

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**

COTT BEVERAGES INC.

and

Case 16-CA-181144

JOSEPH KELLY, an Individual

**COUNSEL FOR THE GENERAL COUNSEL'S EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE'S SUPPLEMENTAL DECISION**

Counsel for the General Counsel, pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board, Series 8, as amended, files the following exceptions to the Supplemental Decision of Administrative Law Judge Paul Bogas (JD-76-19) issued on October 7, 2019:

1. The ALJ's conclusion that employees would reasonably interpret Respondent's no-cell phone rules to interfere with the exercise of Section 7 rights (JD slip op. at 7, LL. 31-45; 8-10; 11, LL. 1-2).
2. Assuming employees would reasonably interpret Respondent's no-cell phone rules to prohibit Section 7 activity, the ALJ's conclusion that the rules' potential interference with the exercise of Section 7 rights outweighs the Employer's business justification for the rules (JD slip op. at 11, LL. 3-45; 12-14; 15, LL. 1-2).
3. The ALJ's reliance upon a hypothetical scenario in which Respondent's no-cell phone rules could be interpreted to potentially limit Section 7 activity (JD slip op. at 9, LL. 17-42; 10, LL. 1-14).

4. The ALJ's reliance on the Charging Party's audio recording to reinforce a finding that restricting employee access to cell phones in work areas inhibits their exercise of Section 7 activity (JD slip op. at 8, LL. 30-33; 9, LL. 1-7).
5. The ALJ's finding that Respondent's no-cell phone rules place a "particularly weighty burden" on employees' exercise of Section 7 rights (JD slip op. at 9, LL. 40-41; 10, LL. 1-14).
6. The ALJ's dismissal of Respondent's business justifications because more limited restrictions could be used (JD slip op. at 11, LL. 20-24; 14, LL. 9-20).

/s/ Megan E. McCormick Lemus
Megan E. McCormick Lemus
Counsel for the General Counsel
National Labor Relations Board, Region 16
819 Taylor Street, Room 8A24
Fort Worth, Texas 76102
Tel: (682) 703-7233
Fax: (817) 978-2928
Email: Megan.McCormick@nlrb.gov

Date: December 19, 2019

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing General Counsel's Exceptions to the Administrative Law Judge's Supplemental Decision has been served this 19th day of December, 2019, via electronic mail upon each of the following:

Counsel for Respondent:

JOHN J. TONER, ESQ.
SEYFARTH SHAW, LLP
975 F. ST. N.W.
WASHINGTON, DC 20004
jtoner@seyfarth.com

The Charging Party:

JOSEPH KELLY,
335 NATALEN AVE
SAN ANTONIO, TX 78209-6812
nounnoun@gmail.com

/s/Megan E. McCormick Lemus
Megan E. McCormick Lemus
Counsel for the General Counsel
National Labor Relations Board
Region 16
819 Taylor Street, RM 8A24
Fort Worth, Texas 76102