Case Nos. 19-2033 and 19-2168

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

LOCAL 600, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW), AFL-CIO

Petitioner/Cross-Respondent,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent/Cross-Petitioner,

and

LLOYD STONER,

Charging Party/Intervenor

FOR REVIEW FROM PROCEEDINGS BEFORE
THE NATIONAL LABOR RELATIONS BOARD
REGION 7, Case No. 07-CB-221096

REPLY BRIEF OF PETITIONER/CROSS RESPONDENT UAW, LOCAL 600

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INTRODUCTION

Petitioner/Cross-Respondent Local 600 of the United Automobile, Aerospace and Agricultural Workers of America (UAW), AFL-CIO ("Local 600"), by the undersigned counsel, hereby submits this Reply Brief in response to the Brief for the National Labor Relations Board (the "GC Brief") (Doc. No. 31) and the Brief for Intervenor Lloyd Stoner in Support of the National Labor Relations Board (the "CP Brief") (Doc. No. 31). The issue in this appeal is whether a union violates Section 8(b)(1)(A) of the National Labor Relations Act (the "Act"), 29 U.S.C. § 158(b)(1)(A) and/or its duty of fair representation to employees when it fails to promptly process a member's resignation and dues checkoff revocation as a result of inadvertence.

While Intervenor Lloyd Stoner ("Stoner" or "Charging Party") characterizes Local 600's arguments as a "dog ate my homework defense" (see CP Brief, p. 4), the law is clear that a violation of Section 8(b)(1)(A) or the duty of fair representation cannot be based on strict liability or negligence. Since the National Labor Relations Board (the "Board") failed to apply the proper standard in evaluating the Section 8(b)(1)(A) and duty of fair representation claims against Local 600 and disregarded critical evidence when it issued its August 28, 2019 Decision and Order (the "Decision"), the Court should rule that the Decision is not

supported by substantial evidence, grant Local 600's Petition to Review and deny enforcement of the Board's Decision.

ARGUMENT

I. THE GENERAL COUNSEL AND STONER'S ASSERTIONS THAT THE DETERMINATION THAT LOCAL 600 VIOLATED SECTION 8(b)(1)(A) IS BASED ON A FLAWED INTERPRETATION OF APPLICABLE LAW

A. AN UNFAIR LABOR PRACTICE CLAIM CANNOT BE PROVEN WITHOUT A SHOWING OF A CULPABLE MENTAL STATE

Both the General Counsel and Stoner assert that Local 600's claim of inadvertence cannot be a defense to the unfair labor practice charge because Section 8(b)(1)(A) does not require the Board to establish scienter in the context of a membership resignation and dues checkoff revocation and that an unfair labor practice can be found whenever an employee believed that a union considered him to be a member despite his resignation. (See GC Brief, pp. 23-25; CP Brief, pp. 4, 7-8). This argument disregards a key element required to establish a violation of Section 8(b)(1)(A).

Contrary to the claims of the General Counsel and Stoner, a Section 8(b)(1)(A) violation requires more than a simple finding that an employee felt restrained or coerced by a union. The Sixth Circuit has repeatedly ruled in a wide variety of contexts that knowledge of an employee's protected action and an action motivated by that knowledge are essential elements of a Section 8(b)(1)(A) claim

or the analogous Section 8(a)(1) claim against an employer. *NLRB v. Int'l. Brotherhood of Elec. Workers, Local 429*, 514 F.3d 646, 649 (6th Cir. 2008) (Board must make prima facie showing that protected conduct was a ***motivating*** factor); *Meijer, Inc. v. NLRB*, 463 F.3d 534, 540 (6th Cir. 2006) (rejecting NLRB caselaw and holding that knowledge of protected conduct is essential element of 8(a)(1) claim); *Journeymen Pipefitters Local 392 v. NLRB*, 712 F.2d 225, 230 (6th Cir. 1983)(without evidence that business agent deviated from clear and unambiguous provisions relating to a hiring hall, there must be some other proof of the proscribed motivation); *Jim Causley Pontiac v. NLRB*, 675 F.2d 125, 127 (6th Cir 1982)(Board cannot predicate liability on a negligence standard because the purpose of the Act is to protect concerted activity, not punish employer ignorance); *Sears, Roebuck & Co. v. NLRB*, 450 F.2d 56, 61 (6th Cir. 1971)(when tendency to discourage union membership is slight and employer conduct is reasonably adapted to achieve legitimate business purposes, improper motivation must be shown by independent evidence). The Board's decision that the Section 8(b)(1)(A) allegations against Local 600 could be based on inadvertence is in complete derogation of the above precedent. In the absence of any evidence of a culpable mental state, the Board's finding of a Section 8(b)(1)(A) violation lacks substantial evidence.

The rulings in *Plumbers and Pipefitters Local Union No. 520 (Aycock, Inc.)*, 282 NLRB 1228 (1987) and *Jacoby v. NLRB*, 325 F.3d 301 (DC Cir. 2003) further substantiate this principle. Both those rulings hold that a union's inadvertent error is not sufficient to violate Section 8(b)(1)(A). See *Aycock, Inc.*, 282 NLRB at 1232; *Jacoby*, 325 F.3d at 305. Without citing to any precedent aside from *Aycock* and *Jacoby* themselves, both the General Counsel and Stoner assert that these cases are inapplicable because they involve hiring halls, there is purportedly a public policy interest in hiring hall recordkeeping and negligence in the operation of a hiring hall supposedly does not "constitute a display of union power." (GC Brief, p. 24; CP Brief, p. 13). Of course, the gravamen of the Section 8(b)(1)(A) charge is that "the Union unlawfully coerced (Stoner) in his right to refrain from lending it support." (GC Brief, p. 16). Regardless of the context, coercion necessarily requires intent and cannot arise inadvertently.

B. THE RULINGS CITED IN THE BOARD DECISION AND BY APPELLEES DO NOT OBVIATE THE NEED TO ESTABLISH A CULPABLE MENTAL STATE

The General Counsel and Stoner contend that the Board's Section 8(b)(1)(A) ruling is consistent with the Board's earlier decisions in *Int'l. Brotherhood of Teamsters Local 385 (Walt Disney)*, 366 NLRB No. 96 (2018), *Affiliated Food Stores*, 303 NLRB 40 (1991) and *Electrical Workers IBEW Local 2088 (Lockheed Space Operations)*, 302 NLRB 322 (1991). (See GC Brief, pp. 15-23; CP Brief,

pp. 11-12). In fact, in misconstruing these rulings to eliminate the need to establish a culpable mental state, the Board applied an incorrect legal standard, which justifies a determination to refuse enforcement. *Pleasantview Nursing Home, Inc. v. NLRB*, 351 F.3d 747, 752 (6th Cir. 2003).

The General Counsel asserts that Local 600's inaction in this matter is "eerily similar" to how the union in *Walt Disney* treated a worker named Hector Santana-Quintana. (GC Brief, p. 20, see also CP Brief, p. 12). In the *Walt Disney* ruling, Santana-Quintana submitted a valid resignation and dues checkoff revocation which was not honored by the union for four months, ostensibly as a result of inadvertence. (GC Brief, p. 20, see also *Walt Disney*, 366 NLRB No. 96, slip op. at 7). The General Counsel argues that in its analysis of the treatment of Santana-Quintana, the Board held that it was unnecessary to establish that the union intended to violate Santana-Quintana's rights. This assertion proves specious because it completely disregards the context in which the *Walt Disney* Board came to its decision.

The General Counsel is simply wrong in its assertion that the *Walt Disney* Board's determination that the union violated Section 8(b)(1)(A) by "repeatedly and deliberately (failing) to respond in any manner to the Charging Parties' letters, telephone calls, and/or in-person inquiries regarding revocation of their dues checkoff authorizations" is only applicable to the employees who had made

untimely and ineffective revocations. (GC Brief, pp. 21-22; *Walt Disney*, slip op. at 1-2). The very sentence in which this statement is made makes it clear that the Board's analysis applied across the board and that it was this conduct that restrained and coerced the charging parties. Moreover, the administrative law judge hearing the *Walt Disney* case also did not make the distinction the General Counsel now seeks to make:

> The Charging Parties made multiple attempts to resign, revoke their dues check-off authorizations and/or get the information necessary to submit timely revocations. ***Some of their requests were timely; some fell outside the annual revocation window period.*** However, Local 385, by Jeffries and other union employees, failed time and again to respond to their requests or, if they did respond, did so only after the employees' window period closed or charges were filed.

Walt Disney, slip op. at 15 (emphasis added). It is accordingly clear that the *Walt Disney* ruling is based on the conclusion that the union had violated Section 8(b)(1)(A) as a result of intentional misconduct which was inferred from repeated disregard of revocation and resignation requests – not merely due to its one-time disregard of Santana-Quintana's request.

Affiliated Food Stores and *Lockheed Space Operations* also do not support the assertion that a Section 8(b)(1)(A) violation can arise from a union's inadvertence. The General Counsel asserts that the Section 8(b)(1)(A) violation in *Affiliated Food Stores* was based entirely on the union's accepting and retaining

dues after the employee made a valid resignation request. (GC Brief, p. 18). This contention is not accurate. The *Affiliated Food Stores* Board reached its determination that the union had restrained and coerced the employee based on its "***continuing to require*** (the employee) to pay dues following his resignation from union membership and its demand that Respondent Employer continue to check off his membership dues." *Affiliated Food Stores*, 303 NLRB 40, 40-41 (emphasis added). Furthermore, the union in *Affiliated Food Stores* sent correspondence to the employee expressly stating that it was requiring him to continue to pay dues despite his resignation. See 303 NLRB at 44. Hence, *Affiliated Food Stores* is another ruling in which the Section 8(b)(1)(A) violation was based on the union's intentional acts.

Both the General Counsel and Stoner assert that the *Lockheed Space Operations* ruling applies to this case because that matter involved a union that took no action aside from retaining dues after an employee sought to resign. (See GC Brief, p. 18; CP Brief, p. 11). However, in that matter, the union did not accept the employee's resignation letter and did not claim inadvertence. *Lockheed Space Operations*, 302 NLRB at 322-323. The fact that the union's decision to continue accepting dues was intentional distinguishes *Lockheed Space Operations* from this matter.

II. THE DECISION IS NOT BASED ON SUBSTANTIAL EVIDENCE

A. THE DECISION UTILIZED THE ALJ'S CREDIBILITY DETERMINATIONS IN A WAY CONTRARY TO COMMON SENSE

Both the General Counsel and Stoner claim that the ALJ's credibility findings regarding Mark DePaoli's (Local 600's financial secretary) testimony about his action in forwarding his letter to Ford regarding Stoner's resignation and dues revocation (the "Notification Letter") as well as his statement that the delay was caused by union staffing issues support the conclusions that Local 600 "intentionally ignored" Stoner's resignation and revocation request and evidence DePaoli's intent "to sit on it (the Notification Letter") for awhile." (See GC Brief, pp. 26-27; CP Brief, pp. 17-18). Even with the appropriate deference paid to an ALJ's credibility determination, these findings should be rejected because they go far beyond what good sense permits. *Local Union 948, Int'l. Brotherhood Elec. Workers v. NLRB*, 697 F.2d 113, 118 (6th Cir. 1982).

It is undisputed that DePaoli cooperated with Stoner as he proceeded to resign his union membership and revoke his dues checkoff authorization and that DePaoli drafted the Notification Letter on the same day that he received Stoner's resignation. (See Stoner, JA00220-222, 00234-235 [20-22, 34-35]; DePaoli, JA00249-252, 00254, 00257-258, 00260-264 [49-52,54, 57-58, 60-64] and Union

Exs. C-H, JA 00322-327).[1] Given these facts – and in the absence of any testimony whatsoever that DePaoli had an animus towards Stoner's efforts to resign – the notion that DePaoli's failure to immediately transmit the Notification Letter was based on a desire "to sit on it for awhile" is contrary to reason and nothing more than speculation. Stoner contends that DePaoli should have produced the email transmitting the letter to his secretary and should have remembered that he did not sign the letter (see CP Brief, pp. 18-19), but this does not alter the underlying issue. If DePaoli had truly been motivated by a desire to ignore Stoner, he would not have assisted Stoner in procuring his dues checkoff form, nor would he have drafted the Notification Letter on the same day as he received Stoner's resignation request. The Court should accordingly conclude that the ALJ's credibility determinations are not entitled to any weight in assessing whether the Board's Decision is based on substantial evidence. See *Coronet Foods, Inc. v. NLRB*, 158 F.3d 782, 789 (4th Cir. 1998).

B. LOCAL 600'S DELAY IN ISSUING A REFUND TO STONER DOES NOT DEMONSTRATE AN INTENT TO RESTRAIN OR COERCE STONER OR ARBITRARY, DISCRIMINATORY OR BAD FAITH CONDUCT

The General Counsel and Stoner assert that Local 600 is unable to maintain

[1] "JA" cites refer to the Joint Appendix. Names preceding a "JA" reference indicate that person's testimony. For example, (DePaoli, JA00244-245 [44-45]) designates Mark DePaoli's testimony at Joint Appendix pages 244 and 245, which are pages 44 and 45 of the transcript.

its inadvertence argument because it retained Stoner's union dues after being served with Stoner's initial unfair labor practice charge, with Stoner going as far as to claim that this is a "dispositive fact." (GC Brief, pp. 15-17, 20-21; CP Brief, pp. 5-6, 8-10, 17-20). Contrary to appellees' contentions, the delay in refunding Stoner's dues does not mean that the Board's conclusions that Local 600 violated Section 8(b)(1)(A) or the duty of good faith are supported by substantial evidence.

The Board may not ignore relevant evidence that detracts from its findings – and whenever the Board misconstrues or fails to consider important evidence, it is less likely that its conclusions are based on substantial evidence. *GGNSC Springfield LLC v. NLRB*, 721 F.3d 403, 407 (6th Cir. 2013). In looking solely at the fact of delay without consideration of two significant exculpatory factors, the Board acted in derogation of this principle. First, Local 600 did not directly control the deductions from the paychecks of union members; rather Ford Motor Company withheld union membership dues and initiation fees and remitted the dues and fees to Local 600 on a semi-monthly basis. (*Id.* at JA00302). It was Ford's procedure to notify Local 600 of the union members who had or had not paid dues by transmitting a report issued approximately one month after the applicable withholdings were made. (*Id.* at JA00305, see also DePaoli, JA00272-273 [72-73]). Accordingly, DePaoli would not have been able to determine from the reports from Ford that the withdrawals from Stoner's paychecks were

continuing or that Local 600 was still receiving dues payments from Stoner before Local 600 was served Stoner's NLRB charge. Additionally, the Board disregarded the fact that upon receiving the charge, DePaoli immediately sent the Notification Letter to the human resources manager of the Dearborn Plant (DePaoli, JA00267-68 [67-68], letter, Union Ex. O, JA00332) and beginning in June 2018, union dues were no longer deducted from Stoner's paychecks. (Stoner, JA00227 [27]). Further, even after receiving the charge and notifying Ford to discontinue deductions, as a result of the lag time in receiving reports from Ford, DePaoli did not have any knowledge that Ford was continuing to make deductions. (*Id.*)

When these two facts are considered, it is clear that the Board, General Counsel and Stoner's claim that Local 600's delay in issuing the refund evidences culpable misconduct is untenable. While the General Counsel alleges that Local 600 could have "calculated the amount to be refunded based on his pay stubs and reimbursed Stoner 'within a week'" (GC Brief, p. 21; see also CP Brief p. 22), there was no evidence presented that Local 600 could have viewed Stoner's pay stubs without his cooperation. Due to Ford's delay in issuing deduction reports, DePaoli could not immediately determine when Ford had ceased making dues deductions and thereby compute the amount of refund due to Stoner. Likewise, while Stoner castigates Local 600 for not refunding all amounts that he claims were withheld (CP Brief, p. 6), DePaoli testified – and the letter containing the

refund expressly stated – that the amount of the refund issued by Local 600 was based on its records. (See DePaoli, JA00272-73 [72-73], refund letter, Union Ex. M, JA00330). In the absence of evidence of culpable wrongdoing, Local 600 should not be faulted for not acting precipitously in issuing a refund in these circumstances and in relying on its own records in computing the amount of the refund.

C. LOCAL 600'S REFUND LETTER TO STONER DID NOT VIOLATE SECTION 8(B)(1)(A) OR THE DUTY OF FAIR REPRESENTATION

Despite the General Counsel and Stoner's claims to the contrary, the Decision erred in characterizing Local 600's refund letter as "excoriating" and "reproachful." (See NLRBDO, n. 4, JA00149 and 00154). The General Counsel asserts that the refund letter sends the message that "the Union alone controls when misappropriated dues are reimbursed, and those who exercise their right to contact the Board will be punished with delay" and suggests that Stoner would suffer further delay in obtaining a refund of the remainder of his dues if he continued contacting the Board. (GC Brief, p. 28). Stoner contends that the refund letter should be analyzed under the "reasonable tendency to coerce or restrain" standard established in the case of *Tamosiunas v. NLRB*, 892 F.3d 422, 429 (D.C. Cir. 2018) and claims that he could believe that he was being punished for enforcing his rights through the Board. (CP Brief, pp. 20-21). Both these arguments are nothing more than red herrings.

Stoner errs in contending that *Tamosiunas* is applicable to this matter, for the nature of the correspondence in that case makes it easily distinguishable. The letter in *Tamosiunas* was sent to employees who had declined full membership in the union, demanded that their dues be made current and stated that the employer would soon be deducting sums necessary to pay full union dues from upcoming paychecks. See *Tamosiunas*, 892 F.3d at 427. The DC Circuit found that this letter was essentially a payment demand with a threat of garnishment, which was "the very definition of coercion and restraint." *Tamosiunas*, 892 F.3d at 430. In contrast, the refund letter here merely explained how DePaoli had computed the amount he was refunding to Stoner, indicated that DePaoli was working with figures that were being sent by Ford to Local 600 well after the deductions were made and invited Stoner to either notify him or contact the NLRB in the event that Ford continued to deduct union dues. (See Refund Letter, Union Ex. M, JA00330).

Rather than *Tamosiunas*, this case is far more similar to the facts of *NLRB v. Construction & General Laborers' Union Local 534*, 778 F.2d 284 (6th Cir. 1985). In that case, a union president told thirty to forty applicants in a hiring hall that if they filed unfair labor practices charges, it could lead to an investigation that could result in members losing unemployment compensation – a result that could hurt "a whole lot of people." *Local 534*, 778 F.2d at 290. After analyzing legislative

history, the Sixth Circuit established the following test to determine when a Section 8(b)(1)(A) claim could arise from a communication:

> When a Union has merely objectively informed employees of those consequences of the employees' actions that are beyond the Union's control, no section 8(b)(1)(A) violation has occurred. The Union is informing, and perhaps persuading, ***but it is not threatening reprisals.***

Local 534, 778 F.2d at 290 (emphasis added). If anything, the refund letter in this case is far more innocuous than the statement in *Local 534*. DePaoli did not threaten Stoner with reprisals. At most, DePaoli simply made the truthful statements that litigation can be time-consuming and that out-of-court resolution is often quicker. Further, contrary to the General Counsel's claim (GC Brief, p. 28), DePaoli did not threaten Stoner with further delay – the very sentence cited by the General Counsel begins with the phrase "Should Ford Motor Company deduct any further dues. . ." (Refund Letter, Union Ex. M, JA00330) and is therefore describing a contingent situation. Here too, no reasonable employee would consider the sentence to be coercive, restraining, arbitrary or discriminatory. Accordingly, the refund letter provides no evidence of a Section 8(b)(1)(A) or duty of fair representation violation.

D. THE BOARD FAILED TO CONSIDER IMPORTANT EVIDENCE

The law is clear that the Board may not ignore relevant evidence that detracts from its findings. *Int'l. Union, United Auto., Aerospace and Ag.*

Implement Workers of Am. v. NLRB, 844 F.3d 590, 598 (6th Cir. 2016). Here, the record is clear that the Board repeatedly disregarded evidence that countered its desired findings. Despite the General Counsel and Stoner's arguments to the contrary, the Court should conclude that the Board's failure to consider highly relevant testimony and documentary material prevents a finding that the Decision is supported by substantial evidence. *GGNSC Springfield LLC*, 721 F.3d at 407.

During the evidentiary hearing, Local 600 presented substantial evidence that DePaoli had taken multiple steps to cooperate with Stoner's attempts to resign from union membership and to revoke his dues checkoff revocation, including answering Stoner's questions, obtaining the dues checkoff form for Stoner and then re-sending the form after Stoner claimed to have misplaced it. (See Stoner, JA00221-222; 00234-35 [21-22, 34-35]; DePaoli, JA00249-253, 00257 [49-53 and 57] and Union Exs. C-E, JA00322-324). As is discussed above, Local 600 also elicited testimony and presented evidence that DePaoli drafted the Notification Letter on the date that he received Stoner's resignation request and then transmitted the Notification Letter to Ford on the very day Local 600 was served Stoner's initial NLRB charge. (DePaoli, JA00258, 260-64, 267 [58, 60-64, 67]; Notification Letter, Computer Properties Record, and transmitted letter Union Exs. G, H, and O, JA00326-327, 00332). Moreover, DePaoli provided undisputed testimony that as a result of Ford's dues reporting procedures, he was not aware of

continuing dues withdrawals for a substantial time after the withdrawals were made and that when he issued the refund to Stoner, he based the amount of the refund on Local 600's records. (DePaoli, JA00272-273 [72-73]).

Taken together, the foregoing is utterly inconsistent with the Board's findings that Local 600 coerced Stoner and breached its duty of fair representation. (See Decision, n.4, JA00149). While the General Counsel contends that this evidence is "simply not relevant to a finding a violation of Section 8(b)(1)(A)," because intent is not a requirement of a Section 8(b)(1)(A) violation (see GC Brief, p. 35), this proves misplaced. Initially, it must be noted that the General Counsel's argument fails to consider that the Board found Local 600 liable for a breach of the duty of fair representation, which requires a showing of arbitrariness, bad faith intent or discrimination. *Ohlendorf v. United Food & Commer. Workers Int'l. Union, Local 876*, 88 F.3d 636, 644 (6th Cir. 2018). The exculpatory evidence presented by Local 600 are obviously highly relevant to the duty of fair representation claim. Furthermore, for the reasons shown above in Section I.A of this Reply Brief, restraint or coercion prohibited by Section 8(b)(1)(A) does require a culpable mental state. Accordingly, the evidence presented by Local 600 that was disregarded by the Board weighs against a finding that the Decision was supported by substantial evidence.

Finally, Stoner's admissions that he knew within ten days of sending his resignation notice that Ford was continuing to make dues deductions from his paychecks but that he failed and refused to notify Local 600 (see Stoner, JA00225-226, 00236-237 [25-26, 36-37]; Ford Letter, GC Ex. 7, JA00313) also factor into the assessment about whether the Decision was supported by substantial evidence. In determining whether a union violates Section 8(b)(1)(A), the Board and courts can consider whether a union member has slept on his or her rights. See *Eichelberger v. NLRB*, 765 F.2d 851, 857 (9th Cir. 1985). In this matter, Stoner certainly could have avoided the delay in processing his dues-checkoff revocation that forms the entirety of his claim had he taken the minimal step of simply contacting DePaoli.

Both the General Counsel and Stoner assert that *Eichelberger* is inapplicable and claim that once an employee resigns from union membership, no additional notice is required. (See GC Brief, pp. 32-34; CP Brief, pp. 22-23). However, it is the caselaw cited by the General Counsel and Stoner -- *Pattern Makers' League v. NLRB*, 473 US 95 (1985), *Felter v. Southern Pacific Co.*, 359 US 326 (1959) and *Peninsula Shipbuilders Ass'n. v. NLRB*, 663 F.2d 488 (4th Cir. 1981) -- that truly are not on point. While each of these cases stand for the unremarkable proposition that an employer or union may not place barriers in the path of an employee's request to resign from union membership, they do not address the situation here,

where Stoner knew that Ford was not honoring his resignation and dues revocation requests, did not notify Local 600 and then based his claim on the delay. Given these facts, the Court should conclude that Stoner's failure to act was a contributing cause of the harm he sustained.

CONCLUSION

For the foregoing reasons, Petitioner/Cross-Respondent Local 600, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO respectfully requests that this Honorable Court grant its Petition for Review, that it deny the NLRB's Cross-Application for Enforcement of Order and that it take such further action as is just and appropriate.

Dated: February 27, 2020

Respectfully submitted,

LOCAL 600, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW), AFL-CIO

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CERTIFICATE OF COMPLIANCE

In accordance with Rule 32(a)(7)(B)(ii) of the Federal Rules of Appellate Procedure, the undersigned certifies as follows:

A. This Reply Brief has been prepared in proportional spaced typeface using 14-point Times New Roman type.

B. In its entirety, the Reply Brief contains 4,986 words.

C. The undersigned understands that a material misrepresentation in the completion of this certificate, or circumvention of the type-volume limits in Rule 32(a)(7) of the Federal Rules of Appellate Procedure may result in the Court striking this brief and/or imposing sanctions upon the person signing the Reply Brief.

Dated: February 27, 2020

/s/ Seth D. Matus
One of Local 600's Attorneys

CERTIFICATE OF SERVICE

The undersigned certify that a copy of the foregoing Reply Brief was served on counsel of record by filing the same with the Court's CM/ECF system on February 27, 2020.

Dated: February 27, 2020

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