<u>DECISION PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
54	45:47	A B	Finding that the General Counsel established a violation of the act as a result of Respondent not hiring Fanor Zamora, Jeremiah Zermeno, and Pedro Hernandez. [Supporting Brief ¶ III.(D), III. (I); U Exh. 2; Tr. 651:10-25, 652:15-25, 653:1-25, 654:1-25, 655:3-25, 656:1-21, 865-871, 874-875, 948-949.]
55	46:28-38	A B	Finding that Respondent violated the Act by supplying employees with information in March 2018 as to revoking their authorization cards. [Supporting Brief ¶ III.(B); GC Exh. 20, 21; Tr. 1036:7-24, 1037:1-11, 1037:12-25, 1038:1-25, 1039:1-25, 1040:1-25, 1041:1-25, 1042:1-14, 1042:15-25, 1048:24-25, 1049:5-15, 1049:16-25, 1050:13-25, 1051:25, 1052:1-7.]

III. EXCEPTIONS TO THE DECISION RELATING TO THE R–CASE

<u>EXCEPTION NO.</u>	<u>DECISION PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
56	54:7-14	A B	Finding that employees with inventory control duties were a “disputed category” of employees. [Supporting Brief ¶ IV.(A), IV.(B)]
57	54:10-11	A B	Finding that there was “no meeting of the minds” as it related to permitting employees with inventory control duties to be allowed to vote. [Supporting Brief ¶ IV.(A), IV.(B)]
58	54:11-14	A B	Finding that the parties’ intent was unclear as to employees with inventory control duties. [Supporting Brief ¶ IV.(A), IV.(B)]
59	54:25-30	A B	Finding that the Union did not intend to include employees with inventory control duties to be included within the unit. [Supporting Brief ¶ IV.(A), IV.(B)]
60	54:32-39	A B	Finding that there was no mutual intent to include employees with inventory control duties. [Supporting Brief ¶ IV.(A), IV.(B)]
61	54:45-46	A B	Finding that the parties’ “objective intent” as to employees with inventory control duties was in dispute. [Supporting Brief ¶ IV.(A), IV.(B)]
62	55:1 ^{fn.65}	A B	Finding that Respondent’s case law as to the community of interest are distinguishable. [Supporting Brief ¶ IV.(A), IV.(B)]
63	55:1 ^{fn.65}	A B	Finding that Respondent’s interpretation as to how “inventory control employees” should be read in conjunction with the stipulation. [Supporting Brief ¶ IV.(B)]

<u>EXCEPTION NO.</u>	<u>DECISION PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
64	57:10-23	A B	Finding that Kumiko Estrada is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 65; U Exhs. 1, 23, 53, 59; Tr. 84-86, 1239.]
65	57:25-33	A B	Finding that Maho Kobayashi is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 67; U Exhs. 1, 25; Tr. 1244-1245.]
66	57:35-41	A B	Finding that Sachie Liu is not eligible to vote. [Supporting Brief ¶ IV.(C); U Exhs. 26, 53, 59; Tr. 1249-1250.]
67	57:43-47 58:1-2	A B	Finding that Fumi Meza is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 69; U Exhs. 53, 59; Tr. 1253-1254.]
68	58:4-10	A B	Finding that Kristie Mizobe is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 70; U Exhs. 28, 53, 59; Tr. 1255-1256.]
69	58:12-19	A B	Finding that Stephanie Mizobe is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 71; U Exhs. 1, 39, 53; Tr. 1256-1257.]
70	58:21-28	A B	Finding that Shuji Ohta is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 72; U Exhs. 1, 53, 59; Tr. 91, 1259-1260.]
71	58:30-36	A B	Finding that Wakako Park is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 74; U Exhs. 1, 32, 53, 59; Tr. 1268-1269.]
72	58:38-43	A B	Finding that Keiko Takeda is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 77; Tr. 1275.]
73	59:1-8	A B	Finding that Stacey Umemoto is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 78; U Exhs. 1, 53, 59; Tr. 1277.]
74	59:10-16	A B	Finding that Karen Yamamoto is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 79; U Exhs. 37, 53, 59; Tr. 1278.]
75	59:18-25	A B	Finding that Chiaki Yamashita is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 80; U Exhs. 1, 53, 59; Tr. 93, 1281.]
76	59:27-34	A B	Finding that Yasuhiro (David) Yamashita is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 81; U Exhs. 53, 59; Tr. 1282-1283.]
77	59:36-42	A B	Finding that Domingo Pliego is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 75; Tr. 2171-2172.]
78	61:44-45 62:1-34	A B	Finding that Hideki Takegahara is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 64; U Exhs. 47, 53, 59; Tr. 1235-1236, 1457, 1501, 1552.]
79	62:36-44 72:32-34	A B	Finding that Chiaki Mazlomi is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 60; U Exhs. 18, 53, 59; Tr. 1212, 1229.]

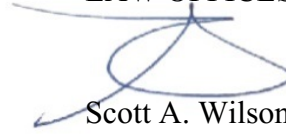
<u>EXCEPTION NO.</u>	<u>DECISION PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
80	62:46-47 63:1-7 63:7 ^{fn.72}	A B	Finding that Yukihiko Amanuma is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 59; U Exh. 17; Tr. 1227, 1232.]
81	63:9-14	A B	Finding that Brian Noltensmeier is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 61; U Exhs. 53, 59; Tr. 1230-1231.]
82	63:16-20	A B	Finding that that Ryan Prewitt is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 62; Tr. 1231-1232.]
83	63:22-25	A B	Finding that that John Salzer is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 63; U Exh. 59; Tr. 1233-1234.]
84	65:15-20	A B	Finding that employees who work as GPO Distribution Coordinators are not eligible to vote. [Supporting Brief ¶ IV.(C)]
85	65:17-18	A B	Finding that the GPO Distribution Coordinators do not share a community of interest with the drivers and warehouse employees. Supporting Brief ¶ IV.(C)]
86	67:18-26	A B	Finding that Thao Nguyen is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 46; U Exhs. 4, 53, 59; Tr. 1203.]
87	67:27-31	A B	Finding that Kayoko Nishikawa is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 47; U Exhs. 53, 59; Tr. 1206.]
88	67:32-37	A B	Finding that Wesley Chang is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 45; U Exhs. 3, 53, 59; Tr. 1200.]
89	68:5-10	A B	Finding that employees who work as Central Purchase Clerks are not eligible to vote. [Supporting Brief ¶ IV.(C)]
90	68:39-43	A B	Finding that Rachel Lin is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 52; Tr. 1213-1214.]
91	69:1-8	A B	Finding that Miwa Sassone is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 54; Tr. 1215-1216.]
92	69:10-19	A B	Finding that Chizuko Sho is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exh. 55; U Exh. 13, 53, 59; Tr. 1217-1218.]
93	69:21-22 69:27-28	A B	Finding that Joshua Fulkerson, Senllacett Gonzalez Guardado, Kaori Juichiya, Kaipo Eda, Stephany Manjarrez, Jenifer Tran, and Thao Nguyen are not eligible to vote. [Supporting Brief ¶ IV.(C)]
94	69:25-30	A B	Finding that employees who work as GPO Central Purchase Clerks are not eligible to vote. [Supporting Brief ¶ IV.(C)]
95	72:19-30	A B	Finding that Kazumi Kasai is not eligible to vote. [Supporting Brief ¶ IV.(C); R Exhs. 18, 58; U Exh. 16, 53(a)-(d), 59; Tr. 1223.]

<u>EXCEPTION NO.</u>	<u>DECISION PAGE:LINE</u>	<u>BASIS</u>	<u>EXCEPTION</u>
96	72:30-35	A B	Finding that employees who work as GPO Distribution Clerks are not eligible to vote. [Supporting Brief ¶ IV.(A), IV.(B)]
97	74:20-36	A B	Finding that Assistant Buyer is excluded from the Unit. [Supporting Brief ¶ IV.(A), IV.(B); R Exhs. 51, 54; U Exh. 10; Tr. 1213, 1216, 1309.]
98	76:29-30	A B	Finding that ICD Sales Assistant is excluded from the Unit. [Supporting Brief ¶ IV.(A), IV.(B); R Exhs. 34, 68, 70, 74; U Exh. 26; Tr. 1161-1163, 1250, 1255, 1268, 1340, 1366.]
99	78:5-7	A B	Finding that Export Sales Assistant is excluded from the Unit. [Supporting Brief ¶ IV.(A), IV.(B); R Exh. 35.]
100	79:35-37	A B	Finding that National Account Administrative Assistant is excluded from the Unit. [Supporting Brief ¶ IV.(A), IV.(B); R Exh. 40; Tr. 1178, 1282.]
101	80:36-39	A B	Finding that Food Safety Coordinator is excluded from the Unit. [Supporting Brief ¶ IV.(A), IV.(B); R Exh. 39; Tr. 1175.]
102	83:24-25	A B	Finding that Export Office Clerk is an Office clerk; finding that Export Office Clerk is excluded from the Unit. [Supporting Brief ¶ IV.(A), IV.(B); R Exh. 31; Tr. 1155-1156.]
103	83: 24-25	A B	Finding that Export Clerk is excluded from the Unit. [Supporting Brief ¶ IV.(A), IV.(B); R Exh. 36; Tr. 1167.]
104	84:25-30	A B	Finding that Import Clerk is excluded from the Unit. [Supporting Brief ¶ IV.(A), IV.(B); R Exh. 37; Tr. 1170.]
105	85:45-46	A B	Finding that Purchasing Clerk is excluded from the Unit. [Supporting Brief ¶ IV.(A), IV.(B); R Exhs. 7, 38, 76-77; Tr. 1259-1260, 1275.]
106	87:4-5	A B	Finding that GPO Coordinator is excluded from the Unit. [Supporting Brief ¶ IV.(A), IV.(B); R Exhs. 33, 60; U Exh. 18; Tr. 1159, 1229.]
107	87:30-31	A B	Finding that Alberto Rodriguez' suspension and termination were unlawful; finding A. Rodriguez vote is properly counted. [Supporting Brief ¶ IV.(C)]

Dated: October 30, 2019

Respectfully Submitted By:

LAW OFFICES OF SCOTT A. WILSON



Scott A. Wilson, Esq.

Attorney for Respondent

WISMETTAC ASIAN FOODS, INC.

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CERTIFICATE OF SERVICE

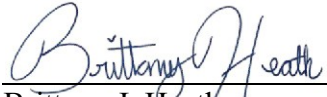
I, Brittany J. Heath, declare and state as follows:

1. I am at least 18 years of age, not a party to this action. I am employed at the Law Offices of Scott A. Wilson, which is located in San Diego County, California. My business address is 433 G Street, Suite 203, San Diego, CA 92101. My e-mail address is sawfrontoffice@pepperwilson.com.
2. I hereby certify that on October 30, 2019, a copy of **WISMETTAC ASIAN FOODS, INC.'S EXCEPTIONS TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE** in Cases 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978, 21-CA-219153, 21-CA-212285, and 21-RC-204759 has been submitted by E-Filing to the National Labor Relations Board, Office of the Executive Secretary, in Washington DC.
3. On October 30, 2019, I served by e-mail, a copy of the document listed in item 2 on the parties as follows:

NAME OF PERSON SERVED	ELECTRONIC SERVICE ADDRESS
Elvira T. Pereda, Esq. Counsel for the General Counsel National Labor Relations Board, Region 21	elvira.pereda@nlrb.gov
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Rolando Lopez	catoria@yahoo.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Diego, California on October 30, 2019.

By: 
Brittany J. Heath
Assistant to Scott A. Wilson