

No. 19-11615

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

RIDGEWOOD HEALTH CARE CENTER, INC. AND
RIDGEWOOD HEALTH SERVICES, INC.

Petitioner / Cross-Respondent

v.

NATIONAL LABOR RELATIONS BOARD

Respondent / Cross-Petitioner

and

UNITED STEEL, PAPER & FORESTRY, RUBBER, MANUFACTURING,
ENERGY, ALLIED INDUSTRIAL & SERVICE WORKERS INTERNATIONAL
UNION, AFL-CIO, CLC

Intervenor

ON PETITION FOR REVIEW AND CROSS-APPLICATION
FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

**UNION'S REPLY TO PETITIONERS' OPPOSITION TO MOTION TO
ACCEPT BRIEF AS TIMELY FILED**

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RIDGEWOOD HEALTH CARE)	
CENTER, INC. and RIDGEWOOD)	
HEALTH SERVICES, INC.)	
Petitioners/Cross-Respondents)	No. 19-11615
)	
v.)	Board Case Nos.
)	10-CA-113669
NATIONAL LABOR RELATIONS)	10-CA-136190
BOARD)	
Respondent/Cross-Petitioner)	
)	
and)	
)	
UNITED STEEL, PAPER & FORESTRY)	
RUBBER, MANUFACTURING, ENERGY,)	
ALLIED INDUSTRIAL & SERVICE)	
WORKERS INTERNATIONAL UNION,)	
AFL-CIO, CLC)	
Intervenor)	

Certificate of Interested Persons

Pursuant to Fed. R. App. P. 26 and Local Rule 26.1-1, the Intervenor, by and through its counsel of record, hereby certifies that the following persons and entities have an interest in the outcome of this case:

1. Bock, Richard, General Counsel
2. Brown, Joette Kelley, Principal
3. Burr & Forman, LLP, Counsel for Petitioners
4. Doyle, John D, Regional Director, Region 10, for the NLRB
5. Emmanuel, William J., Member of the NLRB

6. Flowers, Jr., Ronald W., Counsel for Petitioners
7. Habenstreit, David, Acting Deputy Associate General Counsel for NLRB
8. Hattaway, Ashley, Counsel for Petitioners
9. Heaney, Elizabeth, Attorney for the NLRB
10. Kaplan, Marvin E., Member of the NLRB
11. Kelley Health Holdings, Inc.
12. McFerran, Lauren, Member of the NLRB
13. National Labor Relations Board, Respondent
14. Quinn, Connor, Weaver, Davies & Rouco, LLP, Counsel for Intervenor
15. Resnick, Anthony, Counsel for Charging Party
16. Ridgewood Health Care Center, Inc., Petitioner
17. Ridgewood Health Services, Inc., Petitioner
18. Ring, John F., Chairman of the NLRB
19. Robb, Peter B. General Counsel for the NLRB
20. Rosas, Michael, Administrative Law Judge
21. Rouco, Richard, Counsel for Intervenor
22. Scully, Matthew T., Counsel for Petitioners
23. Sheehy, Barbara, Attorney for NLRB
24. Stewart, Alicia Kelley, Principal
25. Stock, Alice B., Deputy General Counsel for the NLRB

26. United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Intervenor
27. Wheeler, Keren, Counsel for Charging Party
28. Williams, Jeffrey D., Attorney for the NLRB

/s/ Richard P. Rouco
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The United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial & Service Workers International Union (“USW”) respectfully submits the following reply to Petitioners’ opposition to the USW’s motion to accept its brief as timely filed.

1. This case arises from a proceeding before the National Labor Relations Board (“NLRB”). The USW is the charging party. The USW alleged that the Petitioner committed several violations of the National Labor Relations Act. The Petitioner was found guilty of several violations of the Act and the District Court entered an injunction prohibiting the Petitioner from further violations of the Act. In this Court, Petitioner seeks review of that decision.

2. USW was treated as amicus curiae during the District Court 10(j) litigation in this case. (See, Pet. Brief p. 19 (p. 33 of 88)).

3. The USW timely filed a motion to intervene in this Court and permission to intervene was granted on June 11, 2019.

4. Rule 31 of the Federal Rules of Appellate Procedure (“FRAP”) and Rule 31-1 of this Court’s rules provides a briefing schedule for the filing of the appellant and appellee briefs but do not directly address the due date of an intervenor’s brief. Simply put, neither the FRAP nor this Court’s Rules and

Internal Operating Procedures specifically address when an intervenor's brief is due.

5. Because the USW was treated as amicus curiae during the District Court 10(j) litigation and because a review of the rules and IOP showed nothing to the contrary, Intervenor assumed that for brief scheduling purposes, it remained an amicus and that the USW's intervenor brief would be due based on the same schedule as an amicus brief. This is consistent with judicial economy as it allows the Intervenor to avoid repetitious argument.

6. Under FRAP Rule 29, an amicus brief is due seven (7) days after the principal brief of the party being supported is due. FRAP Rule 29(a)(6). Since the NLRB's brief was filed on October 9, 2019, the USW filed its brief on October 16, 2019, the date Intervenor believed the brief to be due. Intervenor sought relief by Motion only because the ECF system would not accept the brief for filing on October 16, 2019.

7. It is always within the Court's discretion to permit the late filing of a brief for good cause. *Bartell v. Aurora Public Schools*, 263 F.3d 1143, 1146 (10th Cir, 2001). The USW submits that for the reasons stated above in paragraphs 4-6, there is good cause to allow the late filing of its brief. Moreover, Petitioner will not be prejudiced if the Motion is granted.

8. Accordingly, for good cause shown and because there is no prejudice to the Petitioner, the USW respectfully requests that the Court grant its motion to accept the USW's intervenor brief as timely filed.

Respectfully submitted,

/s/ Richard P. Rouco

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AFL-CIO, CLC)	
Intervenor)	

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), Intervenor certifies that the foregoing brief contains 476 words of proportionally spaced, 14-point type, Times New Roman and the word processing system used was Microsoft Word 2010.

/s/ Richard P. Rouco
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Intervenor)	

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2019, I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Eleventh Circuit via the appellate CM/ECF system.

I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Richard P. Rouco
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