

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

MEDIC AMBULANCE SERVICE, INC.

and

Case 20-CA-193784

UNITED EMERGENCY MEDICAL
SERVICES WORKERS, LOCAL 4911,
AFSCME, AFL-CIO

**COUNSEL FOR THE GENERAL COUNSEL'S RESPONSE TO ORDER TO SHOW
CAUSE**

On October 25, 2019, Administrative Law Judge Gerald M. Etchingham issued a decision concluding, in part, that the Respondent violated Section 8(a)(1) of the National Labor Relations Act by maintaining the Electronic Mail and Monitoring Policy and the Acceptable Use of Electronic Communications Policy (Respondent's email policies). To reach this decision, the judge applied the standard set forth in *Purple Communications, Inc.*, 361 NLRB 1050 (2014), for determining the lawfulness of an employer's rule restricting employee use of a company's email system. After the Judge issued his decision, on December 16, 2019, the Board issued its decision in *Caesar's Entertainment*, 368 NLRB No. 143, slip op. (2019) overruling the *Purple Communications* standard. On May 26, 2020, the Board issued a Notice to Show Cause as to why the Complaint allegations involving the Respondent's email policies should not be severed and remanded to the administrative law judge for further proceedings consistent with the Board's decision in *Caesars Entertainment*, 368 NLRB No. 143, slip op. (2019).

Although the ALJ correctly decided that Respondent's email policies were unlawful under *Purple Communications*, Counsel for the General Counsel believes that the policy is lawful under the new *Caesar's Entertainment* standard. Indeed, the Complaint does not allege that Respondent applied the rule in a discriminatory manner or that employees would otherwise be deprived of any

reasonable means of communicating with each other. Nor is there any evidence to suggest these exceptions apply. In light of this, Counsel for the General Counsel asserts that the Board should dismiss the allegations that Respondent's email policies are unlawful. There is no reason to remand these issues to the ALJ.¹

Respectfully submitted,

/s/ Tracy Clark

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¹ This position is also outlined in Counsel for the General Counsel's January 3, 2020, Response to Respondent's Exceptions on pages 17-18.