

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 32

INTERNATIONAL LONGSHORE AND
WAREHOUSE UNION (PACIFIC CRANE
MAINTENANCE COMPANY, INC.),

and

INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS, AFL-
CIO, DISTRICT LODGE 190, LOCAL LODGE 1546
AND DISTRICT LODGE 160

Case No. 32-CB-005932

**ILWU’S OPPOSITION TO MOTION FOR RECONSIDERATION OF THE
EXECUTIVE SECRETARY’S DENIAL OF CHARGING PARTIES’ MOTION TO
STRIKE ILWU’S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE’S
SUPPLEMENTAL DECISION**

Respondent International Longshore and Warehouse Union (“ILWU”) hereby opposes the Charging Parties’ motion for reconsideration of the Executive Secretary’s August 13, 2020 denial of Charging Parties’ motion to strike ILWU’s Exceptions in the above referenced matter. The Executive Secretary correctly denied the motion and accepted the ILWU’s Exceptions based upon an “internal review [where the NLRB] discovered that the ALJD was not properly E-served on the Respondent’s legal counsel due to a technical issue.” The Executive Secretary further noted that no prejudice results to the General Counsel or Charging Parties by this ruling because the ILWU’s Exceptions were filed within the time period permitted for filing of Cross-Exceptions.

The Charging Parties’ motion presents no new facts or persuasive argument that the Executive Secretary erred in denying the motion. Rather, the Charging Parties contend that ILWU and its counsel should have had prescient hindsight and knew that the information provided to them regarding E-service from the NLRB was not correct, specifically that NLRB E-service

originated not from e-Service@service.nlr.gov, but rather from odm@service.govdelivery.com and that, therefore, ILWU and its counsel should have been able to deduce that E-service was effectuated on them despite not receiving service. The Charging Parties likewise ignore the Executive Secretary's explanation that the technical error resulting in failure to E-serve ILWU's counsel arose from the NLRB's E-service system and that the ILWU's Exceptions were filed within the time period for which Cross-Exceptions may be filed. The ILWU and its counsel acted in good faith based upon information it received from the NLRB and neither the Charging Parties nor the General Counsel have incurred any harm as a result. For these reasons, the Charging Parties' motion for reconsideration should be denied.

Nonetheless, in order to put this issue to bed, the ILWU has filed Cross-Exceptions to the ALJ's Supplemental Decision, well before the deadline to submit them. Whether fashioned as Exceptions or Cross-Exceptions, the ILWU's exceptions to the ALJ's Supplemental Decision will, therefore, be considered by the Board.

Dated: August 17, 2020

Respectfully submitted,

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PROOF OF SERVICE

I am employed in the County of San Francisco, State of California. I am over the age of 18 years old and not a party to the within action; my business address is 1188 Franklin Street, Suite 201, San Francisco, CA 94109. I hereby certify that on **August 17, 2020**, I caused the foregoing document(s):

ILWU’S OPPOSITION TO MOTION FOR RECONSIDERATION OF THE EXECUTIVE SECRETARY’S DENIAL OF CHARGING PARTIES’ MOTION TO STRIKE ILWU’S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE’S SUPPLEMENTAL DECISION

to be filed electronically with the National Labor Relations Board, and a true and correct copy of the same was served on all interested parties in this action as follows:

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- BY E-MAIL:** I caused the documents to be sent to the person at the electronic notification address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on **August 17, 2020**, at San Francisco, California.



Leslie Rose